



**U.S. Department of the Interior
Office of Inspector General**

SURVEY REPORT

LAND ACQUISITION ACTIVITIES, BUREAU OF RECLAMATION

**REPORT NO. 00-I-282
MARCH 2000**

EXECUTIVE SUMMARY

**Land Acquisition Activities,
Bureau of Reclamation
Report No. 00-I-282
March 2000**

BACKGROUND

In 1987, the Bureau of Reclamation (BOR) changed its mission focus from one of developing large, Federally funded water projects to that of managing water resources, with an emphasis on water conservation and the environment. Recently, BOR has been acquiring land primarily for the protection, restoration, and enhancement of fish, wildlife, and associated habitats in order to mitigate the environmental impacts of its water development projects. In situations where BOR must act expeditiously to prevent the sale of desired property to other parties, where landowners are reluctant to sell directly to BOR, or where funds are not available, BOR may acquire land with the assistance of nonprofit organizations. In these instances, nonprofit organizations either purchase the land or obtain a purchase option with the intention of selling the land to BOR. During fiscal years 1996 through 1998, BOR acquired 668 parcels of land, at a cost of about \$27.3 million.

OBJECTIVE

The objective of the review was to determine whether BOR conducted its land acquisition activities in accordance with applicable laws and regulations and paid a fair price for the land acquired.

RESULTS IN BRIEF

We concluded that BOR generally conducted its land acquisition activities in accordance with applicable laws and regulations and paid a fair price for the land it acquired. However, BOR had not developed guidelines for conducting transactions with nonprofit organizations. As such, BOR had no formal criteria for establishing the respective roles and responsibilities of BOR and the nonprofit organizations or for determining the basis for reimbursing these organizations for acquisition-related expenditures.

RECOMMENDATION

We recommended that the Commissioner, BOR, develop guidance for conducting land acquisitions with the assistance of nonprofit organizations. This guidance should be similar to the Department of the Interior's 1983 "Guidelines for Transactions Between Nonprofit Conservation Organizations and Federal Agencies," as clarified in August 1995 and July

1996 memoranda, which was established for the Land and Water Conservation Fund realty purchases.

AUDITEE COMMENTS AND OIG EVALUATION

BOR agreed with the report's recommendation and stated that the guidance would be developed by October 31, 2000. Based on the response, we considered the recommendation resolved but not implemented.



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

MAR 31 2000

SURVEY REPORT

Memorandum

To: Assistant Secretary for Water and Science

From: Roger La Rouché *Roger La Rouché*
Acting Assistant Inspector General for Audits

Subject: Survey Report on Land Acquisition Activities, Bureau of Reclamation
(No. 00-I-282)

INTRODUCTION

This report presents the results of our survey of the Bureau of Reclamation's (BOR) land acquisition activities.¹ The objective of the review was to determine whether BOR conducted its land acquisition activities in accordance with applicable laws and regulations and paid a fair price for the land acquired.

BACKGROUND

BOR acquires land for its water projects and for mitigation² and conservation purposes. The land is acquired through purchase, donation, transfer from other Federal agencies, exchange, and condemnation. In 1987, BOR changed its mission focus **from** one of developing large, Federally funded water projects to that of managing water resources, with an emphasis on water conservation and the environment. Recently, BOR has been acquiring land primarily for the protection, restoration, and enhancement of fish, wildlife, and associated habitats in order to address the environmental impacts of its water development projects. In situations where BOR must act expeditiously to prevent the sale of desired property to other parties, where landowners are reluctant to sell directly to BOR, or where **funds** are not available, BOR may acquire land with the assistance of nonprofit organizations. In these instances, nonprofit organizations, such as The Conservation Fund, The Trust for Public Lands, The

¹Land acquisitions may **entail** the purchase of outright ownership, known as "fee simple" ownership, or the purchase of significant interests in land, such as easements for conservation or access purposes. The terms "acquisition" or "purchase" throughout this report will refer to either of these.

²Mitigation is the reduction of the environmental impact caused by **water** development projects.

Nature Conservancy, and the River Network, either purchase the land or obtain a purchase option with the intention of selling the land to BOR.

During fiscal years 1996 through 1998, BOR acquired 668 parcels of land, at a cost of about \$27.3 million (Appendix 1). Of these 668 parcels, 341 parcels were acquired at a cost of about \$25.1 million by the three regions (Mid-Pacific, Upper Colorado, and Pacific Northwest Regions) visited during our survey. The three regions acquired an additional 79 parcels, at a cost of about \$12.7 million, during the period of October 1998 through May 1999³ (Appendix 2). Realty officials estimated that they will acquire about 1,700 parcels (about 75,000 acres) of land during fiscal years 1999 and 2000, for about \$57.5 million.”

SCOPE OF SURVEY

We conducted our survey from May through September 1999 at the BOR offices listed in

1, 1995, of October 1, 1999, at three of five BOR's

of them million, or 26 percent

2), of which 6 transactions totaling \$7.4 million involve

This report covers the results of our review of 12 of the 13 transactions. A separate report

³We did not obtain the fiscal year 1999 data for the two regions not visited because this information was not readily available.

⁴This amount includes the \$12.7 million for land acquired during the period of October 1998 through May 1999 by the three regions visited.

⁵Program managers interviewed included financial, environmental, and other program-specific managers, such as the Yakima River Basin Water Enhancement Program Manager.

will be issued on the results of our review of the remaining transaction, the Jasper Land Exchange, which is being conducted by BOR's Pacific Northwest Region.

Our survey was conducted in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary to accomplish our objective. As part of the survey, we reviewed BOR's annual assurance statements on management controls and the Departmental Reports on Accountability for fiscal years 1996, 1997, and 1998, all of which included information required by the Federal Managers' Financial Integrity Act, and determined that no material weaknesses were reported that directly related to the objective and scope of our survey.

We also reviewed the system of internal controls over BOR's land acquisition activities, specifically as they apply to BOR's appraisal processes and its transactions with nonprofit organizations. We found that BOR had generally conducted land acquisition activities in accordance with applicable laws and regulations and paid a fair price for the land acquired.

In none of the cases tested did the amount paid exceed the limits of BOR officials' authority.⁶ However, we found that BOR had not established guidelines, policies, or procedures for working with the nonprofit organizations. (This issue is addressed in the Results of Survey section of this report.) Our recommendation, if implemented, should improve the process of acquiring land with the assistance of nonprofit organizations. Because our survey covered 26 percent of the value of the land transactions at the three regions reviewed and did not identify any significant deficiencies, we discontinued our review after the survey phase.

PRIOR AUDIT COVERAGE

During the past 7 years, neither the Office of Inspector General nor the General Accounting Office has issued any reports regarding land acquisition activities of BOR. However, the Office of Inspector General issued the audit report "Department of the Interior Land Acquisitions Conducted With the Assistance of Nonprofit Organizations" (No. 92-I-833) in May 1992, which addressed land acquisitions made by the National Park Service, the U.S. Fish and Wildlife Service, and the Bureau of Land Management. The report concluded that nonprofit organizations provided beneficial assistance in acquiring lands identified as priority acquisitions by the Department or the Congress but that certain transactions were not sufficiently controlled to ensure that the Government's interests were adequately protected and that nonprofit organizations did not benefit unduly. The report also stated that none of the three bureaus fully complied with established appraisal standards, which required that estimates of property values be timely, independent, and adequately supported by market

⁶According to the Reclamation Manual (LND 02, paragraph 7.G(1)), regional directors or their designees may acquire land above the appraised value as follows: without limitation if the appraised amount is less than \$100,000, by 15 percent if the appraisal amount is between \$100,000 and \$500,000, and by 10 percent if the appraisal amount is over \$500,000. Approval by the Chief Realty Officer is required if the purchase price of the land exceeds these limitations. In each case, we determined that the price paid was based on an appraisal that was reviewed and approved by a review appraiser and that the basis for any additional amounts was documented in the files and did not exceed the amounts specified in the Reclamation Manual.

data. As a result, according to the report, the Department had little assurance that the fair market value estimates used to establish land acquisition prices were timely, complete, and accurate. The report contained seven recommendations to improve controls over land acquisition activities and to ensure that transactions conducted with the assistance of nonprofit organizations are performed in a uniform and consistent manner throughout the Department. As a result of the audit, in August 1995, the Department's Assistant Secretary for Policy, Management and Budget issued the document "Clarifications to August 10, 1983 Guidelines for Transactions Between Nonprofit Organizations and Agencies of the Department of the Interior." All seven recommendations were considered resolved and implemented.

RESULTS OF SURVEY

Based on the limited tests made during our survey, we concluded that BOR generally conducted its land acquisition activities in accordance with applicable laws and regulations and paid a fair price for the land it acquired. Specifically, we found that the 12 land acquisitions reviewed were supported by appraisals conducted in accordance with applicable standards. We also found that BOR paid a fair price for its land acquisitions because the acquisitions were based on an appraised fair market value or on an adjusted value in accordance with the Reclamation Manual. However, BOR had not developed guidelines for conducting transactions with nonprofit organizations. As such, BOR had no formal criteria for establishing the respective roles and responsibilities of BOR and the nonprofit organizations or for determining the basis for reimbursing these organizations for acquisition-related expenditures. The Chief Realty Officer said that specific guidelines had not been developed because BOR has had only limited involvement with nonprofit organizations assisting in land acquisitions. As a result, BOR may be hindered in using nonprofit organizations effectively to acquire land needed to mitigate the environmental impacts of its water development projects. Furthermore, according to one field official, BOR has lost the opportunity to purchase certain water rights and some land with water rights because of its inability to take actions in a timely manner.

We found that when the three BOR regional offices we reviewed contacted and established a working relationship with the nonprofit organizations, they did not (1) adequately define the respective roles and responsibilities of BOR and the nonprofit organization, (2) identify projected time frames for the acquisition, and (3) specify BOR's right to decline the purchase without liability to the Federal Government. Of the six transactions' involving nonprofit organizations reviewed, we found that BOR initially contacted the nonprofit organizations informally in four transactions, three by telephone and one by a facsimile letter that contained only the name of the property to be acquired. BOR did not follow up with written documentation establishing the roles and responsibilities of BOR and the nonprofit organizations. Although BOR contacted the nonprofit organizations by letter in the remaining two transactions, the letters were not sufficient in establishing an effective

⁴Of the six transactions reviewed, five transactions had been completed, and one transaction, which involved land being acquired by the Upper Columbia Area Office, in Yakima, Washington, had not been completed.

working relationship. Specifically, in both transactions, the letter identified only the land desired and discussed the appraised value of the subject land.

In the case reviewed at the Upper Columbia Area Office, a nonprofit organization wrote a letter to the Office concerning its role in the Office's land acquisition program. The nonprofit organization stated that "[i]f Reclamation and the [Nature] Conservancy cannot resolve the above matters [establish roles and responsibilities of the parties] in a timely fashion, the Conservancy will need to move on to other pressing acquisition projects with other agencies." The nonprofit organization attached a sample letter and stated that it "routinely" received such letters from other Federal agencies with which it had "an excellent record of working successfully," particularly with those agencies within the Department of the Interior. We believe that the lack of definitive guidelines which identify the roles and responsibilities of BOR and the nonprofit organizations hinders both BOR and the nonprofit organizations from effectively purchasing land from willing sellers in a competitive market. In this case, land had not been acquired 10 months after BOR had contacted the nonprofit organization in July 1998 to assist it with implementing a \$9.6 million fish, wildlife, and habitat protection and enhancement program in the Yakima and Umatilla River Basins. The program is scheduled to be completed by the end of fiscal year 2001. Furthermore, in correspondence with the nonprofit organization, a BOR official from the Area Office said that BOR "has lost several opportunities to purchase water rights and land with water rights in both the Yakima and Umatilla Basins to date due to our [the Area Office's] inability to be competitive in a timely manner."

In addition to the lack of guidelines identifying the roles and responsibilities of BOR and the nonprofit organizations, BOR did not have guidelines specifying the types of acquisition-related expenses, such as appraisals, staff salaries, and travel, that could be reimbursed to the nonprofit organizations. Of the six transactions reviewed, we found that none had written agreements that adequately identified the acquisition-related expenses that would be reimbursed. Rather, BOR officials reimbursed the nonprofit organizations for expenses on a case-by-case basis. For example, in one transaction BOR paid the nonprofit organization 3 percent of the fair market value for indirect costs (\$6,900). In another transaction BOR paid \$5,500 more than the appraised fair market value of the acquired land, which, according to a Regional official, was for acquisition-related expenses. However, because of the lack of documentation, the official did not know what specific acquisition-related expenditures of the nonprofit organizations were reimbursed.

We believe that both BOR and the nonprofit organizations would benefit from clear guidelines that establish the respective roles and responsibilities of each entity and identify the types of expenditures to be reimbursed. In that regard, the Department in 1983 published in the "Federal Register" the "Guidelines for Transactions Between Nonprofit Conservation Organizations and Federal Agencies" for land transactions between nonprofit organizations and the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, and other Federal agencies that use funds appropriated from the Land and

Water Conservation Fund.* The Department issued clarifications to these guidelines in August 1995. The 1983 guidelines and the 1995 clarifications provide basic principles to ensure that transactions with nonprofit organizations are conducted in a uniform and consistent manner. The guidelines and clarifications, however, do not specifically apply to BOR because it does not receive funding from the Land and Water Conservation Fund. Nevertheless, we believe that guidelines similar to the existing Departmental guidelines would provide BOR an appropriate mechanism for effectively working with nonprofit organizations. These guidelines state that Federal agencies requesting the assistance of a nonprofit organization in a proposed land acquisition do so with a letter of intent which establishes the roles and responsibilities of the Federal agencies and the nonprofit organizations. The guidelines state that the letter of intent, at a minimum, is required to identify the land desired by the agency; state the estimated value of the land subject to future appraisal; state the projected time frame for when the agency intends to acquire the property; and contain a statement that if the agency is unable to or declines to purchase the land, the Federal Government is not liable to the nonprofit organization for the disposition of the land. These guidelines further state that the Federal agency's purchase price should be either (1) the fair market value of the property based on an approved appraisal or "such lesser figure at which the nonprofit organization offers to sell the property" or (2) the nonprofit organization's cost to acquire the property at an amount "not to exceed the appraised fair market value . . . plus related and associated expenses from a list approved by the Assistant Secretary for Policy, Management and Budget." BOR officials said that BOR intends to use the assistance of nonprofit organizations more extensively to meet its mission in the future. Accordingly, we believe that BOR should adopt guidelines which ensure that transactions conducted with the assistance of nonprofit organizations are performed effectively and consistently throughout BOR.

Recommendation

We recommend that the Commissioner, BOR, develop guidance for conducting land acquisitions with the assistance of nonprofit organizations similar to the Department of the Interior's 1983 "Guidelines for Transactions Between Nonprofit Conservation Organizations and Federal Agencies," as clarified in August 1995 and July 1996 memoranda that were established for the Land and Water Conservation Fund realty purchases.

⁸The Land and Water Conservation Fund Act of 1965 (Public Law 88-578, as amended) established the Fund to assist state and Federal agencies in meeting present and future outdoor recreation demands, including the acquisition of land, water, or interests in land or waters.

⁹The list of approved acquisition-related expenditures, such as appraisals and escrow fees, travel, and staff salaries, that could be paid to nonprofit organizations is documented in a May 2, 1996, U.S. Fish and Wildlife Service memorandum which was submitted to the Assistant Secretary for Policy, Management and Budget and approved on July 18, 1996.

BOR Response and Office of Inspector General Reply

In the February 11, 2000, response (Appendix 4) to the draft report from the BOR Commissioner, BOR concurred with the recommendation. Based on the response, we consider the recommendation resolved but not implemented. Accordingly, the recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.

Since the report's recommendation is considered resolved, no further response to the Office of Inspector General is required (see Appendix 5).

Section 5(a) of the Inspector General Act (5 U.S.C. app. 3) requires the Office of Inspector General to list this report in its semiannual report to the Congress. In addition, the Office of Inspector General provides audit reports to the Congress.

**BUREAU OF RECLAMATION LAND ACQUISITIONS
FOR FISCAL YEARS 1996 THROUGH 1998**

Region	Fiscal Year 1996		Fiscal Year 1997		Fiscal Year 1998		Total	
	Tracts	Amount	Tracts	Amount	Tracts	Amount	Tracts	Amount
Pacific Northwest	38	\$243,140	31	\$355,052	45	\$99,560	114	\$697,752
Mid-Pacific	3	1586,909	0	0	7	1,932,400	10	3,5 19,309
Lower Colorado	16	841,140	2	275,820	2	773,400	20	1,890,360
Upper Colorado*	27	5,241,961	29	5,206,714	161	10,435,624	217	20,884,299
Great Plains	112	122,571	92	71,857	103	68,432	307	262,860
Totals	<u>196</u>	<u>\$8,035,721</u>	<u>154</u>	<u>\$5,909,443</u>	<u>318</u>	<u>\$13,309,416</u>	<u>668</u>	<u>\$27,254,580</u>

*The Upper Colorado Region's amounts include \$6,508,177 for 51 tracts that were purchased by BOR on behalf of the Utah Reclamation Mitigation and Conservation Commission, another Federal agency, which paid for the acquired land.

**LAND ACQUISITIONS OF SELECTED
BUREAU OF RECLAMATION REGIONS
FOR FISCAL YEARS 1996-1999 (THROUGH MAY 1999)
AND NUMBER OF LAND ACQUISITIONS REVIEWED**

Acquisition Activities:

	Pacific	Northwest	Mid-Pacific	Upper	Colorado	Total	
	Tracts	Amount	Tracts	Amount	Tracts	Amount	Tracts
FY 1996 - FY 1998	114	\$697,752	10	\$3,519,309	217	\$20,884,299	341
FY 1999 (May 1999)	5	291,650'	1	5,165,624	73	7,229,149	79
Total	119	\$989,402	11	\$8,684,933	290	\$28,113,448**	420

Acquisitions Reviewed:

	Pacific	Northwest	Mid-Pacific	Upper	Colorado	Total	
	Tracts	Amount	Tracts	Amount	Tracts	Amount	Tracts
Acquisitions from nonprofits	2	\$411,732	1	\$5,165,624	3	\$1,793,946	6 .***
All other acquisitions	1	0***	1	117,972	5	2,349,551	7
Total	3	\$411,732	2	\$5,283,596	8	\$4,143,497	13

Percent of amount reviewed	41.6	60.8	14.7	26.0
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*A land acquisition totaling \$290,000 had not been finalized as of September 1999; however, it was included in our review because this transaction is the first acquisition of a \$9.6 million program and the Upper Columbia Area Office's first attempt to use the assistance of a nonprofit organization in its land acquisition process.

"The Upper Colorado Region's amounts include \$9,142,687 for 61 tracts that were purchased by BOR on behalf of the Utah Reclamation Mitigation and Conservation Commission, another Federal agency, which paid for the acquired land.

"No money was exchanged in this land exchange transaction.

"The six tracts, with a total value of \$7,371,302, represent all of the land acquisitions that were performed with the assistance of nonprofit organizations at the three regions visited.

BUREAU OF RECLAMATION OFFICES VISITED OR CONTACTED

Office	Location
Program Analysis Office	Denver, Colorado
Mid-Pacific Regional Office	Sacramento, California
Klamath Basin Area Office	Klamath Falls, Oregon
Pacific Northwest Regional Office	Boise, Idaho
Snake River Area Office*	Boise, Idaho
Upper Columbia Area Office	Yakima, Washington
Ephrata Field Office	Ephrata, Washington
Upper Colorado Regional Office	Salt Lake City, Utah
Western Colorado Area Office	
Northern Division*	Grand Junction, Colorado
Southern Division*	Durango, Colorado

*Offices contacted.



United States Department of the Interior

BUREAU OF RECLAMATION

Washington, D.C. 20240

IN REPLY REFER TO:

FEB 11 2000

D-5010

MEMORANDUM

To: Office of Inspector General
Attention: Assistant Inspector General for Audits

From: Eluid L. Martinez
Commissioner

Subject: Draft Survey Report on "Land Acquisition Activities, Bureau of Reclamation"
(Assignment No. W-IN-BOR-004-99-R)

The Bureau of Reclamation offers the following comments in response to the recommendation in the subject report:

Recommendation 1

We recommend that the Commissioner, Bureau of Reclamation, develop guidance for conducting land acquisitions with the assistance of nonprofit organizations similar to the Department of Interior's 1983 "Guidelines for Transactions Between Nonprofit Conservation Organizations and Federal Agencies," as clarified in August 1995 and July 1996 memoranda, that were established for the Land and Water Conservation Fund realty purchases.

Response

Concur. We are encouraged that your audit found that Reclamation's land acquisition program is being effectively managed and consistent with those Federal laws applicable to our land acquisition program activities. In response to the recommendation, Reclamation will prepare guidance for conducting land acquisitions with nonprofit organizations. This guidance will be completed by October 31, 2000. The responsible official is the Director, Office of Policy.

cc: Assistant Secretary - Water and Science
Attention: Laura Brown

STATUS OF SURVEY REPORT RECOMMENDATION

Finding/Recommendation Reference	Status	Action Required
1	Resolved; not implemented.	No further response to the Office of Inspector General is required. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.

**ILLEGAL OR WASTEFUL ACTIVITIES
SHOULD BE REPORTED TO
THE OFFICE OF INSPECTOR GENERAL**

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Pacific Region

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