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BIG CYPRESS NATIONAL PRESERVE

LAND PROTECTION PLAN

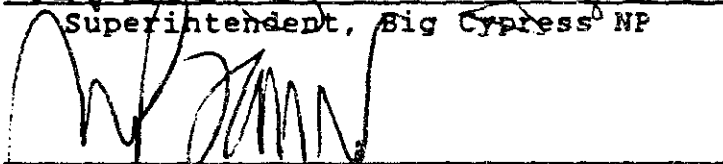
RECOMMENDED:



Superintendent, Big Cypress NP

3/21/91
Date

APPROVED:



Regional Director

JUL 8 1 1991
Date

ADDENDUM TO THE
LAND PROTECTION PLAN FOR
BIG CYPRESS NATIONAL PRESERVE
1991

This addendum serves as part of the update of the unit's Land Protection Plan (LPP). The LPP was initially approved on August 23, 1984, and updated on October 20, 1986, and December 12, 1988.

Plan Implementation

Since the updated approval of December 12, 1988, 121 tracts have been acquired in compliance with the LPP.

Changes to Plan

With the acquisition of 121 tracts, 3,890 tracts remain, totaling 29,882 acres. School Board Lands (14,155 acres), Jetport Authority Lands (23,481 acres) and State Roads (2,886 acres) also remain. Public Law (PL) 100-301, the Big Cypress National Preserve Addition Act, was signed into law on April 29, 1988. PL 100-696, the Arizona-Idaho Conservation Act of 1988, was signed into law on November 18, 1988. PL 100-301 amended the preserve's enabling legislation (PL 93-440) by adding 146,000 acres. PL 100-696 authorized acquisition of approximately 80 percent (83,070 acres) of the 146,000 acres through an exchange involving lands in Phoenix, Arizona. Both laws reaffirm congressional intent that lands within the preserve are to be acquired in fee title. PL 100-301 further requires the National Park Service to substantially complete acquisition within 5 years. It describes a shared acquisition responsibility with the State of Florida; i.e., the State is to fund 20 percent of the acquisition costs. Florida has acquired 33,248 acres (as of October 1990) in conjunction with the construction of Interstate 75. Transfer of these lands to the Federal Government will occur at some future date when the accounting process is complete for the 80/20 percent, Federal/State split. The Federal Government still has 29,882 acres to acquire: approximately 3,890 tracts.

In 1986, the Service initiated development of a General Management Plan (GMP). This process has continued over the intervening 5 years and has reached the stage where public review and comment has been completed, a draft plan formalized and the completed package submitted for final review and approval at the departmental level. The 146,000-acre Addition (PL 100-301) is not included in the GMP. Lack of resource information and the uncompleted land exchange (PL 100-696) involving 83,070 acres, prevent this area from being included. An addendum to the GMP will be prepared once the land exchange is completed and resource data collected. Once the GMP is approved, it may prompt modification to the LPP. However, the strategy and priorities currently in the LPP to acquire tracts within the preserve's original boundaries remain unchanged.

Clarification of the Plan

The GAO report asserted that the LPP's recommendations were based on landowner concerns and unsupported claims of cost effectiveness. In reviewing the plan, pages 26 and 27 explain that fee acquisition is necessary to meet congressional intent, provide for public use and access through the preserve, prevent incompatible uses (residential development), provide protection and visitor access to archeological resources, manage and eradicate exotic species and manage habitat for endangered species. Thus, there is no reason to change those recommendations.

PLAN SUMMARY

1.	Current Ownership (in acres)	
	Federal (NPS Jurisdiction)	562,556.00
	(Other Federal)	-0-
	State (School Board)	14,155.00
	State and County (Roads)	2,886.00
	Dade-Collier Jetport Authority	23,481.00
	Arizona-Florida Exchange	83,070.00
	Private	29,882.00
2.	Number of Tracts Remaining to be Protected	3,890
3.	Methods of Protection Proposed (by % of Acres)	
	Fee Acquisition	
	-by NPS	80%
	-by Others	-0-
	Areas suitable for sellback or leaseback	-0-
	Less-than-fee acquisition	-0-
	Zoning	-0-
	Regulation	-0-
	Adequately Protected (no action)	1%
4.	Statutory Acreage Ceiling	716,000
5.	Funding Status (as of July 31, 1980)	
	Authorized acquisition ceiling	\$156,700,000
	Appropriated to Date	182,438,367
	Obligated to Date	182,087,167
	Unobligated Balance	351,200
6.	Top Priorities (by % of Tracts)	
	1. Improved Properties	75%
	2. Properties with high potential for development	10%
	3. Other undeveloped tracts	15%
7.	Special Considerations	<u>See Page</u>
	Legislative requirement to acquire in fee	4 & Appendix C
	Congressional direction to complete within six years	4
	No action to be taken on State and county roads	30

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LAND PROTECTION PLAN

BIG CYPRESS NATIONAL PRESERVE

I. INTRODUCTION

A. Summary of Departmental and National Park Service Policies for Land Protection

In May 1982, the Department of the Interior published in the Federal Register a policy statement for use of the Federal portion of the Land and Water Conservation Fund, which requires each agency responsible for land protection in federally administered areas to:

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

In response to this policy, the National Park Service has prepared a Land Protection Plan for the Big Cypress National Preserve, which has an active program for the protection of the unit's resources. The purpose of the plan is to identify methods of assuring the protection of the natural, historic, scenic, cultural, recreational, or other significant resources, and to provide for adequate visitor use. The plan will be prepared in compliance with relevant legislation, other congressional guidelines, executive orders, and Departmental and Service policies.

Once the plan has been approved, revisions or updates will be made as necessary to reflect changing conditions.

B. Major Issues

The Land Protection Plan addresses the actions necessary to assure resource protection and provide essential public access to and use of Federal lands within preserve boundaries and establishes priorities for these actions. Any future requests for funds will be based on the approved plan. Approximately 3,890 tracts totalling about 29,882 acres of non-Federal, private land remain within the preserve's boundaries. These tracts are scattered throughout the preserve. Since this area originally involved almost 50,000 tracts of land, mapping has been a monumental process. The property maps are on over 900 separate map sheets. It is therefore impossible to include tract maps with this document. Such maps are available for review at the Land Acquisition Office, 201 8th Street South, Naples, Florida and Headquarters, Big Cypress National Preserve, Satinwood Drive, SR Box 110, Ochopee, Florida.

Ownership of the subsurface oil and gas rights was severed from the surface estate in accordance with Public Law (PL) 93-440 and PL 100-301. Identification of those ownerships has not occurred. Since purchase of those interests could only occur with a willing seller or if the oil and gas activities were detrimental to purposes of the preserve, these interests are not identified within this plan.

The major issues associated with non-Federal ownership focus upon natural and cultural resource protection. These are specifically discussed as problem statements in the Resource Management Plan of 1989: hydrology, water quality and quantity; exotic plant management; fire management; threatened and endangered species; management of oil and gas; exotic animal management; off-road vehicle use; wildlife management (including hunting and fishing); reclamation of acquired improved properties; air quality; cattle grazing; Jetport lands; archeological and historical resources; and native American rights. Two other prominent issues are the enhancement of scenic corridors and the protection of especially sensitive resources. The predominant visitor experience in the preserve consists of enjoying the scenery while driving across the Florida peninsula on either U.S. 41 or Interstate 75. Visual intrusions from development are obvious and alter the experience of thousands of people who are never included in the Service's Visitor Use Reports.

C. The Plan as a Guide

This plan does not constitute an offer to purchase land or interests in lands, nor does it diminish the rights of non-Federal landowners. Rather it will generally guide subsequent activities subject to availability of funds and other constraints.

II. PURPOSE OF THE PRESERVE AND RESOURCES TO BE PROTECTED

A. Preserve Purpose

The purpose of Big Cypress National Preserve as stated in the authorizing legislation, PL 93-440, is ". . . to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress Watershed . . . and to provide for the enhancement and public enjoyment thereof. . ."

B. Significance of the Area and Resources to be Protected

Big Cypress National Preserve is a large, complex, mostly undeveloped portion of the original Big Cypress Watershed which accounts for about 56 percent of the water entering Everglades National Park from outside its boundary. While this quantity of water is significant, the natural method of its delivery is equally important. Big Cypress National Preserve, coupled with the contiguous northwestern portion of Everglades National Park and its estuary, is described as a nearly complete hydrologic unit.

Congress emphasized, however, that beyond this water resource significance, Big Cypress has many inherent values that warrant its protection. These include: the scientific values of the Big Cypress-Everglades ecosystem to students of the evolution of life and biologists; a wildlife sanctuary for thousands of migrating birds and proper habitat for more than twenty (20) animals listed by Department of Interior as rare, endangered or otherwise in jeopardy; and recreational values - camping, hiking, sightseeing, hunting, and fishing. Florida State Agencies also maintain lists of threatened and endangered species. These include twelve (12) threatened and nine (9) endangered animals and ninety-six (96) threatened and fourteen (14) endangered plants within the preserve. Copies of these lists are maintained at preserve headquarters.

The non-Federal lands within the boundary are dispersed throughout the preserve. The resources on these tracts represent the full range of Big Cypress resources: all vegetative communities; rare and endangered species habitat; water resources; almost 400 archeological sites; and recreational values to tourists, hunters, and fishermen.

C. Special Legislative, Administrative and Congressional Directives or Constraints

Several documents provide significant guidance and the legal basis for the preserve and its acquisition. These include:

Public Law 93-440 (88 Stat. 1255), the enabling legislation

Public Law 100-301, Big Cypress Addition legislation

Public Law 100-696, Arizona Idaho Conservation Act (land exchange authority)

Public Law 91-646 (84 Stat. 1894), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

House Report 93-502, Senate Report 93-1128, and Congressional Records for October 3, 1973, September 9, 24, and October 1, 1974

Hearings held May 10 and 11, 1973 on proposal to authorize the acquisition of Big Cypress

Memorandum of March 11, 1976, Secretary of the Interior memorandum in compliance with PL 93-440, Section 2 (b) requiring a detailed plan

Review of this body of legislative history documents a congressional directive to acquire in fee those lands designated for acquisition within the boundaries of the preserve. Constraints are provided which describe those lands and interests which are not to be acquired. Congress also states its express intent that acquisition be substantially complete within six years of establishment. Due to the length and complexities of these documents, they are not reproduced here; however, key elements of these documents are attached in Appendix C; copies of complete documents can be reviewed at headquarters, Big Cypress National Preserve, Star Route Box 110, Satinwood Drive, Ochopee, Florida 33943; Southeast Regional Office, 75 Spring Street, SW, Atlanta, Georgia 30303; or National Park Service, Department of Interior Building, Washington D. C.

To summarize the land protection directives of these documents: establishment of the preserve occurred after several years of effort by the State of Florida and many members of Congress. The major concerns of all legislation introduced were acquisition of adequate acreage to assure protection of the watershed and its inherent values and that protection occur as expeditiously as possible. It was a situation where both houses of Congress, the Administration, the State of Florida, and local governments (Collier and Dade Counties) were requesting

clear and prompt protection. Many variations in acreage and protection methods were considered, including a legislative taking.

Summary of Public Law 93-440

Section 1 established the Big Cypress National Preserve and defined the area included therein by reference to a boundary map, (Appendix A). The law required a detailed boundary description to be prepared and published in the Federal Register. Altogether (including approximately 523,000 acres of privately owned lands and more than 46,000 acres of publicly held lands), the preserve totals 570,000 acres of land and water. The Secretary of the Interior is authorized to acquire any lands, waters or interest therein within the preserve by purchase, donation, exchange, or transfer from another Federal agency. Lands owned by the State of Florida, or any of its subdivisions, however, can be acquired only by donation. No Federal funds were to be appropriated until the Governor of Florida executed an agreement on behalf of the State which (1) provided for the transfer to the United States of all lands within the preserve previously owned or acquired by the State and (2) provided for the donation to the United States of all lands acquired by the State within the preserve pursuant to the provisions of "the Big Cypress Conservation Act of 1973". Purchase of improved residential and commercial property, the construction of which began before November 23, 1971, and oil and gas rights (excluding other mineral rights), must be with the consent of the owner unless such property is threatened with, or subject to, a use detrimental to the preserve. This section also contained two exceptions to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; (1) waive the need for appraisal on a voluntary sale for \$10,000 or less, and (2) allow an appraisal be made of any unimproved property without notice to the owner or owners thereof.

Section 2 (a) recognized the efforts of the State of Florida in the preservation of the Big Cypress area, and directed the Secretary to expedite acquisition of the land; (b) required the Secretary to submit within one year, in writing, a detailed plan, which indicated (1) the lands and areas which he deems essential, (2) lands previously acquired, and (3) the annual acquisition program recommended for the ensuing five fiscal years; and (c) stated the express intent of Congress that the Secretary should substantially complete the acquisition within six years after the date of enactment.

Section 3 permitted the owner of an improved property to retain a right of use and occupancy for a term not to exceed 25 years or life, as the owner elects. An owner retaining such a right would be entitled to receive the fair market value of his property at the time of acquisition less the value of the right retained. This section also required the Secretary to consider applicable State or local regulations in concert with his authority to terminate right of occupancy when he determines that it is being exercised in a manner inconsistent with the purpose of the Act.

Subsection (b) defined "improved property" and subsection (c) provided that owners who take advantage of this provision automatically waive any relocation assistance benefits. Criteria for identifying "improved property" have been developed from P.L. 93-440, other legislative history, and legal opinions and is contained within this plan in Section III, B.

Sections 4 and 7 directed how the area would be managed and operated and will not be summarized for this plan. PL 93-440 is enclosed in Appendix C.

Section 8 authorized the appropriation of \$116,000,000 for land acquisition and \$900,000 for development and stipulated that any funds donated by the State of Florida to the United States pursuant to chapter 73-131 of the Florida statutes must be used for the acquisition of lands within the preserve.

Summary of Public Law 100-301

Section 1 establishes the Big Cypress National Preserve Addition and states that amendments within the Addition Act, which are expressed in terms of the original establishment act (PL 93-440) are to be considered amendments to that act.

Section 2 finds that the construction of I-75 has been designed to improve the natural water flow to Everglades National Park by replacing the environmentally disruptive State Road 84 (Alligator Alley). This opportunity to enhance the hydrological protection of Everglades will also promote the protection of the endangered Florida panther while providing for enhanced public recreational use and enjoyment of all public lands adjacent to I-75 by expanding the preserve.

Section 3 determines that the Addition shall comprise approximately 146,000 acres. PL 93-440 is amended to include a new section (Section 9) which addresses the completion of the preserve in conjunction with the construction of I-75 while insuring the managed use and access of the associated watersheds. Substantial completion of land acquisition is directed in not more than five years from the Act's enactment. PL 93-440 is amended by inserting "and the Addition" after "preserve" each place it appears in reference to hunting, fishing, trapping and

customary use and occupancy by Miccosukee and Seminole Indians. Section 7 of P.L. 93-440 is amended to include "Addition" in the charge to complete a wilderness suitability study within a five year timeframe.

Section 4 amends PL 93-440 to add that the federal cost of acquiring lands within the Addition will not exceed 80 percent of the total cost of such lands. The State of Florida will be reimbursed an amount equal to 80 percent of the total costs that the State expends to acquire Addition lands. Improved property provisions in P.L. 93-440 are amended to establish January 1, 1986 as the cutoff date for such properties within the Addition. The right of the State of Florida to acquire property rights as necessary for I-75 are assured.

Section 5 amends PL 93-440 to insure cooperation among agencies and directs the Secretary of the Interior and other Federal agencies to cooperate with Florida in establishing three recreational access points within the preserve, including the Addition, for the continuation of traditional recreational opportunities such as hunting, fishing and frogging.

Section 6 amends PL 93-440 by adding a section 11 which directs the Secretary of the Interior to submit to Congress a detailed report on the status of the existing preserve with recommendations for the future management of the preserve including the Addition, the status of the I-75 access points and the status of land acquisition.

Section 7 provides authorization of funding not to exceed \$49,500,000 for the acquisition of lands within the Addition from the Land and Water Conservation Fund. There is also authorization for the appropriation of such funds as may be necessary for Addition development.

Section 8 addresses oil and gas exploration, development and production by further amending PL 93-440 with the addition of a section 12 that directs the Secretary to promulgate or modify existing rules and regulations for non-Federal mineral interests in the Addition. Guidelines are set for permit requirements including prior authorization, NPS review and time limitations. In order to better manage these mineral related operations, authority is given to establish a Minerals Management Office within the Office of the Big Cypress Superintendent.

D. Planned Resource Management and Visitor Use Management Zones

The Statement for Management for the preserve provides for management zoning. The management zones take into account important resources, development, environmental constraints, legal mandates, and other factors. Most of the preserve will necessarily be managed as a natural zone to ensure the protection of the important resources areas, and relatively small areas will be zoned for cultural resource manage-

ment, Service development, and special uses. Management zones and subzones are described below and are based on the legislation that established the preserve, Service policies, the nature of the resources, the desired visitor experience, and established uses. (See Appendix A, Management Zone Map)

Natural Zone

Land and waters in the natural zone will be managed to conserve natural resources and processes while accommodating uses and experiences that do not adversely affect the ecological integrity of the area. The natural zone is subdivided into the important resource areas subzone; special concern subzones for the Florida panther, red-cockaded woodpecker, Caple Sable seaside sparrow, and bald eagle; and the natural environment subzone. In addition the petroleum development subzone is included because areas occupied by oil and gas facilities would eventually be reclaimed and restored to a natural condition.

Important Natural Resources Areas Subzone. This subzone consists of the ecological communities identified as important resources areas. Accordingly, it will be managed to restore and perpetuate natural processes and to limit disruptive activities. Established dispersed uses such as hunting, fishing, ORV use, grazing, camping, and hiking will be permitted and controlled. Additional long-term intensive use such as oil and gas activity will be strictly regulated, limited, or prohibited.

Florida Panther Special Concern Subzone. This subzone consists of areas where panther sign and radio-tracked panthers have been frequently and consistently found. Although evidence of panthers has been found in all parts of the preserve, this subzone encompasses the areas where there is documented panther activity. This subzone overlaps the important resource areas subzone. In this subzone special management actions will be taken to increase the panther prey-base and to reduce and control potential human disturbance to panthers.

Red-Cockaded Woodpecker Special Concern Subzone. This subzone includes all known red-cockaded woodpecker colonies in the preserve. Known colonies are in the Turner River, Corn Dance, and Stairsteps units. The subzone is defined by nesting trees and a 1,600-foot buffer area. Special management actions will be taken to prevent disturbance to nesting birds, and habitat will be maintained principally by prescribed burning. This subzone overlaps with other subzones in the natural zone and includes 32 sites totaling 6,000 acres. Additional acreage may be added if new colonies are located.

Cape Sable Seaside Sparrow Special Concern Subzone. This subzone contains Cape Sable seaside sparrow habitat in marsh and wet prairie in the Stairsteps unit. Like the subzone for the red-cockaded woodpecker, this subzone will be managed to prevent disturbance to nesting birds, and habitat will be maintained by prescribed burning. This subzone overlays with other subzones of the natural zone.

Bald Eagle Special Concern Subzone. All known bald eagle nesting trees and a 1,500-foot buffer area around each are included in this subzone. There are three known actively used nesting trees in the Preserve, all in the Stairsteps unit. This subzone will be managed to prevent disturbance to nesting eagles. The subzone overlaps with other subzones in the natural zone and includes about 500 acres.

Petroleum Development Subzone. Preserve lands currently used for oil and gas operations (including oil pads, pipelines, and roads maintained by petroleum companies) are classified as part of this subzone. As oil and gas activities continue in the preserve, additional areas may be added to this subzone. Although most of the lands in this subzone will have long-term occupancy (40-80 years), all will eventually be reclaimed and returned to natural conditions. Special precautions would be taken during reclamation to avoid disturbance to archeological resources.

Natural Environment Subzone. The natural environment subzone contains natural resources that are somewhat less significant than the other subzones in the natural zone. The natural environment subzone will remain largely undeveloped and will be managed to conserve natural resources. Those uses cited in the enabling legislation will be permitted, subject to reasonable regulations.

Cultural Resource Zone

This Zone is divided into two subzones; Cultural and Archeological Subzone and a Native American Occupancy Subzone.

Cultural and Archeological Subzone. This subzone will be managed to protect historical and archeological resources in place. While all 395 known archeological sites are included in this subzone, only 23 sites have been identified by the Service's Southeast Archeological Center as in special need of protection. Even though this subzone includes only 23 sites thought to be in special need of protection, the Service recognizes its obligation to protect all archeological sites within the preserve. The Service further recognizes its obligation to work with the Florida State Historic Preservation Officer (SHPO) to nominate those archeological sites that appear to be eligible for inclusion on the National Register of Historic Places.

The Service also recognizes its obligation to survey the preserve Addition and to inventory, evaluate, nominate to the National Register of Historic Places, and to include in this subzone any cultural resources located within the Addition. In the interim, the Service will work with the Florida SHPO to identify high probability cultural and archeological areas within the Addition based on available data and GIS modeling.

Native American Occupancy Subzone. This subzone consists of Miccosukee or Seminole villages, agricultural plots, and currently used ceremonial sites. This subzone is subject to redefinition upon consultation with Native American groups and promulgation of reasonable regulations by the Secretary of the Interior.

Service Development Zone

This zone contains major Service facilities critical to manage the preserve and to meet visitor needs. Included are areas where development or intensive use substantially alter the natural environment. The Ochopee administrative and residential area, the Oasis operational center, the Loop Road interpretive center, the Trail Center residential area, six designated front country campgrounds, and roads maintained by the Service are included in this zone.

Special Use Zones

The special use zone applies to areas within the preserve that the Service anticipates will continue to be used for activities not appropriate in other zones. State-owned school lands are classified as part of the natural zone because of an agreement between the NPS and the State of Florida to manage these inholdings consistent with the surrounding preserve lands. There are two subzones; transportation and exempt inholdings.

Transportation Subzone. This subzone includes most of the major roads within the preserve, which are maintained by the State of Florida and the local counties. Also included is the Jetport (Dade-Collier Training Airport), the largest inholding in the preserve.

Improved Property Subzone. This subzone is made up of 200 front country residences, commercial establishments, and backcountry properties meeting the criteria for exempt inholdings, defined as improved property by PL 93-440. To meet the criteria for "improved" status, a structure must have been started before November 23, 1971 (within the original Preserve) or before January 1, 1986 (within the Addition), the structure and land must be under the same ownership, and the use of the structure and the land must not constitute a threat to the preserve's resources. Total acreage in this subzone is approximately 70 acres.

Trespass properties, approximately 200 backcountry camps not meeting the legislation's improved property criteria, are being removed from Federal lands, and the sites will be reclaimed and returned to a natural state. These sites are classified as part of the natural zone, rather than the special use zone.

Although these backcountry trespass camps are part of the natural zone, some may be located on archeological sites. Camp removal plans will be reviewed to insure that there will be no adverse effect to any known archeological sites listed on the Cultural Sites Inventory.

III. LAND OWNERSHIP AND USES

A. Ownership and Use of Non-Federal Lands

Total Acreage (Statutory Ceiling-including Addition)	716,000
Current Ownership (As of September 15, 1990)	
State (School Board)	14,155
State (Roads)	2,886
Dade Collier Jetport Authority	23,481
Arizona-Phoenix Exchange	83,070
Private	29,882
	153,444
Total	

Approximately 565,349 acres have been acquired to date in fee title. An insignificant number of tracts have retained rights of use and occupancy.

Non-Federal tracts and portions of tracts would fit into several categories which could be developed. The private tracts and School Board sections are dispersed throughout the preserve and vary in vegetative type between tracts and also within some tracts. School Board Tracts are generally located on Section 16 of each township. Due to the size of the Jetport tract, a diversity also exists within those acres (See Appendix A, "Existing Conditions Map"). Public roads within the preserve are under Federal, State and county ownership. The preserve constitutes the eastern portion of an area generally referred to as the Big Cypress Watershed. The terrain is flat with an almost imperceptible slope to the south. Much of the preserve is considered wetlands and those areas not so classified are in close proximity to wetlands. As much as 90 percent of the preserve is inundated during the wet season. This may drop to 10 percent during dry periods.

The following general vegetative categories are found within the original preserve; similar information for the Addition is being developed:

Cypress Forest	43%
Prairies (wet, dry, & intermediate)	24
Pine Forest	18
Mixed Pine/Cypress Forest & Mixed Swamp Forest	6.4
Inland Marshes, Sloughs, and Ponds	4.2
Hammock Forest	1.5
Coastal Forest	1.4
Coastal Marshes	0.9
Disturbed lands	0.6

The above non-Federal lands are mostly undeveloped. The dispersed nature of these tracts places some in close proximity to established roads and others, the majority, far from any roads. The nearest communities are Everglades City, five miles from the western boundary; Naples, 34 miles from the western boundary; Immokalee, 12 miles from the northern boundary; and Miami, 30 miles from the eastern boundary.

B. Compatible or Incompatible Uses

Congress recognized the critical importance of the Big Cypress Watershed and defined incompatible uses in that watershed in Senate Report 93-1128, which stated:

"Naturally, anything that interferes with the natural flow of freshwater will radically alter this sensitive subtropical environment. Drainage works, roads, airport facilities or any other construction activities that divert the water, or channel it, or cause it to recede, will not only affect the significant fishery resources, but will ultimately affect all forms of life in the region since the water level is the most significant factor affecting the sophisticated food chain that begins with plant life, the earliest forms of organic life in the swamp, and the fish and wildlife that are ultimately dependent upon them." (pp.3-5)

The report went on to say that the preserve is largely undeveloped at the present time and "...it will be managed in a manner that will assure its return to the true wilderness character that once prevailed." (S.R. 93-1128, p. 4)

The following are some uses of non-Federal lands which would adversely impact its resources and interfere with resource protection objectives contained within the Statement for Management. For example:

--Development is and will be incompatible with natural and cultural resource protection and its related management actions. To briefly illustrate their connection, hydrology, exotic plants, and fire management are the top three natural resource problems affecting the preserve. The vast majority of the preserve is swamp or wetlands that are dependent upon excellent water quality and unimpaired water sheetflow. The first phase of development requires the placement of fill material to elevate any structures or access roads above the waters of the swamp. Besides the site-specific alterations to land, fill in these wetlands adds siltation and diverts sheetflow. The disturbed soils provide an excellent seedbed for exotic plants that are capable of aggressively colonizing and dominating the landscape. About 60 square miles of the original preserve are infested with melaleuca trees today and an expensive, labor-intensive herbicide treatment program is beginning to contain and eventually control this species. Fire is an integral part of the swamp plant communities. The preserve had one of the largest wildfire in Service history. Management use of prescribed fire included about 60,000 acres in 1990, and more should be burned annually in the future. Protecting structures in the swamp, if possible, increases the personnel and equipment necessary and ultimately increases costs. The question of Service liability for any structure razed by either wildfire or prescribed fire also exists.

While it may be difficult to conceive that a seemingly minor development on a 1.25 acre, privately owned tract would adversely impact the resources of the preserve, it is the cumulative effects of this and other actions over a long period of time that would be detrimental and thus interfere with resource protection objectives. For example in one section, there are ten privately owned tracts ranging in size from 1.25 to 5.0 acres. If each of the owners decided to erect a minor structure, each improvement by itself may not seem incompatible. However, taken as a whole, these developments would be detrimental to the natural hydrology and other resources of the preserve. Concern for the cumulative impacts was considered and a legal level was identified in the enabling act. This level is defined as the "improved properties" as of November 23, 1971. To this total must be added the incremental developments of oil and gas surface activity and preserve management.

--Oil and Gas exploration and extraction is allowed by the enabling legislation. Where these activities take place on Federal land, or non-Federal lands where access is required across Federal lands, these activities are subject to regulation under 36 C.F.R. 9B. However, oil and gas activities on non-Federal lands accessible without crossing Federal lands are not subject to Federal permits. Unregulated oil and gas activity may result in substantial disturbance of natural vegetation and water flow, pollution, etc. and thus be incompatible with the purposes of the preserve.

--Timber cutting would be incompatible since such activity would harvest one of the key resources identified for protection.

--Grazing activities on non-Federal lands are incompatible with the legislative purposes of the preserve. Activities associated with grazing include application of fertilizer and herbicides and the chopping and mowing of native vegetation, all of which would have adverse impacts on the hydrology of the larger area. Without these activities grazing would not be economically viable.

--Use of the Jetport land as an aircraft training facility is incompatible with resource protection. Part of the 23,500 acre tract is a relatively remote region of the preserve where the endangered Florida panther is known to exist. The U.S. Fish and Wildlife Service has determined that use of this land for oil and gas exploration in conjunction with illegal squatter camps, uncontrolled storage of ORV's, and access into the more remote areas may have an effect on the continued existence of the panther.

--Interstate 75 - an extension of I-75 is under construction in the northern portion of the preserve and will replace U.S. 84 as it exists today and will have an impact on management actions. PL 93-440 and PL 100-301 require cooperation with the Department of Transportation to "assure that necessary transportation facilities shall be . . .constructed. . .in a manner consistent with the purposes of this Act."

PL 93-440 and PL 100-301 do provide that "improved property", as defined by the Act, were not to be acquired without the consent of the owner unless it was determined the "property is subject to, or threatened with, uses which are, or would be, detrimental to the purposes of the preserve."

The following criteria will be used to identify "improved property" within the preserve boundaries. Properties meeting these criteria will not be acquired except as described above.

Criteria for Determining "Improved Property" under PL 93-440 and PL 100-301

Section 3 (b) of this act defines "improved property":

"(i) a detached .. one family dwelling, construction of which was begun before November 23, 1971 or January 1, 1986 for the Addition, which is used for non-commercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated and such additional lands as the Secretary deems reasonably necessary for access thereto, such land being in the same ownership as the dwelling, and together with any structures accessory to the dwelling which are situated on such lands and

(ii) any other building, construction of which was begun before November 23, 1971 or January 1, 1986 for the Addition, which was constructed and is used in accordance with all applicable state and local laws and ordinances, together with as much of the land on which the building is situated, such land being in the same ownership as the building, as the Secretary shall designate to be reasonably necessary for the continued enjoyment and use of the building in the same manner and to the same extent as existed in November 23, 1971, or January 1, 1986, for the Addition, together with any structures accessory to the building which are situated on the lands so designated. In making such designation the Secretary shall take into account the manner of use in which the building, accessory structures, and lands were customarily enjoyed prior to November 23, 1971, or January 1, 1986, for the Addition."

Section 3 (b) (i):

a. A detached one family dwelling

- 1) detached: standing by itself; not sharing any wall with another building (house).
- 2) family: two or more individuals related by blood, adoption, marriage or legal guardianship who live together as a family unit. Single owners would also be included.
- 3) dwelling: the place of permanent or customary and usual abode of a person - a person's primary residence. Does not include seasonal or part time dwelling units, such as recreational cabins.

- b. The building was begun before November 23, 1971, or January 1, 1986, for the Addition.
- c. The building is used for non-commercial residential purposes. It is and has been in use continually from October 11, 1974, or January 1, 1986, for the Addition.
- d. The building deemed to be "improved" will include not to exceed three acres of land on which it is situated and such additional lands as the Secretary deems reasonably necessary for access thereto. This additional land for access must be in the same ownership as the dwelling and shall include any structures accessory to the dwelling which are situated on the additional access lands.
- e. Since this section relates to a place of abode, grading, land fill, access roads, airstrips, etc, would not meet the criteria.

Section 3 (b) (ii):

- a. "any other building" to include commercial property, hunting cabins, barns, business establishments, churches. It would not include sheds or open shelters used for recreational purposes. As clarification:
 - 1) Legislative history notes prohibition of condemnation of improved residential and commercial property and describes these as only: commercial, residential, agricultural and religious. Omission of "recreational" supports criteria that sheds or other open or insubstantial structures, not capable of habitation, used in connection with hunting activities are not within the meaning of "improved property". (Senate Report 93-1128)
 - 2) The Relocation Act does not refer to persons displaced for recreational purposes.
- b. The building was started before November 23, 1971, or January 1, 1986, for the Addition. This requires "an edifice, a structure; that which is built." Any preliminary work standing alone, such as grading, excavation, landfill, etc., would not suffice. The "building was constructed and is used" means the building is and has been in use continually from October 11, 1974, or January 1, 1986, for the Addition.

- c. The building was constructed and used in accordance with all applicable state and local laws and ordinances.
- 1) ordinances such as county zoning and building regulations must be met. While recognizing these existing laws sometimes or usually have not been enforced, this section is clear and unambiguous with no discretion afforded the Secretary by statute or legislative intent to waive compliance. Therefore the landowner must demonstrate his compliance with these ordinances. This will, no doubt, include situations where the landowner sought county permits and compliance to building codes but due to location never received county review or concurrence. Demonstration of intent and effort to comply becomes important in these circumstances.
 - 2) Use into the future must comply with county zoning, building, and health codes and standards.
- d. The "improved property" also includes as much of the land on which the building is situated (such land being in the same ownership as the building) as the Secretary shall designate to be reasonably necessary for the continued enjoyment of the building in the same manner and to the same extent as existed in November 23, 1971, or January 1, 1986, for the Addition.

Burden of Proof of "improved property":

The landowner must provide that information necessary to support the definitions contained herein.

Due to the critical and sensitive nature of the Big Cypress ecosystem, the NPS must monitor existing uses in the preserve to assure no detrimental activities. Basically the status quo as in November 1971 or January 1986, for the Addition, insofar as property useage and development are concerned, is to be maintained.

The following are examples of appropriate activities on "improved property":

- 1) Normal maintenance and upkeep of property.
- 2) Minor modifications to existing structures and out-buildings.
- 3) Repairs and reconstruction to comply with safety or sanitation codes.
- 4) Shoring up structures threatened by settling of soil.
- 5) Repair or replacement of electric and telephone lines.

Existing structures may be razed and replaced as long as the new structure is designed to serve the same purpose as its predecessor and occupies essentially the same site. Replacements which require or would incur additional environmental changes would not be appropriate; e.g., dredge activities, placing fill on unfilled/undisturbed portions of a tract, expansion of sewage or water systems. Internal or external renovation or remodeling of an existing structure is acceptable provided the structure will continue to be used for the same purpose as before. Thus, a single-family residence could have an additional room added, or a screened porch, so long as the use continues to be for a family residence and not a multi-family unit.

An owner of "improved property" who is considering a significant modification to his property is urged to contact the Superintendent about the planned expansion to insure it will be considered an appropriate use. Owners of "improved property" must also conform with all State and county zoning and building codes and regulations in making modifications to their property.

The following are examples of inappropriate activities on "improved property" and would be considered detrimental to purposes of the preserve:

- 1) Subdivision of tract and sale of undeveloped portion(s).
- 2) Dredge and fill operations, road construction, limerock mining or introduction of pollutants into surface or subsurface waters other than those types and volumes of effluent and runoff normally associated with single-family residences and small businesses.
- 3) Alterations to existing structures or new construction having one or more of these characteristics:

--new separate residences or new residences physically linked to the existing structures (duplex construction).

--replacement of a structure with one that is substantially different in location or purpose from its predecessor; especially involving additional fill on undisturbed lands.

--Conversion of non-commercial property to commercial uses.

- 4) Deterioration of structures through vacating, abandonment, or poor maintenance below state and county zoning, building, or health codes.
- 5) Agricultural operations.
- 6) Non-permitted wildland burning.

The Service will operate on a good neighbor policy. When inappropriate activities come to Service attention, the Superintendent will ask the landowners to voluntarily cease the action. If unsuccessful, the Superintendent will utilize appropriate county, State, or Federal regulations to halt the activity. If all other options fail and the landowner persists in an inappropriate use, the Superintendent will move to acquire the land.

C. External Conditions

The preserve does not have the benefit of a surrounding buffer zone, is predominately composed of wetlands, and is subject to many influences originating from outside its boundary. Water is the life blood of the swamp, and the preserve is but one-third of the watershed, thus any alteration to water flowing into the preserve deserves immediate concern. Any land use adjacent to, or upstream from, the Preserve which alters the water quality, quantity, or hydroperiod or pattern affects the success of resource protection. The Service cooperates fully with the primary agencies regulating and permitting land development. These are the Corps of Engineers, Florida Department of Environmental Regulation, Florida Department of Community Affairs, and the South Florida Water Management District. Despite the mandates of these agencies, the protection of wetlands is considered inadequate and new legislation, even beyond the preserve Addition, is being proposed in the U.S. Congress and State Legislature. In the Big Cypress Watershed land development usually requires some water management plan. If these operations are approved by the permitting agencies, monitoring for compliance is difficult and the potential always exists for undetected changes. Zoning and permitting do not protect against adjacent land subdivision or secondary impacts from agriculture such as exotic plants, fertilizers, and pesticides. This problem is compounded by incomplete monitoring and baseline data collection by the NPS for water quality and quantity entering the preserve. A system for monitoring and identifying any changes to the existing water quality, patterns, and related plant communities was recently initiated within the preserve. Current laws seem to require the NPS to conduct and fund such monitoring programs, rather than any requirement on adjacent developers to monitor and assure unaffected water quality and patterns.

Within the original 570,000 acre preserve, only 8 percent received surface water flow from external drainages. Within the Addition 26 percent of the acreage receives surface water from external drainages. A long-term hydrological monitoring program has been initiated incorporating a network of 12 water recording stations. These stations are located throughout the preserve. Water samples are collected from these stations on a scheduled basis to monitor impacts from external land use and mineral associated activity within the preserve. A cooperative agreement with the South Florida Water Management District (SFWMD) is increasing the hydrological expertise and information within the preserve. This agency is also providing water data collected from outside the preserve.

Agricultural development (principally citrus) already is extensive and expanding to the north of the preserve's boundary. The external drainages of Mullet Slough, in the Addition, and Okaloacoochee Slough pass through portions of the preserve's northern lands. The real and potential pollution of these natural drainage areas with agricultural associated pesticides and fertilizers cannot be discounted.

A fifteen mile levee and canal separate a portion of the eastern boundary from the SFWMD Conservation Area 3A to the east. The levee has functioned for several decades to impound water in Area 3A, thus reducing the amount of water entering several thousand acres of the preserve. An agreement with the SFWMD and the U.S. Army Corps of Engineers has provided for modification to the levee and canal and should result in a return to more historic waterflow patterns. These patterns, however, will remain subject to the SFWMD's attempts to meet flood control, agricultural and human consumptive needs.

State Road 29 and the adjoining Barron River Canal parallel the western boundary. State Road 29 now forms the preserve's western boundary. This one mile wide strip of land contains private residences, small commercial establishments and backcountry camps, and until purchased allows uncontrolled access into the preserve. The canal drains wetlands, especially Deep Lake Strand, without any knowledge of its environmental impacts or of the best schedule for the placement and removal of weirs.

This strip is part of the Addition and will be acquired as part of the Florida - Phoenix exchange or purchased. The Barron River Canal will be subject to preserve management and restoration back to historic water drainage patterns.

SFWMD Interceptor Canal L-28 bisects approximately 13 miles of Addition land in the northeast corner of the preserve. Agreements, relating to access and management of this water artery, will be explored between the Service and SFWMD.

The establishment of the U.S. Fish and Wildlife Service's 30,000 acre Florida Panther National Wildlife Refuge in 1988 and the existing Fakahatchee Strand State Preserve provide a compatible environmental buffer adjacent to the preserve's western boundary. These conservation associated areas will help preclude adverse development or other actions that could pose a threat to the integrity of the the preserve's natural environment.

Further to the west and northwest in the Big Cypress Watershed lies the Golden Gate Estates, a 121,000-acre housing subdivision whose cumulative impacts on water quality, area drainage and increased wildfire danger have been recognized by the State. In an effort to reduce the environmental damage already created, the State is in the process of purchasing and reclaiming several thousand acres in the eastern section of this real estate development.

The entire southern boundary borders Everglades National Park. Management policies within Everglades can affect resources within Big Cypress National Preserve.

The integrity of water flowing within the preserve is partially dependent upon the quality of the water within the larger Big Cypress Watershed. The overall direction of hydrological management will be to maintain and restore natural water flow and water quality in disturbed areas and to avoid further hydrological disturbances. This concept can be expanded to include: air quality within the regional airshed; integrity of native vegetation endangered by establishment of exotic floral communities from seeds entering the preserve from internal (improved properties) or external seed sources; and entry of wildfire onto preserve lands from inholdings or adjacent lands. The NPS will continue to work with State and local governments, private landowners, and other Federal agencies to address these issues as they directly impact resources within the preserve.

D. & E. Land Protection Status

The total acreage authorized under PL 93-440 and PL 100-301 is 716,000 acres. As of October 1990, fee title has been acquired for approximately 562,556 acres, leaving 153,444 acres unprotected. Some 439 improvements have been acquired. An insignificant number of tracts have retained rights of use and occupancy. These vary from 25 years to as little as two years.

Current Ownership (in acres)

State (School Board)	14,158
State and County (Roads)	2,886
Dade Collier Jetport Authority	23,481
Florida-Phoenix Exchange	83,070
Private	29,882

Funding Status (as of October 15, 1990)

Current acquisition ceiling:

Federal	\$156,700,000
(note: this ceiling has been exceeded under authority of PL 95-42)	

State	40,000,000
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Appropriations:

Federal	182,418,367
State	40,000,000

Total:	<u>222,418,367</u>
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Funds Obligated (spent):

Federal	181,969,262
State	40,000,000

Total	<u>221,969,262</u>
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Unobligated (unspent) balance:

Federal	449,105
State	-0-

Condemnation

Total tracts submitted for condemnation to date and filed

<u>Tracts</u>	<u>Acreage</u>	<u>Value</u>
13,837	123,671	\$41,857,727

Total tracts filed but not tried

<u>Tracts</u>	<u>Acreage</u>	<u>Value</u>
4	11	\$ 17,500 est.

F. Sociocultural Impacts

There are no significant social or cultural communities on non-Federal properties within the preserve. In addition there are no commercial or industrial concerns on non-Federal properties having significant economic impacts on nearby communities or political subdivisions. Traditional uses by Native Americans occur in the preserve but will not be affected by the plan.

IV. PROTECTION METHODS

A. Federal, State, and Local Laws and Authorities Which Provide Resource Protection

A number of laws and regulations exist which provide certain types of resource protection within Big Cypress. The quantity and diversity of coverage is best displayed through a matrix, which appears on the next page.

REGULATION OR AUTHORITY

RESOURCE(SEE BELOW)

W ES AQ CR OG

FEDERAL

Federal Water Pollution Control Act(1972)	X				X
Clean Water Act of 1977	X				X
E.O. 11988, Floodplain Management	X				
E.O. 11990, Protection of Wetlands	X				
Coastal Zone Management Act(1972)	X				
Safe Drinking Water Act(1974)	X				
Endangered Species Act(1978)		X			
Bald Eagle Act		X			
Clean Air Act(1977) and amendments			X		X
National Environmental Policy Act(NEPA),1969	X	X	X	X	X
Preservation of American Antiquities Act(1906)				X	
National Historic Preservation Act(1966)				X	
E.O. 11593, Protection and Enhancement of Cultural Resources(1971)				X	
American Indian Religious Freedom Act(1978)				X	
Big Cypress National Preserve, PL 93-440	X	X	X	X	X
Big Cypress National Preserve Addition, PL 100-301	X	X	X	X	X
36 Code of Federal Regulations		X		X	X

STATE/LOCAL

Environmental Protection Act(1971)	X	X	X	X	X
Florida Environmental Land and Water Management Act(1972)	X				
Big Cypress Conservation Act(1973)	X				
Big Cypress Area of Critical State Concern Outstanding Florida Waters	X				
Preservation of Native Flora of Florida		X			
Regulation of Oil and Gas Reserves					X
Rules and Regulations Governing Water Wells in Florida	X				X
Air and Water Pollution Control Act	X		X		X
Florida Archives and History Act				X	

W - hydrology, water quality and quantity
 ES- endangered species
 AQ- air quality
 CR- cultural resources
 OG- oil and gas

B. Description, Explanation, and Analysis of Protection Methods

Agreements

Authority given the Secretary of the Interior to enter into formal cooperative agreements is only with public entities. Non-Federal lands are evenly divided between public and private ownerships. The Service has an agreement with the state of Florida which includes School Board lands and will include the Addition lands that have been acquired by the State but have not been transferred to federal ownership. The Service is also pursuing an agreement with Dade County in relationship to the Jetport Authority lands. These agreements would provide only limited protection to the properties. Both these public entities have missions quite different from the Service and total Service management is not feasible without ownership. An agreement previously existed between the Secretary of the Interior, Secretary of Transportation, and Dade County. That agreement would have provided for eventual protection of the Jetport lands. That agreement has not been renewed to date. Since the missions of the Jetport Authority and the State School Board are not oriented toward resource protection as provided by PL 93-440, it is doubtful these agencies would provide adequate stewardship in the preserve.

The Service could also attempt informal agreements with private property owners. These agreements could address a range of concerns including erecting minor structures, altering the vegetative landscape, or dredging and/or filling. However, the strength of these agreements would depend upon the willingness of the individual landowner to cooperate. The large number of absentee and unknown landowners limits the effectiveness of this tool. Another detracting factor is the Service would lack authority to enforce Federal regulations on these lands. As a temporary, short-term measure some landowners may be willing to cooperate, but there is little guarantee that resources will be protected in the long term. Informal agreements on one or two properties would not help to insure against the cumulative negative impacts which might occur with incompatible land uses over the range of private tracts; would not insure the protection of the natural, scenic, hydrologic, and other values of the preserve; nor would public access be enhanced.

Zoning

Zoning permits a government entity to control the type and density of land use. The preserve is within an area designated by the State of Florida as an "Area of Critical State Concern." Although effects of this designation are contingent upon development activity, the effects are similar to zoning since certain land uses are restricted. However, local jurisdictions must clarify, ratify, and provide enforcement to make it effective. Currently, the designation allows uses detrimental to the purposes of the preserve. Additionally, agricultural activity is expressly exempted from the stated land use restrictions. Since most of the land within the boundary is locally zoned "Agricultural" or "Agricultural Special Treatment", this designation has little potential for protecting the resource.

Local zoning allows agricultural and residential uses of private lands within the preserve. Both of these land uses would not be consistent with the purposes of the preserve as established by Congress. Agricultural activities could involve the application of fertilizers, herbicides, and pesticides, and the alteration of the surface. These activities could adversely affect the preserve's resource management programs; e.g., improvement of the hydrological flow and enhancement of endangered species habitat. Further, if and when agricultural zoning were changed, residential development could occur that could interfere with the natural processes and the preserve's plan to enhance these processes; e.g., the prescribed fire program.

Furthermore, the history of monitoring private lands for conformance to local zoning is an extremely expensive and time consuming activity for both the local jurisdictions and Service personnel. This is because of the remoteness and inaccessibility of a majority of the private lands. At the very least, a swamp buggy or helicopter would have to be used to accomplish this monitoring activity. The local jurisdictions do not have the resources or manpower available for this costly and time consuming task. Of course, monitoring of zoning violations would cease to be a preserve management problem if the land were in Federal fee ownership. Also, since it is the mission of the Service to preserve and protect the resources, existing personnel and equipment will be devoted to the task of resource protection.

Although zoning is available, its effectiveness on private lands does not provide preserve management with the tools necessary to meet the purposes of the preserve including public use and access, prevention of incompatible land uses, protection of archeological resources, management and eradication of exotic species, and providing habitat for endangered species. Also, zoning does not provide protection from the long term cumulative effects of incompatible uses of private lands which are scattered throughout the preserve. Preserve management will continue to monitor zoning variance petitions and will respond to any petition which may result in an incompatible land use.

Regulations

A brief glance at the list of laws and authorities pertaining to resources could lead one to believe that sufficient protection exists for the lands within the preserve. This is not the case for several reasons. To be effective, a law must be enforceable. In the remote Big Cypress area, many of the regulatory agencies are rarely present to assure compliance with laws and regulations. For example, many of the structures on developed property were not built according to building codes, nor did the owners adhere to their county building permits. The counties have indicated, frankly, such monitoring and policing activity is beyond their capability, especially when considering the remoteness and need for specialized access equipment. The preserve also has resource needs that are peculiar to a National Park area; i.e., visitor experience. None of these regulations provide for visitor access or use. None offer protection for the visual corridors. Most visitor use in the preserve is currently associated with ORV use and hunting. Without Federal land ownership, the Service, in cooperation with the Florida Game and Fresh Water Fish Commission, would find it difficult to regulate these recreational uses. Access on or through private lands within the preserve would be at the discretion of the landowner. The random and scattered distribution of private properties would make the access issue complicated and confusing for the agencies and public user alike. Private land could be fenced and/or posted to prohibit public and Service access.

As stipulated in Section 6 of PL 94-458, the Service diligently pursued and obtained concurrent jurisdiction with the State of Florida. This has extended the degree of resource protection through 36 C.F.R. and the ability to enforce State laws.

Recognizing the need for fire suppression on non-Federal lands, the Service has obtained a Memorandum of Understanding with the Florida Department of Forestry. This agreement allows the preserve to take first response action against wildfire threatening non-Federal lands adjacent to the preserve (one-half mile "buffer" zone), exempt properties within the preserve and all of the Jetport lands.

The enabling legislation allows for the continuation of certain land use activities, including the exploration and extraction of oil and gas, subject to the rules and regulations deemed necessary and appropriate by the Secretary of the Interior to protect Federal land interests. It is further stipulated that oil and gas rights (subsurface estates) will not be acquired unless the Secretary determines the natural integrity of the surface estates will be threatened with uses detrimental to the purposes of the preserve. On federally owned land, the Service minimizes the natural and cultural resource impacts from oil and gas development through 36 C.F.R. 9B, non-Federal Oil and Gas Rights, and the criteria for sensitive resource areas (SRA). These criteria exist in the Sensitive Resource Areas Map and accompanying text (April 1983). The sole purpose of this information is to provide the oil and gas industry and mineral owners an overview of the environmental issues associated with oil and gas development within the preserve. For non-federally owned lands within the preserve, the Service regulates oil and gas exploration and extraction through 36 C.F.R. 9B where access is across or through Service administered lands. Where private lands are adjacent to State or county roads and the above access requirement is not met, compliance with 36 C.F.R. 9B and SRA criteria relies upon an agreement between Service and private land-owner(s); a similar situation occurred for the Jetport lands when the Dade County Commissioners agreed by resolution to comply with Service regulations, 36 C.F.R. 9B.

The land uses by the oil and gas industry are commonly regarded as incompatible with other resource values, yet through directional drilling, the avoidance of surface disturbance in sensitive plant communities, and the protection of scenic corridors, these intrusions have been largely mitigated. While 36 C.F.R. 9B and the criteria for SRA regulate oil and gas development, they have no effect on other land use activities (e.g., off-road vehicle and hunting use) which have significant secondary impacts. If the land is federally owned, mitigating measures for oil and gas exploration and extraction can be enhanced by special regulations for ORV and hunting use. This is particularly important since the vast majority of visitor use in the preserve is associated with these recreational activities. An analysis of the cumulative impacts from oil and gas development is needed and identified in the Resource Management Plan.

Easements

Easements involve acquisition of some specific rights in real property. They may be positive, providing a right of access or use, or negative, limiting the use of the land by the owner. Easements were considered during this planning process. While they might protect various elements of preserve purposes, e.g., the scenic view, development, or the type of vegetation that could be grown on the property, they could not protect the totality of these purposes. As discussed above, the primary resource management objectives for the

preserve involve restoration and enhancement of natural systems as well as public use. Easements could, in theory, control many of the potential uses of the land. However, if easement rights sufficient for management needs were purchased, no appropriate land use by private landowners could occur; i.e., the property owner would not be left with any reasonable rights in the property. In addition, experience with appraisals of similar properties has revealed such all encompassing easements would not be cost effective.

Fee Acquisition

When all of the interests in land are acquired, it is owned in fee. In Big Cypress National Preserve, fee acquisition refers to acquisition of all real property rights, except those previously retained; e.g., oil and gas rights. Fee acquisition is generally necessary and appropriate where land is needed for active public recreational use, planned resource management and restoration, or protection of sensitive natural habitats. As discussed above, all of these purposes are applicable throughout the preserve.

Fee acquisition removes land from local tax rolls. However, impact on local government is partially offset by the payments in lieu of taxes provided by the Federal Government.

Fee acquisition provides the landowner with full compensation for the interests necessary to manage the preserve.

Acquiring all rights will allow the Service to meet the purposes of the preserve. It will provide for public use and access throughout the preserve, thus protecting recreational values. It will prevent incompatible uses described in Section III, B. It will permit management protection and, perhaps eventual, visitor access to archeological resources. It is required for management and eradication of exotic species and to manage habitat for endangered species. All of these considerations are in concert with the purposes of the preserve and harmonious with management objectives.

Fee acquisition with sellback/leaseback was considered but would not provide any economical, viable land use for a potential leasee or purchaser.

Fee acquisition using exchange or donation will continue to be explored with each property owner. The Service monitors availability of exchange properties and where feasible this method will be utilized. Donations of properties have occurred and this option will be discussed with landowners.

V. RECOMMENDATIONS AND PRIORITIES

A. Recommendations

Review of the resources to be protected, the purposes of the preserve, the management objectives and techniques required to provide that protection and accomplish those purposes, cost-effectiveness, public and private landowner objectives, sociocultural impacts, and the methods of protection discussed above, revealed there are very few traditional land uses allowed by real estate ownership which are compatible with the purposes of the preserve. Thus the same conclusions were drawn as were reached by previous studies (discussed in detail in Appendix C), that is, the best action is full fee acquisition.

It is therefore recommended that all non-Federal lands, with the exception of State and county roads, be acquired in fee for the following reasons:

--it will allow the Service to meet the purposes of the preserve.

--it will provide for public use and access throughout the preserve.

--it will prevent incompatible uses.

--it will provide management protection of archeological resources.

--it is required for management and eradication of exotic species and to management habitat for endangered species.

--it is consistent with PL 93-440, PL 100-301 and the stewardship responsibilities given the Service for Big Cypress.

--it will address the cumulative impacts of development which if allowed to occur would interfere with the protection of the natural, hydrological, and other resources of the preserve.

No other methods, individually or in combination, provide a reasonable assurance of long term resource protection and enhancement as mandated with PL 93-440 and PL 100-301.

School Board lands (14,155 acres, 9 percent of non-Federal land)

Cooperative agreements were considered and are being used as an interim measure but were found inadequate for long-term protection of the resources. The School Board is not equipped nor is it their mission to manage the resources of a national preserve. The dispersion of these lands makes it unlikely School Board personnel would be onsite to provide any type of resource protection. According to PL 93-440 acquisition of these lands must be by donation. Also the landowner would have no reason or any desire to donate an easement and retain remaining rights. Federal acquisition of these lands will not decrease the tax base as they are tax exempt.

Jetport Authority lands (23,481 acres, 15 percent of non-Federal lands)

Cooperative agreements were considered but found not acceptable for the same difficulties noted for the School Board lands. According to PL 93-440 acquisition of these lands must be by donation. Also the landowner would have no reason or any desire to donate an easement and retain remaining rights. Federal acquisition of these lands will not decrease the tax base as they are tax exempt.

State and County Roads (2,886 acres, 2 percent of non-Federal lands)

While the land use involved with State and county roads is incompatible to certain preserve purposes, they do provide access for resource management and enhancement of the visitor experience. The land included with the public roads is not included within the park's acreage ceiling of 570,000 acres. In addition, the Service does not have the resources nor the desire to maintain and manage the roads. PL 93-440 and PL 100-301 direct the Service to cooperate with the Department of Transportation in any future construction for I-75.

Private lands (112,952 acres, 74 percent of non-Federal lands, includes the Florida-Phoenix exchange lands)

Various easements were considered, but to meet Service management needs and protect the resource, they would not leave the landowner with any marketable interest in the land and would not be cost-effective. As discussed above the only option is fee acquisition. The preserve will vigorously pursue donations and exchange possibilities. Although no exchange possibilities are known, any which may become known in the future will be explored.

Acquisition will adhere to PL 91-646, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended with the two exceptions provided by PL 93-440. Condemnation and Declarations of Taking will be used only as a last resort.

B. Priorities

A number of methods were explored to group tracts and establish priorities. Access (existing and potential), size of the tract, vegetation characteristics, archeological resources, development of the tract itself, or proximity to other development are just a few of the factors that could be considered useful in determining a priority list. However, the collection of adequate data about each tract to identify all of these features is prohibitively expensive and time consuming, especially in view of the difficulty in locating property lines. Private tracts remaining within the boundary are scattered throughout the preserve. The pattern of private ownership generally reflects special legal or technical issues that arose in the past acquisition program rather than characteristics of the resource or private use patterns.

The Resources Management Plan outlines the following priorities for actions to conserve and enhance the preserve: hydrology, exotic plant management, fire management, threatened and endangered species, minerals management, exotic animal management, etc. Land protection priorities generally follow the priorities outlined in the Resource Management Plan; i.e., properties where the priorities for resource management are most needed or which have the greatest potential for enhancement of these resources, have the highest priority for protection.

Due to the quantity of tracts involved, specific priorities are reflected in the tract listing in Section VI B. By category there are the following priorities for protection:

1. Improved Properties

Defined as properties where any man-made changes to the natural conditions have occurred; e.g., structures or fill. This is a broader definition than that used in PL 93-440 for "improved property". Properties meeting the narrow definition of PL 93-440 (See criteria in Section III, B) will not be acquired "without the consent of the owner unless. . .such property is subject to, or threatened with, uses which are, or would be, detrimental to the purposes of the preserve." Larger tracts will generally be given a higher priority than smaller ones due to the potential for further changes in natural conditions.

2. Properties with high potential for development

Defined as larger (10 acres or more) undeveloped properties. Development of these tracts would disrupt water flow and natural vegetation and accelerate the spread of exotic plants.

3. Other undeveloped tracts scattered throughout the preserve

Defined as smaller (less than 10 acres) undeveloped tracts. Smaller tracts have a somewhat lower potential for development and associated access and thus somewhat lower potential impact on natural values.

Based upon information currently available, significant differences in priority cannot be determined among the properties within these categories. However, changes in ownership or steps to initiate development would impact the priority of a specific property. Also, if opportunities to purchase appear to exceed the funding available for acquisition, the resource management priorities previously discussed will be factors in setting priorities among offers to sell. That is, properties with more of the characteristics identified as resource priorities will be acquired prior to those with fewer such characteristics.

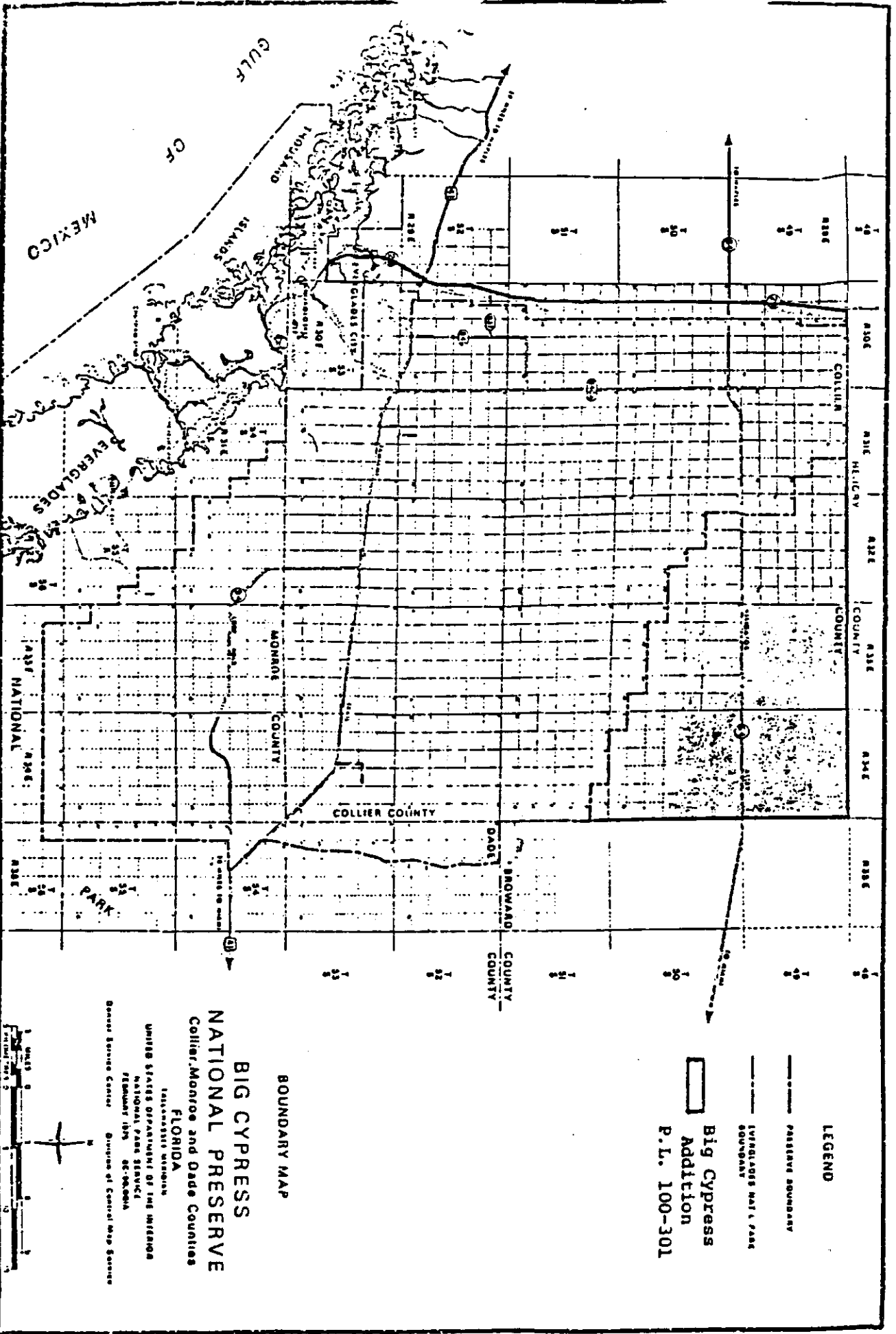
VI. APPENDICES

A. Maps and Photographs

B. Priority Listing of Tracts

The attached listing is only for the original preserve. Over 3,000 separate tracts exist within the Addition. Tracts which meet the criteria for "improved property" have not yet been identified. Therefore, computer lists for the Addition are available at Big Cypress headquarters in Ochopee and the Land Acquisition Office in Naples.

C. Legislative History



LEGEND

—— PRESERVE BOUNDARY

—— EVERGLADES NAT'L PARK BOUNDARY

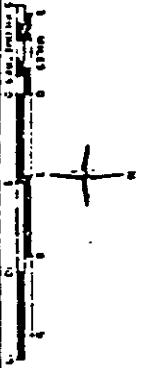
▭ Big Cypress Addition

P.L. 100-301

BOUNDARY MAP

BIG CYPRESS NATIONAL PRESERVE
 Collier, Monroe and Dade Counties

FLORIDA
 UNITED STATES DEPARTMENT OF THE INTERIOR
 NATIONAL PARK SERVICE
 BUREAU OF LAND MANAGEMENT
 Denver Service Center Division of Control Map Service



Tract #	Name	Acreeage	Priority	Location (T,R,SEC)
001-24	Rhodes, Curtis R.	3.00	1*	56,35,31
003-19	Mc Whorter, David	3.00	1*	56,35,9
013-18	Torres, Henry M.	3.86	1*	49,32,2
013-22	Estes, Gerald M.	1.29	1*	49,32,2
025-05	Anton, Elizabeth	0.35	1*	52,30,36
067-07	Brinson,	3.00	1*	49,30,16
067-08	Bass, R. S., Jr.	3.00	1*	49,30,16
067-09	Bass, R. S., Jr.	634.00	2	49,30,16
067-10	Savage,	317.00	2	49,30,16
067-11	Bass, D.	213.24	2	49,30,16
103-59	Mitchell, Edward F.	7.50	1*	56,33,34
139-76	Sloan, Russell W.	3.00	1*	55,34,26
166-69	Carlson, Alex E., TR.	35.50	1	54,34,33
168-30	Dayhoff, Fred E.	4.00	1*	54,34,29
171-58	Vann, Merrell	1.25	1*	54,34,22
172-14	Brown, Claude	2.42	1*	54,34,20
172-36	Gove, Ernest J.	6.00	1*	54,34,21
172-47	Golightly, W. M.	5.55	1*	54,34,21
177-39	Carlson,	1.00	3	54,34,14
177-42	Guise, E. C.	1.91	1*	54,34,14
199-66	Smith, James E.	3.00	1*	54,33,15
199-68	Smith, Frances, M.	3.00	1*	54,33,15
199-70	Hose, Robert R.	3.00	1*	54,33,15
199-72	Witt, James D.	3.00	1*	54,33,15
199-74	Riselo, Ralph L.	3.00	1*	54,33,15
201-44	Scherrer, Lorenz	0.73	1*	54,33,19
201-53	Williams, James R.	0.54	1*	54,33,19
201-54	Williams, Jim	0.73	1*	54,33,19
205-63	Tough, William D.	3.00	1*	54,33,24
206-41	Martin, James E.	4.75	1*	54,33,24
211-132	Mills, Ralph, Jr.	3.00	1*	54,33,32
211-133	Little, Charles	3.00	1*	54,33,32
218-12	Hammond, Robert J.	2.50	1*	54,32,19
221-63	Williams, A. L.	1.88	1*	54,32,13
224-125	Hawkins, E. H.	7.00	1*	54,32,18
232-86	Smith, Madolyn M.	3.00	1*	54,32,6
234-25	Buckhalt, James T.	3.00	1*	54,31,2
234-27	Buckhalt, James T.	3.00	1*	54,31,2
243-37	Martone, Ralph	0.85	1*	54,34,21
245-28	Gove, Anne H.	0.29	1*	54,34,21
250-20	Sanchez, Eugene R.	1.25	1*	54,34,16
250-21	Borders, Andy H.	1.25	1*	54,34,16
250-30	United Tel Co of Florida	8.75	1*	54,34,16
250-31	Smith, Alice	1.25	1*	54,34,16
250-41	Overholser, D. E.	1.25	1*	54,34,16
250-44	Hawkins, Edward O., Jr.	1.25	1*	54,34,16
250-61	Taplin, David	3.00	1*	54,34,16
250-67	Jacobson, Jan M.	6.49	1*	54,34,16
403-02	United Tel. Co.	4.44	1*	53,32,10
404-62	McKay, Sam D.	3.00	1*	52,30,34
404-64	Benco Realty Corp.	3.00	1*	52,30,34

Tract #	Name	Acreeage	Priority	Location (T, R, SEC)
720-32	Wooten, Raymond R.	11.35	1	52,30,32
720-33	Wooten, Raymond	7.95	1	52,30,32
720-34	Wooten, Raymond	33.33	2	52,30,32
720-36	Wooten, Raymond R.	62.50	2	52,30,32
722-33	Dietz, Karl W.	2.57	1*	52,30,21
723-36	Butler, Walter A.	1.29	1*	52,30,21
724-22	Hampton, Harold	3.00	1*	52,30,22
728-03	Mayberry, Ethel A.	2.57	1*	52,30,25
731-99	Moller, L. Jack	1.29	1*	50,31,2
732-02	Fleming, Joe J.	1.67	1*	52,30,13
732-36	Wilson, John S.	1.29	1*	52,30,13
732-72	Cox, Wilton E.	1.28	1*	52,30,13
733-32	Roberts, Oscar O.	2.50	1*	52,30,13
736-10	Cox, Homer T.	1.25	1*	52,30,15
736-19	Faller, Robert A.	2.60	1*	52,30,15
736-57	Hodges, Calvin	2.50	1*	52,30,15
738-15	Walker, Jesse B.	2.50	1*	52,30,5
739-61	Doster, William R.	1.29	1*	52,30,9
744-11	Matson, Duffield W., Jr.	15.00	1*	52,30,12
745-62	Rogers, Aaron W.	2.76	1*	52,30,1
745-78	Labin, John C.	3.00	1*	52,30,1
746-32	Graham, J. D.	1.29	1*	52,30,1
749-04	Newman, Royal	1.29	1*	52,30,4
750-126	Bock, Edward	3.86	1*	52,30,4
750-19	Bock, Christopher, Tr.	1.29	1*	52,30,4
759-74	O'Connor, P. F.	2.00	1*	51,31,27
762-29	Bray, Wallace S.	3.00	1*	51,31,19
776-48	Nash, George J.	3.00	1*	51,31,10
777-45	Mc Phee, Russell	3.00	1*	51,31,10
778-66	Grant, David W.	3.00	1*	51,31,11
801-65	Ellison, William	3.00	1*	51,32,3
806-70	Schneider, William J., Jr.	1.29	1*	52,30,5
806-84	Todd, Gerald	1.28	1*	52,30,5
806-85	Lyons, Pauletta	2.57	1*	52,30,5
813-50	Tiner, James E.	3.00	1*	51,32,15
814-58	Rankin, Everett	1.00	1*	51,32,14
814-60	Edwards, John D., Sr.	3.00	1*	51,32,14
827-10	Popenhager, N.	8.13	1*	51,33,32
827-12	Popenhager, Nolan	13.14	1*	51,33,32
827-14	Murphy, John W.	2.50	1	51,33,32
827-15	Carlisle, David	2.50	3	51,33,32
827-16	Joyce, Thomas R.	2.50	3	51,33,32
856-85	Daughtrey, Elwood J.	3.00	1*	51,33,22
857-40	Whidden, David E.	2.50	1*	51,33,22
871-51	Hogan, Simon	3.00	1*	51,33,14
871-53	Johnston, Helen E.	3.00	1*	51,33,14
872-24	Crenshaw, William C.	20.00	1*	51,33,17
872-25	Bowling, Robert E.	3.00	1*	51,33,17
872-27	Miami Shores Elec., Inc.	3.00	1*	51,33,17
872-29	Mc Intyre, E. S.	3.00	1*	51,33,17
872-31	Simmons, Glen J.	3.00	1*	51,33,17
872-33	Munz, Charles	3.00	1*	51,33,17

873-41	Waldrip, William S., Jr.	3.00	1*	51,33,18
873-43	Woodrum, John R.	3.00	1*	51,33,18
873-45	Redmond, Preston	3.00	1*	51,33,18
873-47	Alston, M. D.	3.00	1*	51,33,18
873-49	Deline, Steven B.	3.00	1*	51,33,18
873-51	Hamilton, Ralph M.	3.00	1*	51,33,18
873-54	Holland, Stanley A.	3.00	1*	51,33,18
873-57	Gonzalez, Felix	3.00	1*	51,33,7
874-25	Stewart, Edwin L.	3.00	1*	51,33,7
874-29	Kavanaugh, John F.	3.00	1*	51,33,7
874-31	Chandler, John A.	3.00	1*	51,33,7
874-33	Diehl, Doris V.	3.00	1*	51,33,7
874-36	Drake, Wayne H.	24.00	1*	51,33,6
874-38	Drake, Wayne H.	623.54	2	51,33,8
874-39	Wood, Sam	3.00	1	
894-12	Zehner, Clayton R.	1.29	1*	49,31,31
894-25	Dupree,	0.83	1	
894-38	Smith, Walter James	0.64	1*	49,31,31
928-34	Pinder, Dan E.	2.50	1*	51,34,14
931-60	Murphy, Jill A.	3.00	1*	51,34,23
932-25	Strayhorn, Guy R.	1.25	1*	51,34,23
934-52	Miller, Albert N., Sr.	3.00	1*	51,34,22
937-92	Gresham, Travis	3.00	1*	
949-61	Young, William S.	2.50	1*	51,34,25
950-57	Rosher, Richard	1.36	1*	51,34,25
952-59	Dawson, Adrian B., Jr.	3.00	1*	51,34,35
963-33	Strayhorn, Norwood R.	1.25	1*	51,34,32
990-77	Frank, E. H.	3.00	1*	50,33,26
A02-50	Evers, Joel	3.00	1*	50,32,31
A02-52	Norris, Jessie, Jr.	3.00	1*	50,32,31
A31-28	Anton, Elizabeth	3.00	1*	50,31,31
A32-14	Hall, Jessie C.	0.55	1*	50,31,30
A32-75	Hill, Jessie Mae	3.00	1*	50,31,30
A32-77	Bruner, John J.	3.00	1*	50,31,30
A39-63	Coarsey, M. B.	5.00	1*	50,31,24
A67-16	Carter, Robert A.	2.57	1*	49,31,31
	PUBLIC, NON-FEDERAL LANDS			
Various	State of Florida School Boa	14155.0	2	Various
Various	State Dept of Transportatio	2886.0		Various
Various	Dade-Collier Jetport Auth.	23481.0	1	Various

412-06	Community Med. Cntr.	0.32	1*	52,30,33
417-32	Everglades Conserv & Sports	40.00	1*	53,32,14
425-10	Wooton, Raymond R.	0.97	3	52,30,34
425-11	House, James I.	0.75	1*	52,30,34
425-61	Chevron USA, Inc.	0.73	1*	52,30,34
468-52	Barton, Melvin	1.38	1*	53,33,16
468-86	Larkin, Richard F.	2.86	1*	53,33,16
470-08	Martin, Robald E.	1.48	1*	53,33,16
470-26	Whilden, Louis N., Jr.	13.50	1*	53,33,16
501-58	Billie, Johnny	1.29	1*	52,30,27
501-67	Billie, Johnny E.	1.28	1*	52,30,27
504-22	Posada, Chris	1.29	1*	52,30,27
504-72	Mc Cool, Charles	2.57	1*	52,30,27
508-26	Lord, Harold C.	4.57	1*	53,34,36
508-35	Trail Indian Church	4.18	1*	53,34,36
508-37	Trail Indian Indep Baptist	0.92	1*	53,34,36
508-45	Glover, Larry W.	1.84	1*	53,34,36
508-48	Lord, Harold	0.92	1*	53,34,36
508-74	Osceola Enterprises	0.92	1*	53,34,36
508-75	Osceola, Howard M.	0.92	1*	53,34,36
508-89	Larkins, Carl W.	0.92	1*	53,34,36
509-08	Osceola, Bill M.	6.06	1*	53,34,36
509-10	Osceola, Bill M	0.92	1*	53,34,36
509-80	Osceola Bros Indian	0.92	1*	53,34,36
521-04	Brady, George	2.21	1*	53,34,21
521-10	Bronson, J. C.	0.89	1*	53,34,21
21-18	Gill, Rubald	0.52	1*	53,34,21
521-19	Patton, James P.	0.92	1*	53,34,21
521-59	Osceola Enterprizes	1.96	1*	53,34,21
537-29	Houghton, Richard L.	2.50	1*	52,34,1
553-53	Baxter, Joseph K.	3.00	1*	52,34,8
572-34	Himrod, Joe B.	2.50	1*	52,34,5
575-04	Peacock, C. A., Jr.	2.50	1*	52,34,13
587-52	Rouse, L. H.	2.50	1*	52,33,2
587-53	Stephens, Leon T.	2.50	1	52,33,2
593-53	Cooper, Bobby R.	2.50	1*	52,33,5
593-55	Garrett, Ben	2.00	1	
606-50	Pemelman, Charles R.	3.00	1*	52,33,15
609-84	Waters, Darvin J.	3.00	1*	52,33,18
609-86	Blanco, Genaro	2.50	1*	52,33,18
609-88	Bannon, William	3.00	1*	52,33,18
610-37	Cravey, Chauncey R.	3.00	1*	52,33,19
624-76	Campbell, John A., Jr.	3.00	1*	52,33,25
637-77	Parker, Dewey	3.00	1*	52,33,33
647-38	Tiedt, Lawrence W.	3.00	1*	52,32,29
648-38	Bernhardt, Ronald	3.00	1*	52,32,21
662-70	Humstead, Robert M.	3.00	1*	52,32,22
670-80	Rhoads, A. E.	2.50	1*	52,32,11
670-81	Gresham, Travis A., III	3.00	1*	52,32,1
670-83	Roberts, Robin	3.00	1*	52,32,12
670-85	Roberts, Charles O.	3.00	1*	52,32,12
70-87	Revell, Eston	3.00	1*	52,32,12
0-89	Davis, Louie H.	3.00	1*	52,32,12
70-91	Tolson, John F., Jr.	3.00	1*	52,32,1

not
on
list

676-42	Cofield, Richard B.	5.00	1*	52,31,6
678-52	Bradley, Norman	2.50	1*	52,31,7
679-33	Belyew, Osburn M.	2.50	1*	52,31,7
680-24	Hunt, John W.	2.50	1*	52,31,7
698-21	Spaulding, Timothy	2.50	1*	
709-51	Wooten, Raymond	2.50	1	52,31,1
713-36	Pearce, Duane I.	3.00	1*	53,31,33
713-63	Brock, T. Anthony	3.00	1*	53,31,33
713-65	Stewart, Edwin L.	3.75	1*	53,31,33
713-67	Frank, Johanna M.	3.00	1*	53,31,33
714-48	Rick, Erick	3.00	1*	53,31,33
714-55	Doerr, Vincent D.	4.00	1*	53,31,33
714-59	House, Hugh	3.00	1*	53,31,33
714-61	Miller, Paul	3.00	1*	53,31,35
718-32	Shealy, Jack C.	22.52	1*	53,31,35
719-39	Gaunt, James T.	1.72	1*	53,31,26
720-11	Wooten, Raymond R.	139.32	2	52,30,32
720-14	Morris, Sandra D.	3.21	1*	52,30,32
720-22	Wooten, Raymond R.	1.66	3	52,30,32

C. Legislative History

KEY ELEMENTS OF PL 93-440

Public Law 93-440 provides certain elements of the congressional directive for fee acquisition. The House and Senate were considering different bills prior to its enactment. H.R. 10088 contained a provision for legislative taking of all lands with the Secretary authorized to "revest titles to former owners where it was determined fee title" was not required. The legislative taking was proposed to assure prompt and speedy acquisition. This was dropped in the Senate/House conference work in favor of stating the express intent to complete acquisition within six years. The authority to revest title or portions of interests was explicitly removed.

The Act's exceptions to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 were provided to speed up acquisition. All the legislative history emphasizes the numerous landowners (40,000 - 47,000 tracts) and the difficulties in completing the project within six years if these exceptions were not provided.

Section 2 notes the action of the State of Florida through enactment of the "Big Cypress Conservation Act of 1973". This Act authorized fee acquisition of land and water areas within the boundary of the Big Cypress National Preserve, with forty million in State funds; authorized the donation and conveyance of title in areas so acquired to the Federal government and provided for the exercise of the power of eminent domain to assure acquisition. These provisions were developed in concert with the U.S. Congress. The eminent domain authority must be specifically authorized in Florida and emphasizes the intent to acquire in fee.

In response to Section 2 (b), the Secretary of the Interior submitted a detailed plan dated March 11, 1976. Therein was stated a determination "that all lands within the authorized boundaries. . are essential to protection and public enjoyment of the preserve." This was accepted by the Congress as consistent with their intent. This memorandum also expressed concern for completing acquisition within six years and proposed an amendment allowing eight years. The intent of Congress and its concern for prompt acquisition was again documented since the additional two years were not provided through amendment.

When combined with other legislative history, Section 8 and the authorized appropriation amounts also support fee acquisition. These amounts were based upon Department of the Interior figures submitted to Congress and reflect fee acquisition of preserve lands.

KEY ELEMENTS OF MAY 10 AND 11, 1973 HEARINGS

(held before the Subcommittee on National Parks and Recreation of the Committee on Interior and Insular Affairs, House of Representatives, printed as Serial No. 93-17 - Exerpts of Statements and Testimony)

Representative Bill Gunter, Florida

"The Big Cypress Acquisition is by no means an isolated move by a few Florida Congressmen. Rather it is another step by those of us who represent the people of Florida. . .It is clear we cannot accomplish what we desire through a land use policy while leaving the land in the hands of private owners. The control needed. . .would keep the owners. . .from exercising their natural incidents of ownership and result in either disregard for the policy or for all practical purposes depriving the owners of their land without compensation."

Senator Lawton Chiles, Florida

". . .in 1971 I studied various alternatives to protect the beautiful and vital Big Cypress area of Florida. I came to the conclusion that direct acquisition was the most straightforward, fair approach and the most complete way of protecting this key link to the survival of Everglades National Park. On February 6, 1973, I reintroduced, along with Senator Jackson, an acquisition bill."

Governor Reubin Askew, Florida

"the mere obtaining of easements would be insufficient. Easements, to be effective, would have to prohibit further construction, ditching, draining and timbercutting; restrict access, and possibly restrict mining and oil and gas prospecting and production."

"We believe that acquiring partial interest in land or easements would not be sufficient to properly protect the area; that they would cost almost as much as acquiring the fee interest and in that instance, the public would not be able to use the land."

Collier County Manager Harmon Turner, Florida
(from a resolution by Collier County Commissioners)

"Resolved: 1. That this board. . . endorses the purchase of these lands. . . 2. That funding be obtained adequate for the purchase. . . removed from the tax rolls. . ."

Resolution by Dade County Commissioners

"Whereas the Department of Interior and the Florida Department of Natural Resources have determined. . .that acquisition of approximately 522,000 acres. . .constitutes the minimum government action required to adequately protect. . .resources. . .it shall be the policy of this board to endorse and support acquisition. . .of the Big Cypress. . ."

Rogers C.B. Morton, Secretary of Interior

"You may also ask whether Big Cypress can be protected in some manner other than outright purchase. I don't know any other way. We have studied the alternatives, and all fail to do the job, or end up with full fee acquisition. We looked at zoning and at every conceivable combination of Federal-State-county arrangement, taken one, two, and three at a time. We looked for innovative legislation."

"We considered. . .trusteeships and a public corporation. We tried easements but ended up needing substantial part of fee and the job of policeman. We considered a system of parkways and easements. We tried permutations of all these ideas. It came out the same each time. We finally put a blue ribbon panel to work on alternatives to straight-out acquisition but by the middle of the second day, all the participants reached the same conclusion; the only sure way is full fee acquisition."

"Our conclusion is that the Big Cypress should be acquired in fee. If you concur in the relationship between Big Cypress watershed and the Everglades National Park and determine it is in the national interest to protect the Nation's investment and the resources of the Everglades, then your decision, simply put, is on how to protect the Big Cypress Swamp."

"We do not believe easements would work. The watershed is too sensitive. It is sheet type drainage; the water moves slowly and is maybe only a few inches deep. It moves in a great horizontal sheet, and if you cut roads, dig ditches, divert this and destroy that, you will get into deep trouble. The water would move into concentrated areas like canals and would not be distributed downstream in a way that would benefit the Everglades. . .my concept of it, Mr. Chairman, is that any development whatsoever which results in ditching, diversion, changing the direction of flow, or concentrating water in some areas at the expense of other areas would be disastrous to using the Big Cypress as a fresh water reserve to supply the Everglades National Park."

These hearings and the above testimonies provided the foundation upon which the House and Senate committees developed similar bills which were subsequently passed by their respective bodies.

KEY ELEMENTS OF HOUSE REPORT 93-502

(Portions marked with SR 93-1128 appear verbatim in Senate Report 93-1128)

"Naturally, anything that interferes with the natural flow of fresh water will radically alter this sensitive subtropical environment. Drainage works, roads, airport facilities or other construction activities. . .will not only affect. . .fishery resources but. .

". . .the area. . .is largely undeveloped at the present time and. . wilderness character which once prevailed. . ." (SR 93-1128)

"the committee chose to call the area a preserve rather than a reserve, feeling that such distinction may be important. Reserve refers to stock - a commodity held for future use. Preserve refers more definitely to the keeping or safeguarding something basically protected and perpetuated for an intended or stated purpose." (SR 93-1128)

"Principal thrust. . .should be the preservation of the natural values which they contain." (SR 93-1128)

"All management activities. . .should be directed toward maintaining the natural and scientific values of the area, including the preservation of the flora and fauna and the reestablishment of the indigenous plant and animal life." (SR 93-1128)

The expectations of Congress noted above are management responsibilities which could not be accomplished with less than fee acquisition.

KEY ELEMENTS OF SENATE REPORT 93-1128

(Not contained within House Report 93-502)

The Committee amended H. R. 10088 to provide two exceptions to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. These provisions waive the need for appraisals and the opportunity for owners of unimproved property to accompany appraisers. This was given "in order to expedite the acquisition of the many properties in the Big Cypress area."

Throughout these reports appear numerous statements which substantiate a congressional directive to acquire in fee. The quotes noted above or others such as "Since the area is to be maintained in its natural state, the construction of facilities, if any, within the preserve will be limited to those. . . essential to the proper management. . .of the area," describe conditions based upon fee title to the land.

Federal agencies in the management and expansion of the preserve and Addition; and (4) a determination, made in conjunction with the State of Florida of the adequacy of the number, location, and design of the recreational access points on I-75/Alligator Alley for access to the preserve and Addition.

1. Complete the General Management Plan and Addendum by 1990.
2. Complete a Public Use Survey by 1990.
3. Complete a report to Congress on a determination of adequacy of access by 1990.

The "Minority Views" attached to Senate Report 93-1128 also reflects the legislative intent by that to which they object:

"We do have. . .two major objections to the bill. First, the land acreage is excessive. The bill calls for acquisition of approximately 570,000 acres, of which 522,000 are private and 48,000 are public ownership. There are some 35,000 landowners involved. We believe the purpose of the Act could be accomplished by the acquisition of fewer acres. Second, we are concerned about the total authorization which will reach \$156 million. . ."

KEY ELEMENTS OF CONGRESSIONAL RECORDS

October 1, 1974, Senate Record documents Senate amendment changing "legislative taking and authority to revest title" of H. R. 10088 to "acquire as expeditiously as possible" and express intent of Congress for Secretary to complete acquisition within six years. An additional House amendment to this section was added to assure the Congress was apprised on the status of the acquisition program. This required the Secretary to submit a plan within one year for the next five years. "In this manner, the Congress will be apprised on whether or not its expectation and in the case of the House substitute, its express intent that the lands be acquired within six years, will be fulfilled."

NEW MANDATES PROVIDED BY PL 100-301

- A. Evaluate the Addition for wilderness by conducting a suitability study by 1993. (The Service would utilize the same study to meet the requirement to update after five years, the 1978 Wilderness Study conducted on the existing preserve.)
- B. Cooperate with the State of Florida to establish recreational access points and roads, rest and recreation areas, wildlife protection, hunting, fishing, frogging and other traditional recreational opportunities. . . . Three of these access points shall be located within the preserve (including the Addition).
 1. Continue cooperation with the Florida Game and Fresh Water Fish Commission.
 2. Complete the General Management Plan for the preserve.
 3. Complete an Addendum to the GMP to cover the Addition.
- C. Provide Congress (by 1990) a detailed report on and further plan for the preserve and the Addition, including (1) status of existing , the effectiveness of past regulation and management and recommendations for future management of the preserve and Addition; (2) a summary of the public's use of the preserve and the status of the access points developed pursuant to Section 10 of PL 100-301; (3) the need for involvement of other state and

ENVIRONMENTAL COMPLIANCE

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332) the Service prepared a draft Environmental Impact Statement for the proposed Big Cypress National Preserve and circulated it for public comment on February 5, 1972, with a final EIS (FES 75-39) completed and approved April 11, 1975. This FES dealt with the impacts of the Federal legislation establishing Big Cypress, including the acquisition of property. The Task Directive and Land Protection Plan are consistent with the draft EIS and the FES.