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REPORT BY THE U.S.

# General Accounting Office

AD-A153 194

## The Corps Of Engineers Should Revise Its Policy For Identifying Unneeded Land

In July 1982 the Corps of Engineers identified 35,000 acres of unneeded land in response to the President's February 1982 Executive Order 12348 asking federal agencies to report real property no longer needed to meet agency objectives.

At five projects, GAO identified an additional 16,682 acres which were not being used for project purposes, including 16,002 acres being leased for farming or grazing. The Corps did not consider this land for possible disposal because most of it is occasionally flooded. GAO believes this land could be offered for sale, if it meets other federal requirements such as environmental considerations, with easements that give the government the perpetual right to flood the land and prevent incompatible development.

GAO is therefore recommending that the Corps revise its land excessing policy to not automatically exclude for possible disposal land which is occasionally flooded and on which the government's interests can be fully protected through the use of easements.

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UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

RESOURCES, COMMUNITY,  
AND ECONOMIC DEVELOPMENT  
DIVISION

B-209066

The Honorable James A. McClure  
Chairman, Committee on Energy and  
Natural Resources  
United States Senate

The Honorable Malcolm Wallop  
Chairman, Subcommittee on Public  
Lands and Reserved Water  
Committee on Energy and Natural  
Resources  
United States Senate

In response to your letters dated January 18 and 19, 1983,  
this report discusses the Army Corps of Engineers' program for  
identifying unused/underused land.

As arranged with your offices, copies of this report are  
being sent to the Secretary of Defense and the Secretary of the  
Army; the Director, Office of Management and Budget; the Adminis-  
trator of General Services; and other interested parties. Copies  
will also be made available to others upon request.

*J. Dexter Peach*

J. Dexter Peach  
Director



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D I G E S T

The Army Corps of Engineers manages about 8.5 million acres of federal land and has flowage easements<sup>1</sup> on another 3 million acres. Most of this land is located at Corps dams and reservoirs which control flood waters and provide water for municipal and industrial use, energy production, recreation, and fish and wildlife enhancement.

In February 1982, the President signed Executive Order 12348 directing federal agencies to report land and other real property which was not being used, was underused, or was not being put to optimum use. A Property Review Board, also established by the order, said that sales revenues were to help reduce the national debt. Other anticipated benefits included reduced management costs.

The Chairman, Senate Committee on Energy and Natural Resources, and the Chairman of the Committee's Subcommittee on Public Lands and Reserved Water asked GAO to review four federal land-managing agencies' programs to identify and sell unneeded land. This report discusses the Corps' program, including the federal land disposal requirements which must be met before land can be sold, and the effect that selling federal land can have on certain users of such land.

PROCESS USED TO IDENTIFY  
UNNEEDED CORPS LAND

The Federal Property and Administrative Services Act of 1949 requires federal agencies to continuously survey property under their

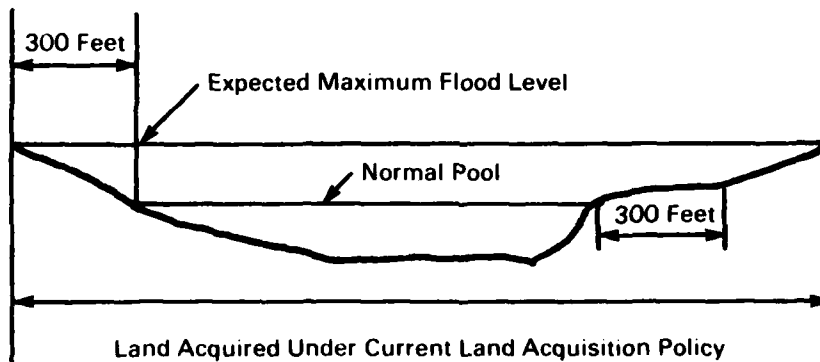
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<sup>1</sup>A type of easement under which the Corps receives a perpetual right to flood another's land to a designated level. Typically, the landowner retains the right to use the property for purposes that do not interfere with project operations. The right to flood land usually embodies the right to raise or lower the water level of Corps reservoirs.

control to determine which is excess and report such property to the General Services Administration (GSA) for possible disposal.

The Corps has developed a 5-year schedule for conducting periodic land utilization surveys addressing the continued need for project lands. This 5-year survey schedule was used as part of the Corps' program to develop information needed to respond to Executive Order 12348. (See pp. 3, 9, and 10.)

In addition, the Corps adopted a policy to identify for disposal only that land which would not have been acquired under its current land acquisition policy for water resource projects. Under this policy, the Corps acquires full title to land up to the expected maximum flood level (a level beyond which flood water is not expected to cause damage) or within a 300-foot buffer measured horizontally from the top of the normal pool (water level at normal project operating conditions), whichever is greater. This is illustrated below.



Using these criteria, the Acting Secretary of the Army in July 1982 identified 35,000 acres valued at about \$24 million as not needed for project purposes. An additional 2,148 acres valued at \$2.1 million were reported as excess in May 1984. (See pp. 10 to 12.)

#### MORE LAND MAY BE UNNEEDED

Because its policy is to retain full title to most land expected to be periodically flooded, the Corps has not considered some land for possible disposal even though it is not needed for project operations, recreation, or fish and wildlife purposes. GAO believes that a portion of this land could be offered for sale if

flowage easements, where needed, are retained to protect the government's interests. (See pp. 8 and 12.)

The Corps already has flowage easements on about 3 million acres of land. Although management problems such as encroachments have occurred on some of these lands, GAO noted that such problems have also occurred on government lands owned in full title. Further, easements are used by the Departments of the Interior and Agriculture to protect lands in national parks, recreation areas, national forests, wildlife refuges, and conservation areas. (See p. 11.)

GAO reviewed the Corps' land identification and disposal efforts at five single- or multi-purpose reservoirs by reviewing in detail how the land was being used or would be used in the future. For each project, GAO reviewed the authorizing legislation and the master plans to identify authorized land uses. GAO analyzed current and planned land uses at each project to determine if all the land was needed for project operations.

At the five projects, GAO identified 16,682 acres of unneeded land, most of which could be subject to occasional flooding during normal Corps operations, which the Corps had not considered for possible disposal. About 16,002 of these acres were being leased for farming or grazing, representing about 29 percent of the 55,000 acres leased to farmers and ranchers at the five projects. Because most of this land is subject to flooding only once each 5, 50, or 100 years, GAO believes that with proper easements, where needed, this land could be offered for sale. If all 16,682 acres were sold, GAO estimates that the net income to the government could be about \$7 million. Currently, the Corps receives about \$194,000 in leased income annually for this land, but 75 percent of this amount is paid to local governments as required for Corps water projects under 33 U.S.C. 701c-3. (See p. 12 and app. I.)

The following are examples of land GAO believes the Corps should consider for possible disposal:

--A 160-acre tract now under lease for wheat growing; annual lease payments are \$56 an acre. The tract is below the maximum flood

line, subject to flooding perhaps once every 20 years. As agricultural land, the tract is worth about \$900 an acre, with selling expenses of about \$225 an acre. Net proceeds to the government would be about \$108,000.

--A 263-acre tract leased at \$20 an acre annually for growing hay and other crops. About 200 acres located above the normal pool with a sales value of about \$680 an acre were not needed or planned for project purposes. With selling expenses of about \$225 to \$325 an acre, the government could receive about \$71,000 to \$91,000.

--A 60-acre parcel of land suitable for housing. Corps district officials and GAO agreed to an estimated value of \$3,000 per acre for the land, which could be sold without easements. With selling expenses of \$225 per acre, the net proceeds to the government would be about \$166,500. (See pp. 13 to 15.)

#### DISPOSING OF LAND CAN BE COSTLY AND TIME CONSUMING

Before unneeded land identified by the Corps or GAO can be sold, the Corps has to perform studies to comply with federal land disposal requirements.

After the Corps determines that land is not needed for its project operations, public recreation, or fish and wildlife habitat, it must determine if the sale will have cultural and environmental impacts; the land's flood probability; and the land's title. Also, boundary surveys, markings, and fencing may be required. Depending on the nature of the land being sold, this can be a costly and time-consuming process. (See pp. 21 to 24.)

#### DISPOSING OF LAND CAN AFFECT OTHERS' INTERESTS

The interests of land users and local governments can be affected when Corps land is sold. For example, lessees may no longer be able to farm or use the land for grazing. Also, local governments may receive more or less revenue, depending on whether or not the land which is sold can be developed. Local governments are entitled to federal payments in lieu of taxes on certain tax-exempt federal land, and they

also receive 75 percent of federal lease receipts for land acquired for Corps water projects. If the land cannot be developed, the tax receipts would likely not equal revenues from these two sources. (See p. 15 and pp. 17 to 19.)

#### CONCLUSIONS

In identifying unneeded land for sale, the Corps should not automatically exclude land that is occasionally flooded if the government's interests can be fully protected through the use of easements. Such easements would give the Corps the perpetual right to overflow lands when necessary and could also restrict certain activities when they would interfere with project operations.

Although the Corps may identify land as unneeded for its project purposes, this does not ensure that it will be sold. Other federal requirements such as environmental assessments, which can be costly and time consuming, must be considered. If after all such requirements are considered, the land is sold; lessees may no longer be able to farm the land or use it for grazing; and local governments may receive more or less revenue, depending on whether or not the land which is sold can be developed. (See p. 19.)

#### RECOMMENDATION

GAO recommends that the Secretary of the Army direct the Chief of Engineers to revise the Corps' policy for identifying unneeded land to not automatically exclude for possible disposal land which is occasionally flooded. Such land, if determined excess after further study, could be sold with easements to fully protect the government's interests. This revised policy should be used during all future annual inspections and 5-year land utilization surveys to determine the need to retain project lands. (See pp. 19 and 20.)

#### AGENCY COMMENTS

The Department of Defense concurred with GAO's report, and the Corps of Engineers will revise its policy to conform with GAO's recommendation. The Corps plans to modify appropriate regulations by June 30, 1985. (See p. 20 and app. III.)

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ABBREVIATIONS

BLM	Bureau of Land Management
GAO	General Accounting Office
GSA	General Services Administration

## GLOSSARY

Corps reservoirs	Projects serving a single purpose such as flood control or more than one purpose such as flood control, water supply, recreation, and fish and wildlife enhancement.
Design flood	The largest flood that a given project is designed to discharge safely.
Easement	An interest in land owned by another that entitles its holder to a specific use or restricts the use of the land. Typical easements include ingress and egress right-of-ways, limiting the use of land for such purposes as farming and grazing, and restricting development of the land. An easement may be acquired by express grant or reservation as well as by implied grants and reservations.
Encroachment	The illegal use or unauthorized entry on government-owned or easement lands for such purposes as timber cutting, fencing, dumping, and building of dwellings, boat ramps, or other structures.
Fee simple	The title to land which is free and clear with no restrictions (full title). Mineral rights on the land are generally not acquired unless developing the minerals would interfere with project purposes.
Flood control pool	The level of the lake pool during a flood generally expected to occur at intervals of either 50 or 100 years.
Flowage easement	A type of easement under which a perpetual right is given to the Corps to flood another's land to a designated level. Typically, the landowner retains the right to use the property for purposes which do not interfere with the operations of a Corps project. The right to flood land usually embodies the right to raise or lower the water level of the reservoirs.
Leased land	Land which is leased through competitive bid procedures on a year-to-year basis during project construction and on a 3- to 5-year basis after project completion to another party for grazing, farming, or other purposes.

Levee

A long, low embankment. The height is usually less than 17 feet and the length more than 10 or 15 times the maximum height.

Maximum flowage  
line

The level above which flood water is not expected to cause damage. Includes an allowance to provide for operational contingencies such as adverse effects of wave action or lake bank erosion when water is at the flood control pool elevation. This level includes the freeboard.

Normal pool

The lake level at normal project operating conditions.

Present value

An expression of the time value of money.

Spillway

A structure over or through which flood flows are discharged.

## CHAPTER 1

### INTRODUCTION

On February 25, 1982, the President signed Executive Order 12348 calling for federal agencies to report real property which was not being used, was underused, or was not being put to optimum use. Federal public land statistics show that the federal government owns about 730 million acres of land, or about one-third of the United States' land area. The order established a Property Review Board in the Executive Office of the President to, among other things, develop and review federal real property acquisition, utilization, and disposal policies. According to the Board, the intent of the order was to generate revenues to reduce the national debt. Other anticipated benefits of the order were to permit higher and better uses of unneeded land and reduce management costs.

The Chairman, Senate Committee on Energy and Natural Resources, and the Chairman of that Committee's Subcommittee on Public Lands and Reserved Water, expressing interest concerning how the Executive order was being implemented, asked us on January 19 and 18, 1983, respectively, to review how the Bureau of Land Management (BLM) and Bureau of Reclamation, Department of the Interior; the Forest Service, Department of Agriculture; and the Corps of Engineers, Department of the Army, identify and dispose of unneeded federal land. As agreed with the Chairmen's offices, we will issue a separate report on each agency. This report discusses how the U.S. Army Corps of Engineers (Corps) identifies and disposes of unneeded land.

### FEDERAL LAND OWNERSHIP

Federally owned land includes national parks, forests, and wildlife refuges; defense installations; rangelands, grasslands, and recreation areas; and land around dams and irrigation reservoirs. The four agencies whose programs we reviewed have jurisdiction over about 546 million acres, or about 75 percent of all federally owned land. The major land-managing agencies and the amount of federally owned land as of fiscal year 1982, by agency, are shown on the following page.

<u>Department/agency</u>	<u>Federally owned acres managed</u>		<u>Percent of total</u>	
	<u>Agency</u>	<u>Dept.</u>	<u>Agency</u>	<u>Dept.</u>
(000 omitted)				
Interior:				
Bureau of Land Management	341,059		46.7	
Fish and Wildlife Service	84,907		11.6	
National Park Service	77,286		10.6	
Bureau of Reclamation	4,214		0.6	
Other Interior agencies	<u>3,033</u>	<u>510,499</u>	<u>0.4</u>	69.9
Agriculture:				
Forest Service	192,075		26.3	
Other Agriculture agencies	<u>397</u>	<u>192,472</u>	<u>0.1</u>	26.4
Defense:				
Corps of Engineers	8,544		1.2	
Other Defense agencies	<u>14,334</u>	<u>22,878</u>	<u>2.0</u>	3.2
Other federal departments and agencies				
		<u>3,972</u>		<u>0.5</u>
Total		<u>729,821</u>		<u>100.0</u>

Source: BLM, table 9, Public Land Statistics, 1983.

#### CORPS LAND ACQUIRED FOR CIVIL WORKS LAKE PROJECTS

The Corps manages about 8.5 million acres of federally owned land in all states (except Wyoming) and the District of Columbia. In addition, the Corps had obtained flowage easements<sup>1</sup> on about 3 million acres of land. It sometimes becomes necessary to flood certain lands surrounding Corps projects during the normal operation of Corps reservoirs in order to protect facilities or people living downstream of its dams.

The Corps constructs, operates, and maintains federal water projects providing navigation, flood control, power, and other

<sup>1</sup>A type of easement under which a perpetual right is given to the Corps to flood another's land to a designated level. Typically, the landowner retains the right to use the property for purposes which do not interfere with the operations of a Corps project. The right to flood land usually embodies the right to raise or lower the water level at Corps reservoirs.

benefits. The Congress individually authorizes and funds the planning and construction of Corps projects, which would include land acquisition.

The Corps decides how much land it needs for its reservoir and dam projects<sup>2</sup> based on engineering and operational plans and Corps land acquisition policies. Corps land acquisition policies, which have changed several times over the years, affect the amount of land the Corps acquires for flood control, navigation, hydropower generation, or recreation and wildlife habitat. For example, the Corps frequently acquires additional land beyond water project storage needs for recreation and fish and wildlife protection. The Federal Water Project Recreation Act of 1965 (Public Law 89-72)(16 U.S.C. 4601-12) and the Fish and Wildlife Coordination Act of 1958 (Public Law 85-624) (16 U.S.C. 661) provide that recreation and fish and wildlife conservation generally are to receive equal consideration with other features of water resources development programs.

Topography also affects the amount of land needed for a lake project. For example, a dam built across a canyon generally requires less land than a dam built on a river located on the prairie. The map on page 4 shows a project we visited, its flood pool, normal pool, and the project boundary.

#### REQUIREMENT TO DISPOSE OF UNNEEDED FEDERAL LANDS

The Federal Property and Administrative Services Act of 1949 (Public Law 81-152), as amended, provides the statutory means for disposing of real property which is not needed to accomplish agencies' missions. Under the act, federal agencies are required to continuously survey property under their control to determine which is excess property and report such property to the General Services Administration (GSA) for possible disposal (40 U.S.C. 483(b)). The Secretary of the Army, however, has been delegated the authority to sell surplus real property, including small tracts of land, valued at less than \$1,000.

Executive Order 12348 reemphasized to all executive agencies--including the Corps--the need to periodically review their real property holdings and conduct surveys of such property in accordance with standards and procedures determined by the GSA Administrator. Within 60 days of the order, the head of each executive agency was required to report to the GSA Administrator and the Board on the agency's real property holdings which, in the agency head's judgment, were not used, were underused, or were not being put to optimum use.

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<sup>2</sup>Reservoir projects serving a single purpose such as flood control or more than one purpose such as flood control, water supply, recreation, and fish and wildlife enhancement.

# CLINTON LAKE

## LEGEND

- Flood Control Pool
- Normal Pool
- Public Use Areas
- Project Boundary



Source: Corps of Engineers.

## OBJECTIVES, SCOPE, AND METHODOLOGY

The Chairman, Senate Committee on Energy and Natural Resources, and the Chairman of that Committee's Subcommittee on Public Lands and Reserved Water asked us to respond to the following questions:

- Are the federal land-managing agencies using their land-use planning processes in identifying unneeded land?
- Was the list of unneeded land that the federal land-managing agencies sent to the Property Review Board complete?
- What requirements have to be met before federal agencies can sell land directly?
- What problems have the land-managing agencies experienced in directly selling land?

The Committee Chairman also asked about the effect that the disposal of unneeded land would have on present users, lessees, and permittees on public lands.

To address these questions as they relate to the Corps, we directed our work toward determining the Corps' policies and processes for identifying and reporting unused and underused land to the Property Review Board and GSA. Generally, this involved reviewing and analyzing Corps land acquisition, retention, and excessing policies and practices and their application at five selected lake projects: Lake Texoma in Oklahoma and Texas; Kaw Lake in Oklahoma and Kansas; Harlan County Lake in Nebraska; and Perry Lake and Clinton Lake, both in Kansas. We selected these projects to obtain coverage in states in which the Corps owned substantial amounts of land. The five projects accounted for about 335,000 acres of federally owned land in the states of Oklahoma, Texas, Kansas, and Nebraska. The states ranked 1, 2, 10, and 29, respectively, in federally owned Corps project land. Although the Secretary of the Army can directly sell land valued at less than \$1,000, no direct land sales had occurred at the five projects. Therefore, we could not respond to the question on problems the Corps was experiencing in directly selling land.

At headquarters in Washington, D.C., and selected field locations, we interviewed Corps officials and personnel and reviewed pertinent instructions and documents to determine how the Corps developed its list of unneeded land in response to Executive Order 12348. At the five lake projects, which are in

the Corps' Kansas City and Tulsa districts,<sup>3</sup> we reviewed the implementation of Corps policies and procedures for identifying unneeded land. These districts managed about 20 percent of the Corps' federally owned land and about 38 percent of the 500,000 acres shown in Corps' records as being leased for farming and grazing. About 55,000 acres of leased land<sup>4</sup>--11 percent of the Corps' total leased land--were located at the five lake projects we reviewed.

We evaluated the Corps' identification of unneeded land by reviewing in detail at the five Corps lake projects how the land was being used or would be used in the future. For each of the five projects, we reviewed the authorizing legislation and the master plans for the project to identify authorized project land uses. We visited each project and observed a substantial part of the project land and its key uses. We analyzed current and planned land uses at each project to determine if all the land at the project appeared to still be needed to achieve project purposes.

Our analysis involved extensive discussions with Corps personnel; reviews of project maps and other documents; analyses of project data, such as the number of visitors using project facilities; and comparisons of this information with project master plans.

Further, we obtained information on the potential for selling unneeded land at the five projects, the estimated value of the land, and the costs that would be associated with selling the land. We based our estimates on Corps information or prepared the estimates with assistance from local Corps personnel, local realtors, and agricultural land data. For Kaw Lake, where GSA had sold some land, we used information from those sales to estimate selling costs. (See app. I for a detailed discussion of the methodology used.)

We discussed land disposal issues with Corps headquarters and selected division and district officials and personnel. We reviewed their pertinent laws, instructions, and other documents to determine how the Corps evaluates potential land disposals for cost-effectiveness and how federal requirements can add to the costs of selling unneeded land.

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<sup>3</sup>Clinton Lake, Harlan County Lake, and Perry Lake are located in the Kansas City district, Missouri River division. Kaw Lake and Lake Texoma are located in the Tulsa district, Southwest division.

<sup>4</sup>Land which is leased through competitive bid procedures on a year-to-year basis during project construction and on a 3- to 5-year basis after project completion to another party for grazing, farming, or other purposes.

We also discussed our findings with GSA headquarters officials and with Corps headquarters, division, district, and project officials and with an official of the Corps' Office of the Engineer Inspector General. That Office had not done any work in the land disposal area, nor did it have any ongoing work relating to matters discussed in this report.

We interviewed five persons who had leased or were leasing Corps land to determine how they would be affected if that land were exsessed. We also interviewed other interested parties, such as local realtors and government officials near Kaw Lake, Harry S. Truman Lake in Missouri, Sardis Lake in Oklahoma, and Tuttle Creek Lake in Kansas to obtain their views on what effect the land disposal process might have on land users, lessees, and local governments. Because Kaw Lake was the only one of the five projects we originally selected for review where the Corps had identified land as unneeded pursuant to Executive Order 12348, we selected the latter three projects, which also had Corps-identified unneeded land.

We did our work between March 1983 and November 1984. The results of this review cannot be projected to all Corps lake projects because we did not use statistical sampling techniques to select the projects we visited.

We made our review in accordance with generally accepted government auditing standards.

## CHAPTER 2

### CORPS SHOULD REVISE ITS POLICY TO

#### IDENTIFY UNNEEDED LAND AT LAKE PROJECTS

In response to Executive Order 12348, in July 1982 the Acting Secretary of the Army identified about 35,000 acres that were unneeded for project purposes. At the five projects we reviewed, the Corps reported and GSA eventually sold 77 acres of land--all at Kaw Lake.

The Corps' policy is to retain full title to most land expected to be flooded as a result of the project as designed, even if the design flood<sup>5</sup> is expected to occur only once every 100 years. This policy has resulted in the Corps' not considering such land for possible disposal even though it is not needed for project operations, recreation, or fish and wildlife purposes. This land could be offered for sale with easements to allow for flooding and to restrict the land to uses compatible with the project.

Therefore, we believe the Corps should revise its land-excessing policy to not automatically exclude from consideration for disposal land that is occasionally, but not more often than once every 5 years on average, flooded. After such land is identified, it would have to be further studied to determine whether it can be declared excess and reported to GSA for disposal. Identification of unneeded land that is not flooded more frequently than once every 5 years, on average, should be included in the Corps' annual inspections or 5-year land utilization surveys.

We believe that if consideration were given to excessing unneeded land with appropriate easements, where needed, to protect the government's interests, an additional 16,682 acres (16,002 acres of which were being leased for farming or grazing) could be considered for disposal at the five Corps projects we reviewed. Before this land could be declared excess and reported to GSA for disposal, however, additional studies would have to be made to comply with other federal requirements such as environmental laws and regulations. The estimated net income to the government from selling the 16,682 acres would be about \$7 million.

Corps officials agreed that with properly prepared easements, most of the land we identified could be sold without affecting project operations. However, the officials expressed

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<sup>5</sup>The largest flood that a given project is designed to discharge safely.

concern that selling the land could result in more encroachments<sup>6</sup> onto the land and loss of some public benefits. We considered these concerns in determining our estimate of unneeded land and made adjustments where appropriate. Ample land would remain for wildlife and recreational pursuits. Also, we found that in the Kansas City district, encroachments were more prevalent on government-owned land than on easement land.

The interests of land users and local governments can be affected when Corps land is sold. Local governments could receive more or less in total benefits from tax payments and their share of federal lease receipts, and lessees could lose benefits they receive from leasing the land.

PROCESS FOR IDENTIFYING, REPORTING,  
AND DISPOSING OF EXCESS LAND

The Corps' process for identifying unneeded land, which is part of its total land-use planning process, is site specific and basically involves comparing the current use of the land with its intended use. The final decision on whether the land is excess rests with the Corps.

The Corps starts its land-use planning process when a project's detailed design is prepared. At that time, the Corps decides how much land it needs for project purposes. Master plans and other approved documents further define the uses and need for the land. Once the need has been identified, the Corps either purchases the land in fee simple<sup>7</sup> or obtains an easement to overflow the land, depending on the acquisition policy in effect at the time the project is authorized. The Corps' land acquisition policy has changed several times over the years, resulting in either more or less land being purchased outright.

As part of the land-use planning process, Corps districts conduct annual utilization inspections of civil works real property to determine if land and improvements are used efficiently and for congressionally authorized project purposes, including fish and wildlife management and recreational development. Additional reviews of civil works lands have resulted from policies in Executive orders. Executive Order 11954, dated January 7, 1977, required that agencies continually evaluate

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<sup>6</sup>The illegal use or unauthorized entry on government-owned or easement lands for such purposes as timber cutting, fencing, dumping, and building of dwellings, boat ramps, or other structures.

<sup>7</sup>The title to land which is free and clear with no restrictions (full title). Mineral rights on the land are generally not acquired unless developing the minerals would interfere with the project's purposes.

their land holdings to determine if the lands are not used, are underused, or are not being put to optimum use. In response to this requirement, the Corps developed a 5-year schedule for conducting periodic land utilization surveys addressing the continued need for project lands. The Corps continued this 5-year survey schedule as part of its program to develop the information needed to respond to Executive Order 12348.

The results of the inspections and surveys are submitted to the Office of the Chief of Engineers for approval. If the land is determined to be excess to Corps needs, the Corps screens the land against the needs of other Department of Defense agencies and, if not needed by these agencies, performs the work necessary for reporting the land as excess. This involves assuring that all federal requirements are met, including assessing the possible environmental impact of disposal, performing cultural surveys, surveying and marking boundaries, and in some cases installing fences. Information on the results of such activities, as well as information on the flood probability of the land and a title search to the land, is included in a Report of Excess Real Property which is submitted to GSA.

After receiving the Report of Excess Real Property, GSA screens the land against other federal agencies' needs. When another agency needs the property, GSA can transfer it to that agency. If no federal agency shows an interest in acquiring the property, state and local government agencies are given an opportunity to obtain the land, sometimes at substantially reduced or no cost, depending upon the use to which it will be put. If the land is still unclaimed, GSA advertises the land for competitive sale on the open market.

LAND IDENTIFIED AS UNNEEDED IN  
RESPONSE TO EXECUTIVE ORDER 12348

On March 24, 1982, in response to Executive Order 12348, the Corps asked its division and district offices to report, for its reservoirs and dams, the number of acres and value of land which would not have been acquired under its current land acquisition policy for such projects which was adopted in July 1971. The field offices were also asked to categorize the land into the various uses being made of it.

The July 1971 land acquisition policy, in part, states that most land below the maximum flowage line<sup>8</sup> or within a 300-foot

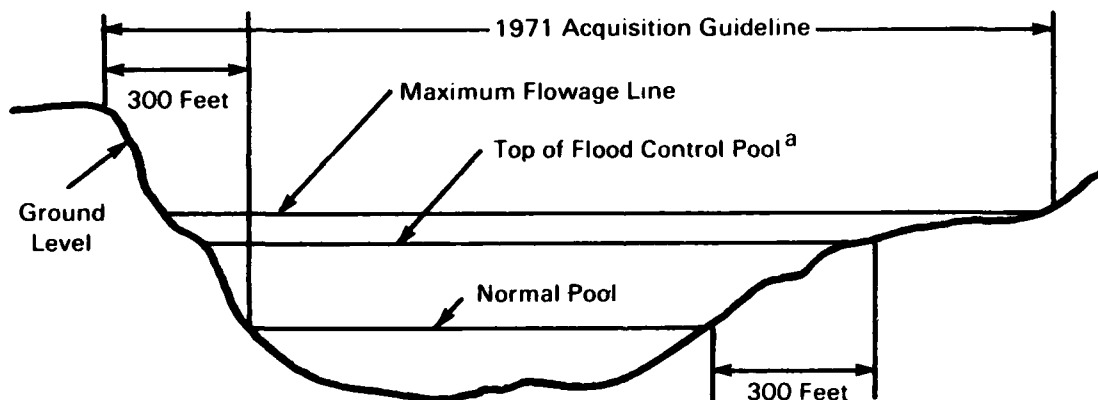
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<sup>8</sup>The level above which flood water is not expected to cause damage. Includes an allowance to provide for operational contingencies such as adverse effects of wave action or lake bank erosion when water is at the flood control pool elevation.

buffer measured horizontally from the top of the normal pool,<sup>9</sup> whichever is greater, be acquired in fee simple. The policy of acquiring land in fee simple was adopted to ensure that enough land would be acquired for public recreational use and for fish and wildlife habitat and because flowage easements previously obtained by the Corps had not been prepared to provide the government with all needed benefits and protection.

Properly prepared easements do protect the government's interest and are used by federal land-managing agencies. In May 1982, the Department of the Interior and Agriculture's Forest Service expanded their policies to include alternatives to fee simple acquisition such as easements in national parks, recreation areas, national forests, wildlife refuges, and conservation areas. For example, the Fish and Wildlife Service, Department of the Interior, has used easements on 1.1 million acres of wetlands in the upper Midwest without serious encroachment problems. Interior's National Park Service requires that park superintendents, in developing land protection plans, consider alternatives to acquiring lands in fee simple.

The following diagram illustrates project land that would be acquired under the Corps' 1971 policy.



<sup>a</sup> The level of the lake pool during a flood generally expected to occur at intervals of either 50 or 100 years.

Using the criterion that land would be considered excess if it would not have been acquired under the 1971 land acquisition policy, the Acting Secretary of the Army in July 1982 identified to the Property Review Board and GSA about 35,000 acres of Corps land valued at about \$24 million which was not needed for project purposes. Not included in the 35,000 acres reported were

<sup>9</sup>The lake level at normal project operating conditions.

2,148 acres at Lake Texoma tentatively identified as unneeded by the Corps' Tulsa district. At the time of our fieldwork, Corps headquarters had not approved this land for reporting to the Property Review Board or GSA. However, in May 1984 this land was determined to be excess. If the 2,148 acres are sold, net proceeds to the government would be about \$1.7 million (\$1,000 selling price per acre less \$225 selling cost per acre).

#### ADDITIONAL LAND MAY BE UNNEEDED

The Corps' land-excessing policy precludes from consideration land which may be only occasionally flooded due to project operations. Such lands are subject to flooding at varying intervals of time such as once every 5, 50, or 100 years. Rather than retaining a full interest to some of this land, which is not flooded more frequently than once every 5 years, on average, the Corps could offer it for sale with easements for flowage and other restrictions preventing development that would fully protect the government's interests without detriment to project operations. Thus, under a properly prepared easement the Corps could retain the right to flood the land as needed and restrict the land to uses compatible with project operations.

Using these criteria and allowing for the retention of land for other purposes such as fish and wildlife protection and recreation, we identified an additional 16,682 acres at the five lake projects which we believe should be studied further for possible disposal.

Before Corps land can be declared excess, the Corps must make additional studies to satisfy various federal requirements (see ch. 3). Some of the 16,682 acres that were not considered for disposal by the Corps in responding to Executive Order 12348 are not subject to flooding and, if determined to be excess after further study, could be sold without flowage easements. If all of the 16,682 acres were sold, we estimated that net land sales proceeds to the government would be about \$7 million.

Of the 16,682 acres, 16,002 were being leased for farming or grazing. Annual lease revenues for the 16,002 acres were about \$194,000, but 75 percent of this was paid to local governments as required for Corps water projects under 33 U.S.C. 701c-3. With proper easements, this land could continue being used for such purposes if found excess after further study and sold. Leased land, because it has demonstrated its usefulness, is a prime candidate for potential sales. At the five projects, the 16,002 leased acres represented about 29 percent of the 55,000 acres leased to farmers and ranchers. Nationwide, the Corps leases about 500,000 acres for such purposes.

## Estimated value of land

The following table summarizes the amount of land we identified as potentially saleable at each of the five projects and the estimated selling prices (adjusted to reflect the approximate value of easements, if any) and costs to sell the land. In addition, the table shows that the present value<sup>10</sup> of the current lease income for the land we identified as potentially saleable is about \$516,000 compared with the estimated \$7 million net income the government would receive from selling the 16,682 acres.

Comparison of Estimated Land Sales Proceeds to Present Value of Lease Income

Project	Acres owned	Acres we identified as potentially saleable	Estimated selling price per acre	Estimated disposal cost per acre		Estimated net land sales proceeds to the government <sup>a</sup>		Present value of lease income <sup>b</sup>
				High	Low	High	Low	
----- (000 omitted) -----								
Lake Texoma	193,513	7,660	\$685	225	\$225	\$3,524	\$3,524	\$183
Kaw Lake	49,546	1,019	425	325	325	102	102	26
Perry Lake	39,325	3,000	680	325	225	1,365	1,065	143
Harlan County Lake	30,260	4,170	680	325	225	1,897	1,480	118
Clinton Lake	22,541	833	850	325	225	521	437	46
Total	335,185 *****	16,682 *****				\$7,409 *****	\$6,608 <sup>c</sup> *****	\$516 ****

<sup>a</sup>The estimated net proceeds amounts result from multiplying the number of potentially saleable acres by the difference between the estimated selling price and the estimated disposal costs per acre.

<sup>b</sup>One hundred years of lease income, the traditional period used by the Corps for such analyses, and a discount rate of 10.36 percent (the rate that the Treasury Department paid for funds the government borrowed on June 27, 1983) were used to make the analysis. The analysis did not reduce lease income to account for lease administration costs. The figure represents the net amount to the federal government after 75 percent of the gross lease income had been returned to the local governments as required by federal law. (See p. 18.)

<sup>c</sup>The average estimated net sales proceeds is \$7,008,500, the mid-point between \$6,608,000 and \$7,409,000.

## Examples of unneeded land

The following examples illustrate the types of land included among the 16,682 acres that we concluded the Corps should consider for possible disposal.

--A 160-acre tract at Lake Texoma southeast of Lebanon, Oklahoma, was being leased out primarily for growing wheat; lease payments were \$56 an acre each year. The tract was not being, and was not expected to be, used for project purposes other than to prevent development of land that may be occasionally flooded. The tract is below the maximum flowage line and is expected to be

<sup>10</sup>An expression of the time value of money.

flooded no more frequently than about once every 20 years. With flowage easements retained by the government, the land would probably sell for agricultural purposes for about \$900 an acre and selling costs would be about \$225 an acre. Net proceeds to the government for this tract would probably be about \$108,000.

--A 263-acre tract at Harlan County Lake southeast of Alma, Nebraska, was being leased out primarily for growing hay and other crops; lease payments were \$20 an acre each year. About 200 acres of this tract were not being used, and were not expected to be used, for project purposes other than to prevent development on land that may be occasionally flooded. The 200 acres are above the normal pool and below the maximum flowage line. With flowage easements, the land would probably sell for about \$680 an acre. Land disposal costs were estimated at \$225 to \$325 an acre. Accordingly, net proceeds to the government for these 200 acres would probably be about \$71,000 to \$91,000.

--Three tracts of land located at Perry Lake about 3 miles east of Meriden, Kansas, were being used primarily to grow crops such as soybeans. About 233 acres were leased out annually for \$6,378, or \$27.37 an acre. More than 85 percent of the land is below the maximum flowage line. If the government retains about 33 acres at the lower elevations, less than a quarter of the remaining 200 acres should be flooded more often than once in 20 years. None of the 200 acres should be flooded more often than once every 5 years on the average. With flowage easements retained by the government, the land would probably sell for about \$680 an acre. Land disposal costs were estimated at \$225 to \$325 an acre. Accordingly, net proceeds to the government for the 200 acres would probably be about \$71,000 to \$91,000.

--Two tracts totaling 250 acres at Clinton Lake west of Lawrence, Kansas, were being leased out primarily for growing crops such as soybeans and corn; lease payments were \$67.62 an acre each year. The land is located below the dam where the Corps has acquired ownership to 1,674 acres for the dam spillway<sup>11</sup> and for recreation. The 250 acres were not being used, and were not expected to be used, for project purposes or for intensive recreation. The land would probably sell for about \$850 an acre if the government retained flowage easements. The cost to dispose of the land was estimated at \$225 to \$325 an acre. Accordingly, net proceeds to the government for this 250 acres would probably be about \$131,250 to \$156,250.

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<sup>11</sup>A structure over or through which flood flows are discharged.

--A 120-acre parcel which we initially questioned as unneeded for project purposes at Lake Texoma was reduced to 60 acres after Corps district officials showed us why a portion of the parcel was needed to assure proper project operations. The Corps officials suggested that the 60-acre tract was suitable for housing as it is close to an existing housing development. We and Corps district officials estimated the value of the land, which could be sold outright, at \$3,000 per acre. With selling costs of \$225 per acre, the net proceeds to the government would probably be \$166,500.

Views of Corps officials  
and our evaluation

We discussed each parcel of land we tentatively identified as unneeded with Corps Kansas City and Tulsa district officials. In some cases, Corps officials convinced us that certain acreage that we identified as potentially excess was needed for legitimate project purposes. On the basis of the additional information they provided, we adjusted our list of unneeded lands to that shown in the table on page 13.

Corps district officials also told us that selling land subject to flowage easements created problems of managing the land because encroachments can increase when the government no longer owns the land. Some officials were also concerned that easy access to the land and hunting privileges might be lost once the land was sold. They said that many encroachments are unintentional and can be resolved by local project managers. They pointed out, however, that encroachments can result in extensive litigation, interfere with the Corps' carrying out its management responsibilities, and result in the public's not being able to get to and use public lands.

We found that encroachment problems are also related to government lands owned in fee simple. In June 1982 the Kansas City district reported that it had 106 unresolved encroachments at its lake projects. By October 1983, the number had been reduced to 52. A district real estate official said that about 80 percent of the 52 unresolved encroachments were on government lands owned in fee simple.

In November 1983 we asked Corps headquarters officials to provide us with information on their experience with easements. The Chief, Management and Disposal Division, told us that easement lands are more difficult to manage because of encroachments. However, he said that documentation or studies to demonstrate this were not available and information from the field showed that encroachments were also occurring on land owned in fee simple. However, he added that it was his "gut feeling" that the Corps was experiencing more significant encroachment problems on easement land than on land owned in fee simple.

Tulsa district officials told us that they could agree to obtaining flowage easements on certain lands provided that a "reversionary clause" is placed in the land sales contract so that an effective means exists to keep landowners from building structures in the flood control pool and from encroaching on government land. According to them, a reversionary clause would give the Corps a legal basis to reclaim the land in fee simple if the easement terms were violated. We believe that inclusion of such a clause might be advisable in some cases to provide additional protection to assure that project operations are not interrupted because of encroachments.

Kansas City district officials told us that public use of government land might be lost when it is sold. They agreed, however, that public use at most of their lakes had declined over the past 10 years, but they said that this could change if the population increased and fewer lake projects were constructed. All factors involved in the disposal of land, including the demand for recreation, would be considered in studies performed to meet federal requirements prior to determining the land as excess. We believe that the demand for recreation can be considered during the Corps' annual inspections or land utilization surveys made every 5 years.

Tulsa district officials disagreed with us concerning the disposal of certain lands at Lake Texoma and Kaw Lake. Some lands we identified as unneeded at Lake Texoma and Kaw Lake that Tulsa district officials believed should be retained are discussed below, including why we believe the land could be disposed of:

--About 3,000 acres of land we identified for possible disposal at Lake Texoma are among 3,700 acres of land protected by levees<sup>12</sup> built by the Corps to protect oil and gas development. Corps district officials said that these levees would not be maintained once the oil and gas fields were depleted (they did not indicate when such depletions were expected) and that if the levees then failed, the land would be flooded. Thus, they believed that the land, which was being leased out for grazing, should not be disposed of. However, the 3,000 acres we identified would not be subject to flooding more often than once every 5 years if the levees failed. Therefore, we believe this land could be considered for disposal subject to a flowage easement.

--We identified for possible disposal 200 of the 374 acres at the Traders Bend public use area at Kaw Lake which

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<sup>12</sup>A long, low embankment. The height is usually less than 17 feet and the length more than 10 or 15 times the maximum height.

Corps officials believed should not be made available for disposal because they are in a designated public use area. We could agree with district officials if there was evidence that the land was needed for public use. However, Corps records on the public's annual visits to Kaw Lake showed that the visits declined from 1,796,000 in 1978 to 1,483,100 in 1982, a decline of 17.4 percent. Of the 10 public use areas at Kaw Lake, 2 areas--Ponca Cove and Burbank Landing--were closed in 1982 because of declining visits by the public and reduced funding. The Traders Bend public use area is the northernmost public use area away from the dam and related activities. The 200 acres in question were not developed for public use, and of the 200 acres, 120 were leased out for agricultural purposes.

--Two tracts located at Lake Texoma at a bend in the Red River about 5 miles west of Dexter, Texas, were being used primarily to grow wheat and graze cattle. The 1,431 acres were leased out for a total annual rental of \$32,884, or about \$23 an acre. Although more than two-thirds of the land at these tracts is located between the top of the flood control pool and the maximum flowage line, a Corps hydrologist told us that this land should be retained until a study is made to determine whether sedimentation will build up in the lake and at certain bends in the Red River as the lake gets older. He said that sedimentation will reduce the lake's capacity to store water and could cause water to rise higher than the top of the flood pool. A Corps district real estate division official believes, and we agree, that the government's interest could be protected by a flowage easement.

#### DISPOSAL OF CORPS LAND CAN AFFECT OTHERS' INTERESTS

The interests of land users and local governments can be affected when Corps land is sold. For example, unless the existing lessees are successful in buying the land they lease or in obtaining leases from the new owners similar to the Corps' leases, they can lose the benefits they received from leasing the land. Also, local governments may receive more or less in taxes after the land is sold than they previously received in the form of federal payments in lieu of taxes and as their 75-percent portion of lease payments.

#### Lessees could lose their leases

When the Corps sells land at its projects, lessees can be affected in various ways. At three Corps projects--Tuttle Creek, Truman Lake, and Kaw Lake--we interviewed three current and two former lessees of land. Two of the lessees said they had been or would be adversely affected by sale of the land they leased.

At two projects in the Kansas City district, we interviewed three current and one former lessee. Two of the current lessees said that they would like to buy the land they now leased if it were offered for sale. Officials of the other current lessee--the city of Osceola, Missouri--told us they would be interested in owning the land but did not have funds to purchase it and, therefore, would be adversely affected by its sale to another party. The former lessee said that he would not be interested in purchasing the land he had leased because the land was subject to frequent flooding. Two current lessees and the former lessee said that they would not be substantially affected if the land were sold.

In the Tulsa district, when part of a leased grazing tract was sold, the lessee cancelled his lease contract on the remainder of the tract. According to the lessee, the best part of the grazing area had been sold, and it would have cost him more to fence the remaining leasehold than he could have gained by retaining it. He said that he had been adversely affected financially because he lost the land for the summer grazing season, and he had to make other arrangements for the future.

Local governments would lose federal payments in lieu of taxes and a share of lease receipts but could add land to their tax rolls

If Corps lands were sold, local governments could add land to their tax rolls but would lose federal payments in lieu of taxes and, for land under lease, a share of lease receipts. The Payment in Lieu of Taxes Act (Public Law 94-565)(31 U.S.C. 6901, et seq. (1982)) requires that payments be made to local governments in areas where certain tax-exempt federal lands are located. The local governments would also lose their 75-percent share of federal lease receipts payable under 33 U.S.C. 701c-3 for land acquired for Corps water projects.

We interviewed officials in five counties at four projects. Three of the counties received both lease revenues and payments in lieu of taxes; the other two counties received revenues from at least one of these sources. All but one official said that they would like to see the Corps land back on the tax rolls. The other official said that she would not like to see the land sold since the county real estate tax on the land would be less than the federal payments. Opportunity for development of the lands would be determined on a case-by-case basis and would be subject to any easements retained on the land parcels.

Osage County, Oklahoma, officials told us that before the 77 acres were sold at Kaw Lake in April 1983, they had received 75 cents an acre for payment in lieu of taxes and \$3.03 an acre for the county share of lease receipts, for a total of about \$290 (\$57 + \$233 = \$290) a year. The County Assessor estimated that if the buyers continued to use the land as grazing land, the county would be able to collect only \$65 to \$70 a year in real estate taxes. He said, however, that if one of the two buyers built an \$80,000 house, the real estate taxes would bring in about \$800 a year. In some cases (although not in the Kaw Lake case), easements retained by the government might restrict construction and other activities which could affect the lands' capacity to generate tax revenues. Under such circumstances it is likely that local governments would receive less in the form of taxes than they had been receiving in federal payments in lieu of taxes and shared lease receipts.

### CONCLUSIONS

The Corps' current policy for reporting land as excess to its needs generally prevents land expected to be flooded occasionally from being considered for disposal even when full ownership of the land is not needed for project purposes. Some of this land might be sold with easements to protect the government's interest. This could include flowage easements and/or easements to prevent development on certain lands when it could adversely affect project operations. At the five projects we reviewed, about 16,682 acres with an estimated net sales value of \$7 million, not identified by the Corps as unneeded, should be considered for possible disposal. About 16,002 of these acres are under lease, and if it is determined to be excess after further study and sold, lessees may no longer be able to farm or use the land for grazing, and local governments may receive more or less revenue, depending on whether the land which is sold can be developed. If this land is considered for disposal, environmental studies and other federal requirements such as cultural surveys, boundary surveys, and fencing would have to be completed before this land could be sold.

In identifying unneeded land for sale, the Corps should not automatically exclude land that is occasionally, but not more frequently than once every 5 years, flooded and should recognize that the government's interests can be fully protected, in some cases, through the use of easements. Such easements would give the Corps the perpetual right to overflow lands when necessary and could restrict certain activities when they would interfere with project operations.

### RECOMMENDATION TO THE SECRETARY OF THE ARMY

We recommend that the Secretary of the Army direct the Chief of Engineers to revise the Corps' policy for identifying

unneded land to not automatically exclude for possible disposal land which is occasionally flooded. Such land, if determined excess after further study, could be sold with easements to fully protect the government's interests. This revised policy should be used during all future annual inspections and 5-year land utilization surveys to determine the need to retain project lands.

AGENCY COMMENTS

The Department of Defense concurred with our report and its recommendation to the Secretary of the Army. The Department advised us that the Corps plans to revise its policy for identifying unneded land so as not to automatically exclude for possible disposal land which is only occasionally flooded. Modification of appropriate Corps Engineer Regulations is scheduled for completion by June 30, 1985. (See app. III.)

## CHAPTER 3

### SELLING CORPS-MANAGED LAND CAN

#### BE COSTLY AND TIME CONSUMING

Selling Corps-managed land can be slow and costly because of federal disposal requirements that have to be met before land can be sold. For example, before GSA can officially designate land as surplus, it must receive a Report of Excess Real Property from the responsible agency. The report is to include information on land location, historic properties important to our nation's heritage, environmental impacts, flood probability, and title to the land. Also, boundary surveys, markings, and fencing may be required which also increase disposal costs.

#### MEETING FEDERAL REQUIREMENTS CAN BE COSTLY AND TIME CONSUMING

Corps district officials told us that the cost of meeting federal requirements varies, depending on such factors as land use--prior, current, and future--and location of the land. They told us that preparing statements of flood probability and determining clear government title are generally simple and take little time but that determining the environmental impacts of land disposals and the presence of historic properties important to our nation's heritage can be costly and time consuming. Also, according to Corps documentation, the cost of fencing, surveying, and marking boundaries frequently is high. When we started our fieldwork, cost data to show whether it would be cost-effective to dispose of land were not required to be shown in Corps reports to GSA. However, after we discussed this matter with Corps officials on March 11, 1983, the Corps asked its field offices to provide GSA with information on costs to prepare parcels for disposal, including the cost of boundary surveys, markings, and fencing; the approximate value of the parcels and their highest and best use; and whether anyone had expressed interest in purchasing the parcels.

#### National Environmental Policy Act documentation

Compliance with the National Environmental Policy Act of 1969 (Public Law 91-190) requires that agencies consider environmental impacts of major land disposal actions. This can be costly and time consuming. Under regulations of the Council on Environmental Quality,<sup>13</sup> the Corps is required to

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<sup>13</sup>The Council was established by the National Environmental Policy Act of 1969 to formulate and recommend national policies to promote the improvement of the quality of the environment.

provide either an environmental assessment or an environmental impact statement in land disposal actions at civil works projects. An environmental assessment is a brief document which provides information on potential environmental effects of proposed actions and alternatives. Depending on the outcome of the environmental assessment, an environmental impact statement may be required if civil works activities such as dredging and disposal operations are expected to have a significant effect on the quality of the human environment.

In accordance with Corps policy for implementing the National Environmental Policy Act, Kansas City and Tulsa district officials classified land into the following three categories to determine whether environmental assessments were needed.

1. Category I. This category involves small, isolated segments with noncumulative and noncontroversial impacts. A formal environmental assessment would not be required, but an environmental review of the proposal to report land for excess would be. The estimated cost would range from \$500 to \$600, and the estimated time to do the assessment would be 1 to 3 days.
2. Category II. This category involves a larger number of acres with potentially controversial cumulative impacts. A formal environmental assessment and impact finding would be required to determine if an impact statement is needed. In most cases, only the assessment and the finding of no significant impact would be required. The estimated cost ranges from \$5,500 to \$12,000, and the estimated time to do the assessment would be from 30 to 90 days.
3. Category III. This category involves major land disposal actions with several recognized controversial environmental impacts. A formal environmental impact statement would be required. The estimated cost would range from \$20,000 to \$75,000, and the estimated time required to complete the assessments would be from 6 to 18 months.

Federal regulations (33 CFR 230.15) also require public involvement in environmental impact statement preparation. Kansas City district officials estimated that for one public meeting involving 2 days' travel for the District Engineer and six district officials, Corps costs totaled \$2,255. Tulsa district officials estimated that the costs for public meetings would range from \$6,000 to \$10,000 based on the district's experience in disposing of 3,000 acres at one project. The estimates included costs for salaries, travel, maps and slides, and public notices.

## Cultural surveys

Under the National Historic Preservation Act, as amended (16 U.S.C. 470f), federal agency heads, before expending funds for selling land, must take into account the sale's effect on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register.<sup>14</sup> Federal regulations provide guidance to agency officials on when cultural resource surveys are deemed necessary.

Corps district officials noted that while cultural resource surveys are sometimes included in environmental assessments involving insignificant disposals, other disposals require substantial cultural resource surveys, thus creating additional disposal costs.

Kansas City district officials estimated that cultural surveys of land reported to GSA for disposal would cost about \$20 an acre if the surveys were contracted out. They said that in-house administrative costs would be additional and would have to be estimated on a project-by-project basis. They told us that cost estimates could vary significantly depending on the type of terrain which could affect the type of equipment which would have to be used. We obtained estimates of administrative costs for surveys at two projects from Management and Disposal Branch and Planning Division officials in the Kansas City district. For one project involving two old-town sites totaling 150 acres, the administrative costs were estimated at \$10,000, or \$66.66 an acre. For the other project involving three tracts of land totaling 361 acres, the costs were estimated at \$10,000, or \$27.70 an acre. The time to complete the surveys was estimated at 18 months.

At the Tulsa district, the Chief, Resources Management Branch, estimated that the costs for cultural surveys would range from \$6 to \$10 an acre with an average cost for contracted cultural surveys at the district of about \$7 an acre. Administrative costs would be an additional 10 to 17 percent of the contracted amount.

## Marking boundaries (cadastral surveys)

According to information we obtained in the two districts, cadastral survey costs--costs to determine property location and mark (i.e., place monuments at) property boundaries--can be a substantial part of the cost to dispose of land. For example, Tulsa district officials estimated that it would cost them \$87 an acre to survey land. However, they and Kansas City district officials told us that they could not adequately estimate the

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<sup>14</sup>The National Register of Historic Places lists historic properties important to this country's heritage.

cost of surveying a project until they reviewed an area to see what needed to be done as well as the number of acres to be surveyed. The number of new monuments needed can vary, thereby affecting the ultimate survey cost.

#### Fencing costs

Fencing is sometimes installed to prevent encroachment on federal land and to identify federal boundaries. Kansas City district officials said that in most cases they do not fence. In the Tulsa district, fencing is more prevalent because a larger percentage of land is used for grazing. Officials of both districts said that if land is disposed of in substantial quantities, more fencing could be required to prevent encroachment on federal land.

According to Corps Kansas City district officials, the estimated cost for fencing in the district ranged from 61 cents to 90 cents a linear foot, or about \$3,221 to \$4,752 a mile. In the Tulsa district the cost averaged \$5,000 a mile, or about \$1 per linear foot. However, for one fencing contract in a remote area with rough terrain, the cost for 76,000 feet of fence was \$3.98 a foot.

#### EXAMPLES OF COSTS TO DISPOSE OF CORPS LAND

To estimate land disposal costs for the five projects we visited, we interviewed Corps personnel and reviewed Corps documents. At the two projects in the Tulsa district--Lake Texoma and Kaw Lake--which are discussed below, we did a more in-depth analysis based on data obtained from the district's real estate division.

We estimate that at Lake Texoma the cost to dispose of 75 parcels of land covering 9,808 acres--2,148 acres identified by the Corps' Tulsa district and 7,660 acres we identified--at Lake Texoma would be \$225 an acre, as shown on the next page. The estimated selling price for the 2,148 acres was about \$1,000 per acre, and the selling price for the 7,660 acres ranged from about \$250 to \$3,000 per acre.

	<u>Estimated cost</u>
Assembling report of excess real property (75 parcels at \$2,000 a parcel) <sup>a</sup>	\$ 150,000
Surveying; removing and replacing boundary markers (9,808 acres at \$87 an acre)	853,296
Fencing (136.7 miles x \$5,000 a mile)	683,500
Estimated administrative costs	
Southwest division	2,000
Corps headquarters	2,000
Estimated costs incurred by GSA for selling the land (7 percent of the estimated \$7,392,000 selling price)	<u>517,440</u>
<b>Total</b>	<b><u>\$2,211,236</u></b>

Estimated disposal cost per acre (\$2,211,236  
divided by 9,808 acres) \$225

<sup>a</sup>Includes title data and information to meet cultural and environmental requirements. Tulsa district officials estimated it would cost \$2,000 a parcel if 75 parcels were sold and \$4,500 a parcel if only 2 parcels were sold.

We estimate that at Kaw Lake the cost to dispose of the 77 acres that the Corps had reported as unneeded was \$325 an acre, as the following table shows. Sales proceeds for the 77 acres were about \$431 an acre.



METHODOLOGY WE USED TO DEVELOP POTENTIAL NET PROCEEDSTO THE FEDERAL GOVERNMENT FROM SELLING UNNEEDEDLAND AT THE FIVE CORPS PROJECTS WE VISITED

In evaluating whether the Corps reported all the land that was not needed for project purposes for possible disposal, we reviewed the need for land interests that were retained pursuant to the present land-excessing policy but which were not always needed in fee simple ownership. If the land we reviewed was being used or reasonably planned and justified to be used for some project purpose such as intensive recreation or fish and wildlife management, we concluded that the land was needed and should be retained. Generally, we discounted Corps plans for intensive future recreation use at projects where recreation use was not increasing and there were no indications that the specifically planned facilities were needed or would be reasonably used.

If the land was not being used, used very little, or not reasonably planned to be used for project purposes, we concluded that the land could be considered for possible sale. If the land was to be sold, appropriate easements would have to be retained, such as flowage easements on land expected to be flooded occasionally. We also concluded that low-value land generally should not be considered for sale because the costs of selling it might exceed the likely selling price and its retention frequently can be justified for public hiking, hunting, primitive camping, and other recreational pursuits.

After we identified on a tract-by-tract basis how much land was potentially saleable (see app. II for an example of determinations made at Lake Texoma), we prepared rough estimates of the likely selling prices and costs to sell the land. Generally, our estimates were based on Corps information or were prepared with assistance from local Corps personnel. Although Corps personnel provided some documented data, estimates, and opinions, our final estimates remain rough because available data were frequently imprecise and influenced by subjective factors not readily quantified. For example, changing economic conditions affect land values. To assure ourselves that the sales price information given us by the Corps personnel was generally reasonable, we looked at land value data published by the U.S. Department of Agriculture and the Conservation Foundation book on The Market for Rural Land and interviewed 12 realtors.

BASIS FOR DETERMINING POTENTIAL  
SALES PROCEEDS

For all the projects except Lake Texoma, we generally used the estimated selling price per acre given to us by the Corps. For Lake Texoma, we made a number of judgments to arrive at the potential sales proceeds. Some of the more important judgments that we considered follow.

- We valued about 700 acres of undeveloped land which appeared suitable for housing development at Lake Texoma at about \$3,000 an acre. This is about \$2,000 an acre less than what cabin-site land at a Corps lake in Nebraska sold for and about \$5,000 less than what land sold for at a Corps lake in Kansas. These sales had occurred between 1976 and 1982. Because the undeveloped areas at Lake Texoma involved substantially more land and needed more development, we used a lower value. The value of \$3,000 an acre for developable land at Lake Texoma may be low. For example, a local realtor told us that 200 acres of this land could sell for around \$60,000 an acre. We did not use this figure in our estimates of land values at Lake Texoma because we had no documentation of actual sales at that price, and we believed the price was high for undeveloped land.
- We generally valued agricultural land at \$700 to \$900 an acre on the basis of a written opinion from the Corps' Tulsa district appraiser.
- We generally valued grazing land at \$300 to \$400 an acre on the basis of a written opinion from the Tulsa district appraiser. However, we also increased or decreased these estimates after we considered U.S. Department of Agriculture land value data and opinions of local realtors who had specific experience with land sales in these areas.
- For land requiring a flowage easement, we reduced its value by 25 percent to reflect the loss of value because the easement allows the Corps to flow water on the land which may damage crops and, by implication, restricts building in those areas. The percentage of reduction we used is based primarily on the opinion of a Corps district appraiser.

After we roughly estimated the per acre sales prices for the different types of land at Lake Texoma, we applied the sales prices to the potential excess acreage we identified as unneeded for project purposes. To determine the net land sales proceeds for the other four projects, we used the values given us by the Corps district personnel and then, as shown below, reduced these amounts to reflect an allowance for flowage easements.

<u>Location</u>	<u>Value reported by Corps district</u>	<u>Reduction for flowage easement<sup>a</sup></u>	<u>Value used</u>
Kaw Lake	\$ 500	\$ 75	\$425
Perry Lake	800	120	680
Harlan County Lake	800	120	680
Clinton Lake	1,000	150	850

<sup>a</sup>Fifteen percent of value reported by Corps district.

To arrive at the reduction for flowage easements, we reviewed the location and elevation of land we considered unneeded. On the basis of our analysis, we estimated that about half to two-thirds of the land would be subject to occasional flooding. The remainder of the land could be sold outright if determined to be excess after further study. We therefore estimated for the four projects that about 60 percent of the land would require a flowage easement. To arrive at the amount to use for the flowage easement, we multiplied the 60 percent by the 25-percent figure given us by the Corps district appraiser (60 percent x 25 percent = 15 percent). It should be noted that our reduction for flowage easements is a rough estimate based on information from one Corps district, and the percentages could vary from district to district and from project to project.

BASIS FOR DETERMINING LAND  
DISPOSAL COSTS

We estimated land disposal costs for the five projects we visited based on interviews with Corps personnel at two Corps districts, its Southwest division, and headquarters and documentation that Corps officials furnished. For two of the projects--Lake Texoma and Kaw Lake--we did a more in-depth analysis based on data obtained from the Tulsa district real estate division to estimate what the costs would be to sell land at these projects. We were able to generally break the costs down into five categories (see pp. 25 and 26), but the makeup of the categories and the costs used varied depending on whom we talked with or the information obtained. Because the Kansas City district did not have estimated land disposal costs, we used the range of costs estimated for the Lake Texoma and Kaw Lake projects for land disposal costs at the three Kansas City district projects we reviewed. The acres and the number of parcels involved at the three Kansas City district projects fall between the number of acres and parcels which were used to develop the Lake Texoma and Kaw Lake examples.

LAKE TEXOMA

SCHEDULE OF POTENTIAL EXCESS LAND

Tract number or other description of land	Total acreage	Potential excess acreage GAO identified <sup>a</sup>	Estimated sales price per acre <sup>b</sup>	Potential sales proceeds	Type and general location of land		
					Grazing land above flood control pool	Crop land above 5-year flood pool	Other
Area 47 & 91	1,181	70	\$ 300	\$ 21,000	x		
Area 164	574	60	3,000	180,000	x <sup>f</sup>		
Area 223	447	80	400	32,000	x		
Area 224 & 240	780	290	600	174,000	x	x	
Area 238 & 246A	194	160	900	144,000	x	x	
Area 239	249	200	900	180,000	x	x	
Area 241	200	60	3,000	180,000	x <sup>f</sup>	x	
Area 57	2,207	2,200	250	550,000	x	x	
Area 56 & 59	1,479	800	250	200,000	x		
Area 293	600	600	700	420,000		x	
Area 294	831	800	700	560,000		x	
Area 299	958	850	700	595,000	x	x	
Area 282 & 284	746.5	400	250	100,000	x		
Area 295	170	170	400	68,000	x		
Area 300	191	160	250	40,000	x		
Area 1	552	120	300	36,000			c
Area 150	100	60	400	24,000	x	x	
Preston Point	305	200	3,000	600,000	f		d
Mill Creek	180	30	3,000	90,000	f		d
Kansas Creek public use area	655	<u>350</u>	3,000	<u>1,050,000</u>	f		e
Total potential excess acres		<u>7,660</u>		<u>\$5,244,000</u>			

<sup>a</sup>Used or underused Corps lake land that would be reported as excess unless estimated disposal costs exceed the appraised land value or project master plan provides for authorized land usage within 5 years for key project purposes. Land we identified for potential disposal at Lake Texoma had no planned use for key project purposes from 1984-89.

<sup>b</sup>Reflects the reduction made for flowage easements.

<sup>c</sup>Grazing and cropland downstream, below the dam.

<sup>d</sup>Undeveloped land above the flood control pool.

<sup>e</sup>Closed public use area above the flood control pool.

<sup>f</sup>Potential for housing.



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
WASHINGTON, DC 20310 -0103

31 JAN 1985

Mr. J. Dexter Peach  
Director, Resource, Community, and  
Economic Development Division  
U.S. General Accounting Office  
Washington, D.C. 20548

Dear Mr. Peach:

This is in response to your December 14, 1984, letter to the Secretary of Defense requesting comments on the draft GAO report, "The Corps of Engineers Should Revise Its Policy for Identifying Unneeded Land," GAO/RCED-85-41 (OSD Case No. 6657).

Specific responses to the relevant findings and recommendation contained in the draft report are enclosed. As you will note from these responses, the Department of Defense concurs with your report. Moreover, the Army Corps of Engineers will revise its regulations by June 30, 1985, to conform with your recommendation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert K. Dawson".

Robert K. Dawson  
Acting Assistant Secretary of the Army  
(Civil Works)

Enclosure

GAO DRAFT REPORT - DATED DECEMBER 17, 1984  
(GAO CODE NO. 146684) OSD CASE NO. 6657

"THE CORPS OF ENGINEERS SHOULD REVISE ITS POLICY  
FOR IDENTIFYING UNNEEDED LAND"

FINDINGS AND RECOMMENDATIONS TO BE ADDRESSED IN THE DoD  
RESPONSE TO THE GAO DRAFT REPORT

\* \* \* \* \*

FINDINGS

FINDING A: Unneeded Land Identified By Army Corps Of Engineer (COE) in Response To Executive Order 12348: GAO Identified Additional Unneeded Land. Executive Order 12348 requires the identification and disposal of land and other real property not being used for their intended purpose. GAO found that, in response to this order, the Army Corps of Engineers identified as unneeded 35,000 acres of land worth about \$24 million. GAO further found, however, that it is the policy of the Corps to retain full title to most land expected to be flooded as the result of a lake project design, even if the flood is only expected to occur once every 100 years. As a result, the Corps has not considered such land for disposal. GAO concluded that such land could be offered for sale with easements to allow for flooding and restrictions to limit the land to uses compatible with the project. GAO further concluded that such land should not be automatically excluded from consideration for disposal. GAO estimated that under a revised policy, an additional 16,682 acres (which would net about \$7 million) could be classified as unneeded. (pp. 8-15, GAO Draft Report)

RESPONSE: DOD concurs. The Corps plans to revise its policy for identifying unneeded land so as to not automatically exclude for possible disposal land which is only occasionally flooded. Also see the response to the recommendation.

FINDING B: COE Officials Views On GAO's Evaluation Of Additional Land Identified As Unneeded: Need To Protect Government's Interest. GAO reported it discussed each parcel of land it tentatively identified as unneeded with COE officials at the Kansas City and Tulsa Districts. These officials generally agreed that with properly prepared easements (where required), the land could be sold without affecting project operations. GAO further reported, however, that these officials nonetheless expressed concern that selling the land could result in encroachments onto government land. GAO concluded that this is a valid concern and should be considered in deciding whether to sell the additional 16,682 acres of land. GAO also concluded, however, that in its view the additional land could be sold with

[GAO note: Page references in this appendix have been changed to correspond to page numbers in the final report.]

easements to fully protect the Government's interests (assuming it is determined to be excess after all the required studies are completed). (pp. 15-17, p. 19, GAO Draft Report)

RESPONSE: DOD concurs.

FINDING C: Disposing Of Land Can Affect The Interest Of Others. GAO found that the interests of land users and local governments can also be affected when Corps of Engineers land is sold. For example, unless the existing lessees are successful in buying the land they lease or in obtaining leases, they would lose the benefits they currently receive from leasing the land. Also, local governments may receive either more or less in taxes after the land is sold (than they previously received in the form of Federal payments in lieu of taxes and their 75-percent portion of lease payments). GAO reported that about 15,782 of the additional 16,682 acres of potentially unneeded land it identified is under lease. It concluded that if this land is determined to be excess, land users and local governments could be adversely affected. GAO further concluded, therefore, that before such land is considered for disposal, environmental studies and other Federal requirements such as cultural surveys, boundary surveys and financing should be conducted. (pp. 17-19, p. 20, GAO Draft Report)

RESPONSE: DOD concurs.

FINDING D: Selling Corps-Managed Land Can Be Costly And Time Consuming: Meeting Federal Requirements Can Be Difficult. GAO found that selling Corps-managed land can be a slow and costly process because Federal disposal requirements have to be met before land can be sold. GAO reported that before GSA can officially designate land as surplus, it must receive a Report of Excess Real Property from the responsible agency. The report must include information on land location, historic properties important to the Nation's heritage, environmental impacts, flood probability, and title to the land. In addition, boundary surveys, markings, and fencing may be required, which further increases disposal costs. GAO concluded that although the Corps may identify land as unneeded for its project purposes, this does not ensure that it will be sold. Other Federal requirements, such as environmental assessments, which can be costly and time consuming, must also be considered. (pp. 21-26, GAO Draft Report).

RESPONSE: DOD concurs.

#### RECOMMENDATIONS

RECOMMENDATION: GAO recommended that the Secretary of the Army direct the Chief of Engineers to revise the Corps of Engineers' policy for identifying unneeded land, so as to not automatically

exclude for possible disposal land which is only occasionally flooded. (p. 19, GAO Draft Report).

RESPONSE: DOD concurs. As noted in the response to FINDING A, the Corps plans to revise its policy accordingly. Modification of appropriate Engineer Regulations is scheduled for completion by 30 June 1985.

(146684)

**END**

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