

resource protection case study

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APPALACHIAN NATIONAL SCENIC TRAIL



U.S. DEPARTMENT OF THE INTERIOR / NATIONAL PARK SERVICE

This report is one of eight case studies designed to explore alternatives for protecting units in the National Park System without relying entirely on direct federal fee-simple purchase of private lands. These studies were undertaken in response to recommendations by the General Accounting Office in recent reports, including *Federal Land Acquisition and Management Practices* (CED 81-135), and a workshop on public land acquisition and alternatives conducted by the Senate Committee on Energy and Natural Resources on July 9 and 10, 1981. The findings and recommendations in this report do not reflect official positions of the National Park Service or the Department of the Interior. Interior Department or National Park Service implementation of any proposals or recommendations discussed in this case study will take place in accordance with departmental planning procedures or legislative review processes.

APPALACHIAN NATIONAL SCENIC TRAIL CASE STUDY
FINAL REPORT

U.S Department of the Interior
National Park Service

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I SUMMARY

A. INTRODUCTION AND PURPOSE OF THE STUDY

The Appalachian Trail case study is one of eight selected by the National Park Service to provide better understanding of alternative approaches to protecting park resource lands. This study has explored the range of techniques used and considered within the Appalachian Trail project and has sought to extract lessons which may be useful to the Service in further Trail protection efforts and in the protection of other important park resources. Special attention has been given to techniques which are cost effective and those which involve other-than-fee transactions.

The Appalachian Trail is internationally-renowned as a footpath extending virtually the full length of the mountainous regions of the eastern seaboard of the United States. It may be the longest continuously-marked recreational footpath in the world and serves as the prototype for long-distance hiking trails in this country and in Europe. It passes through some of the most scenic lands in the East, including 6 units of the National Park System, 8 National Forests and numerous other areas recognized for their national or regional historical, natural or recreational significance. It is easily accessible to much of the most populated areas of the eastern seaboard and is enjoyed by an estimated four million hikers and walkers each year. Millions more read about the adventures of those who walk its full length and take vicarious satisfaction in the knowledge that its challenges and pleasures exist for all to enjoy.

Protection of the Appalachian Trail is one of the most complex projects ever undertaken by the National Park Service. Out of its 2100-mile, 14-state length, 489 miles remain unprotected -- 342 miles less than the unprotected mileage three years ago. The Service shares this protection responsibility with the U.S. Forest Service and several states, and is presently concentrating on 209 unprotected miles in 8 states. Nearly 300 miles of Trail relocations have had to be identified to improve the Trail and satisfy landowners. Protection of the Trail is further complicated by poor ownership records, inadequate surveys and the number of small and partial tracts that are involved.

Despite these difficulties, the Service has been remarkably successful in meeting the Trail protection objectives associated with 1978 amendments to the National Trails System Act, acquiring 600 properties, with a condemnation rate of 2½%, and with projected costs 25% below the authorized ceiling. In addition, less-than-fee forms of acquisition have been used with 12% of the landowners involved in acquisitions to date. Nearly all landowners have had the option of selling easements if they preferred to do so.

The findings and recommendations which follow reflect this positive record. A sturdy partnership of federal and state agencies with private groups, landowners and local citizens has evolved which bodes well for

the future protection and management of the Trail. One conclusion stands out, however -- the viability of the partnership and of the Trail project depends on a continuing federal protection program. For the Trail to remain a cherished part of the American heritage, a continuous Trail, mostly on permanently protected land, must be provided while it is still possible to do so. Without incentives and tools that do not presently exist, the protection task far exceeds the capability of State and private partners.

While a strong federal role is essential in protection, most of the responsibility for management of the Trail and associated land will be assumed by private Trail clubs working in cooperation with state and local government agencies and with existing national forests and national park units. This immense savings in long-term operating costs reflects an extraordinary contribution by private citizens to preservation of a national resource. Like the government/private partnership, this massive commitment by volunteers and their organizations distinguishes the Appalachian Trail from other federal resource protection projects.

B. FINDINGS AND RECOMMENDATIONS

FINDING 1 - PARTNERSHIPS:

The project has made extensive use of cooperative protection and management strategies, involving state and local governments and the private sector. The Park Service protection and acquisition program provides the leadership that makes these cooperative protection and management strategies possible. These alternatives are supplements to rather than substitutes for a federal protection program.

- Experience prior to passage of the National Trails System Act Amendments in 1978 shows that in the absence of a strong Federal commitment state and local governments by themselves are unable to ensure continuity and adequate protection of the Trail.
- The Appalachian Trail Comprehensive Plan indicates that protection of over 30% of the entire Trail is the responsibility of state governments. To date, approximately 384 miles have been protected by states.
- The private sector has contributed very substantially to the protection and management of the Trail. However, it cannot carry the whole burden itself. It was the inability of the private sector to protect the Trail adequately that caused Congress to assume a Federal responsibility for Trail protection in 1968.

RECOMMENDATION:

THE PARK SERVICE SHOULD CONTINUE TO EXECUTE ITS RESPONSIBILITIES FOR PROTECTION OF THE APPALACHIAN TRAIL AS MANDATED BY THE NATIONAL TRAILS SYSTEM ACT.

FINDING 2 - FLEXIBILITY:

The project has demonstrated considerable flexibility, which has enabled it to achieve dramatic cost savings. This flexibility is shown in the use of alternative protection strategies and in the low number of adverse condemnations.

- In 1978 Congress authorized \$90,000,000 for protection of the Trail. The latest estimate of the Project is that the Trail will be protected for \$67,000,000, a savings of \$23,000,000.
- The use of easements has resulted in some cost savings, as have route relocations, donations, and state, local and private cooperation.
- Of over 600 completed negotiations with landowners to date, only 15 have resulted in adverse condemnations, 9 of which have since been settled by additional negotiation.
- Condemnation, used judiciously and only as a last resort, is a necessary part of the protection program.

RECOMMENDATION:

THE PARK SERVICE SHOULD CONTINUE TO SUPPORT THE PROJECT AT A LEVEL OF FUNDING ADEQUATE TO COMPLETE TRAIL PROTECTION IN A TIMELY MANNER. THE POLICY TO CONDEMN LANDS ON A LAST RESORT BASIS SHOULD BE CONTINUED.

FINDING 3 - EASEMENTS:

Easements have resulted in some cost savings. Opportunities for their increased use may be limited because they are not preferred by a majority of landowners.

- It is the policy of the Project staff to offer landowners the choice of selling an easement or in fee.
- Two types of easements are acquired; right-of-way easements and conservation easements.
- 88% of landowners have chosen to sell in fee rather than to sell an easement.
- The cost of easements have averaged about 74% of the fee value.
- The administrative costs of acquiring an easement are higher than those for acquiring fee, because of increased appraisal and legal costs.
- Easements are more complex to manage than lands acquired in fee. The net cost is not known.
- The primary advantage of easements is to retain the participation of interested landowners in Trail stewardship.
- The narrow linear nature of the Trail corridor does not lend itself to easements as the preferred form of resource protection.

RECOMMENDATION:

THE PROJECT SHOULD CONTINUE ITS POLICY OF OFFERING LANDOWNERS THE CHOICE OF SELLING AN EASEMENT OR IN FEE.

THE PARK SERVICE SHOULD CONDUCT A SYSTEMWIDE ANALYSIS OF THE COST EFFECTIVENESS OF ACQUIRING AND MANAGING EASEMENTS.

- One way would be to conduct a detailed analysis of easements in park units with a long history of using them, to determine how their acquisition and management costs compare with those of lands acquired in fee.

FINDING 4 - COOPERATIVE MANAGEMENT:

The Appalachian Trail Project's cooperative management system stands as a model of cooperation between the public and private sectors.

- The Cooperative Management System is used as a model by the North Country Trail and by the Bruce Trail in Canada, and is being used by the American Hiking Society and the Appalachian Mountain Club to further trail efforts around the country.
- Private, volunteer Trail clubs maintain and manage designated sections of the Trail. These private efforts save state and federal agencies more than \$1,000,000 per year.

RECOMMENDATION:

THE PARK SERVICE SHOULD IDENTIFY OTHER FEDERAL AREAS, SUCH AS WILD AND SCENIC RIVERS, NATIONAL RECREATION AREAS, AND PARKS, WHERE THE COOPERATIVE MANAGEMENT SYSTEM COULD BE ADAPTED AND IMPLEMENTED.

FINDING 5 - DONATIONS:

Donations of land or interests in land have achieved some cost savings. Current park service policy does not encourage donations. The project has recently initiated a study of policy changes required to encourage more donations.

- The project has received 2 donations of fee, 15 donations of right-of-way easements and 4 protective easements, with a total fair market value of over \$500,000.
- Donations received to date have come from landowner initiatives.
- It appears that more landowners might donate if they were more fully aware of the benefits of donation.
- Individual landowners, and corporations to an even greater extent, donate not only for tax purposes but also for community recognition and the conservation goals of the AT.

RECOMMENDATION:

THE PROJECT SHOULD CONTINUE ITS INITIATIVE TO INCREASE THE NUMBER OF DONATIONS IT RECEIVES.

- Train NPS planning and acquisition staff to identify those landowners most likely to benefit from donations.
- Encourage lands planning and acquisition staff to point out the tax benefits of donations to potentially qualified landowners.

THE PARK SERVICE SHOULD REVISE ITS POLICIES AND PROCEDURES.

- Revise Park Service policies to encourage lands planning and acquisition staff to educate landowners as to the benefits of donations.

THE ADMINISTRATION AND THE PARK SERVICE SHOULD PROVIDE INCENTIVES FOR
TRAIL DONATIONS.

- Establish a recognition program to give land donors visibility and favorable publicity.
- Recommend a program of tax credits for donations of land for Park Service purposes, to enable lower-income as well as higher-income landowners to derive tax benefits from donation.
- Create a Presidential or Cabinet-level working group of public and private individuals to encourage and publicize corporate Appalachian Trail donations as an example of the President's initiative on volunteer and private sector support.

FINDING 6 - PRIVATE SECTOR:

The project works extensively with the private sector, the Appalachian Trail Conference (ATC) and volunteer trail clubs in planning for and managing the Trail. It has also worked with other private organizations, such as land trusts, in protecting the Trail corridor.

- The Housatonic Valley Association in Connecticut played a very active role in planning the Trail route.
- The Ottauquechee Regional Land Trust in Vermont assisted the Project with pre-acquisition work and is currently soliciting donations of Trail corridor lands.

RECOMMENDATION:

THE PROJECT SHOULD CONTINUE TO INVOLVE PRIVATE, VOLUNTEER CONSERVATION ORGANIZATIONS IN THE PROTECTION AND ACQUISITION OF THE TRAIL CORRIDOR.

- Hold a series of workshops for existing land trusts and Trail clubs to exchange ideas and techniques for private sector conservation strategies.
- Identify other private organizations qualified to work on the Appalachian Trail.

THE PARK SERVICE SHOULD SEEK MORE EXTENSIVE AND SYSTEMATIC COORDINATION WITH LAND TRUSTS AND OTHER PRIVATE CONSERVATION ORGANIZATIONS TO ASSIST IN ACCOMPLISHING PARK SERVICE MISSIONS.

- Develop guidelines to help lands planning and acquisition staff to identify:
 - a) situations where private sector involvement would be advantageous to the government;
 - b) what the working relationship should be between the Park Service and the organizations.
- Enter into written agreements with specific private organizations to clarify roles and responsibilities.
- Recommend changes in tax legislation to give landowners greater incentives to donate lands to land trusts.

FINDING 7 - STATE AND LOCAL GOVERNMENT ASSISTANCE:

Assistance to and cooperation with state governments and, to a lesser extent, local governments, has contributed to very substantial cost savings.

- The States of Maine, Massachusetts, New York, New Jersey, Pennsylvania, Maryland, and Virginia have taken an active role in protecting the Appalachian Trail within their borders.
- The state protection role depends on the federal commitment to the Trail through financial and technical assistance. Without federal support, many of the state protection efforts may be reduced.
- \$77,000 in federal pre-acquisition assistance, such as title research and surveying, provided the leverage for expenditure of \$4,000,000 in State acquisition of Trail corridor lands in N. J.
- Local government assistance is provided through cooperative agreements. The Town of Damascus, Virginia donated a hiker-biker route through the town. The Borough of Hamburg, Pennsylvania donated a right-of-way across nine miles of Borough watershed lands.

RECOMMENDATION:

OPPORTUNITIES FOR INCREASED STATE EFFORTS IN TRAIL PROTECTION APPEAR LIMITED. HOWEVER, THE PROJECT SHOULD CONTINUE ACTIVELY TO SEEK THE COOPERATION OF STATE AND LOCAL GOVERNMENTS.

- Continue to provide technical planning assistance and support services to offer an incentive to local governments to assist in Trail protection.
- Provide the Appalachian National Scenic Trail Advisory Council (ANSTAC), a group of government and private group representatives and individuals who advise the Secretary on Trail-related matters, an opportunity to review and comment on the case study.

THE PARK SERVICE SHOULD SEEK AUTHORITY TO PROVIDE GRANTS TO STATES ON A MATCHING BASIS FOR TRAIL PROTECTION.

FINDING 8 - ZONING:

State and local governments have used zoning on a minimal basis for Trail protection. Zoning is more appropriate for adjacent lands than for protecting the Trail corridor.

o The State of Maine and three local governments, Carrabassett and Caratunk, Maine, and Warwick, New York, have used police power regulations to help protect the Appalachian Trail. Maine has zoned the Trail a Recreation Protection Subdistrict, as part of its zoning for unorganized areas of the State. Although the adoption of such police power regulations can be of extreme importance in protecting the established Trail corridor, the Solicitor's Office has determined that these regulations do not constitute permanent protection.

o State and local zoning, although not a substitute for actual acquisition of the Trail right-of-way, can have an important role in the development of cooperative agreements with regard to the management of private and non-private lands adjacent to the Trail.

RECOMMENDATION:

THE PARK SERVICE SHOULD ENCOURAGE STATE AND LOCAL GOVERNMENTS, PERHAPS WITH THE USE OF TECHNICAL PLANNING ASSISTANCE OR OTHER FORMS OF INCENTIVES, TO ZONE OR OTHERWISE REGULATE LANDS ADJACENT TO THE APPALACHIAN TRAIL CORRIDOR FOR COMPATIBLE USES.

- State governments using existing federal and state programs could make planning grants available to Trail clubs and, where appropriate, to local governments to address the protection of lands adjacent to the Trail corridor.

THE PARK SERVICE SHOULD SEEK TO REDUCE SYSTEMWIDE PROTECTION PROBLEMS THROUGH INCREASED COOPERATION WITH STATE AND LOCAL GOVERNMENTS.

- Seek authority to provide state and local governments with financial and technical planning assistance to zone or otherwise regulate land uses adjacent to park areas.

FINDING 9 - H.R. 861:

Certain changes in the National Trails System Act would allow the project to carry out its mission in a more cost-effective manner.

- Volunteer efforts by private clubs in operation, maintenance, and development of the Appalachian Trail currently save state and federal agencies more than \$1,000,000 annually. Proposed legislative changes in H.R. 861 would enhance these efforts.
- The project currently has no strong incentive to engage in cost saving techniques such as selling off excess lands outside the Trail corridor or leasing corridor lands for compatible uses such as pasturage, because the proceeds from sale or lease do not return to the project account.

RECOMMENDATION:

THE PARK SERVICE SHOULD CONTINUE TO SUPPORT THE PASSAGE OF H.R. 861.

- Seek amendment of H.R. 861 to allow the project to acquire legal access to landlocked parcels of surplus land which are currently accessible only to adjacent landowners.

FINDING 10 - PARK SYSTEM REPRESENTATION:

Future protection of the Appalachian Trail has the potential to fill significant existing representation gaps in the National Park System Plan.

• The Appalachian Trail lies within the Appalachian Range and New England - Adirondacks Natural Regions as defined by the National Park System Plan. These regions, which comprise a diversity of landscape areas reflective of nine physiographic sections, have significant voids and are inadequately represented in the National Park System.

• Unprotected portions of the Appalachian Trail have the potential to fill representation voids for categories of natural phenomena such as mountain systems, works of glaciers, caves and springs, lakes and ponds and boreal and Eastern deciduous forests.

RECOMMENDATION:

THE PARK SERVICE SHOULD IDENTIFY THOSE UNPROTECTED PORTIONS OF THE APPALACHIAN TRAIL THAT FILL EXISTING REPRESENTATION GAPS IN THE NATIONAL PARK SYSTEM PLAN AND GIVE THESE AREAS PRIORITY ATTENTION.

FINDING 11 - PROTECTION PROCESS:

The Appalachian Trail Program is a unique federal initiative because activities are based upon a philosophy that planning, protection and management of this nationally significant area are a shared responsibility among the NPS, USFS, state and local governments, and the private sector.

- The Comprehensive Plan prepared for the Appalachian Trail indicates that state governments have protection responsibility for over 30% of the Trail. To date, 384 miles have been protected by states.
- Thirty federal, state and local government agencies and thirty-one private trail organizations participate in the management of the Trail.
- The Trail program emphasizes the development of trail planning, protection and management strategies which are designed for specific landscapes and tailored to the situation of each area.
- Local government and landowner participation is an essential part of the planning and protection process.

RECOMMENDATION:

THE PARK SERVICE SHOULD SUPPLEMENT EXISTING LAND PLANNING, PROTECTION AND PUBLIC INVOLVEMENT GUIDELINES WITH THE TECHNIQUES USED BY THE APPALACHIAN TRAIL PROJECT OFFICE.

II. HISTORY OF THE APPALACHIAN TRAIL

The original proposal for an Appalachian Trail was put forward in 1921 by Benton MacKaye, a forester and regional planner. He conceived of the Trail as a continuous way, from Maine to Georgia, for travel on foot through the wild, scenic, wooded, pastoral, and culturally significant lands of the Appalachian Mountains. MacKaye's proposal met with an enthusiastic response. Volunteers began marking and cutting the Appalachian Trail in the early 1920s, and by 1937 a continuous trail had been laid out and blazed from Maine to Georgia. The route was selected to correspond to the ridge line of the Appalachian Mountains and to connect existing trail systems. Originally Mt. Washington in New Hampshire, and Mt. Mitchell in Tennessee, the highest points respectively in the north and south, were the planned terminal points. Today the Trail stretches from Springer Mountain, Georgia, to Katahdin, Maine. In 1925 the Appalachian Trail Conference (ATC) was formed to unify and coordinate the efforts of volunteers and hiking clubs to cut, mark, and maintain the A.T. The Conference is the principal steward of the Trail and the interpreter of its purpose and history.

A. PRE-1968 -- SECURING A CONTINUOUS ROUTE

The first requirement for the Trail was to secure a continuous route. Its selection appears to have been influenced more by topography than landownership. Staying on ridge crests, avoiding valleys, and seeking remote locations were the principal criteria. Once a general route was selected, as many as 20 to 30 miles a day would be cut and marked by sturdy Trail enthusiasts.

Handshake agreements were consummated with landowners, often when landowners spotted hiking groups crossing their property. Few problems occurred, as use of the Trail was minimal and conflicting land uses were rare.

In 1938 Appalachian Trailway Agreements were signed by the NPS and U.S. Forest Service (USFS) with the ATC, recognizing the need to protect lands adjacent to the Trail. The agreements established a zone extending one mile on either side of the Trail in National Parks and Forests where no new paralleling roads or other incompatible development would take place. Similar agreements were signed with all Trail states in 1939 providing protection to a zone extending one half mile on either side of the Trail on state lands.

In 1964 legislation was introduced in Congress to recognize the A.T. as serving the public interest and to create greater public awareness of the Trail. The expectation was that more protection for the route would be achieved through greater visibility. This bill stalled, but was eventually re-introduced and stimulated the preparation of a report by the Secretary of the Interior, entitled "Trails for America". The study inspired a revised bill, entitled the National Trails System Act (P.L. 90-543) which was passed in 1968. It authorized the National Park Service to administer the Trail,

established a \$5 million ceiling for land protection, and conveyed eminent domain authority. At the time of passage, it was estimated that the Trail was 2,000 miles long and ownership was broken down as follows:

A.T. Mileage Breakdown*

| | |
|-----------------------------|-----------|
| USFS - - - - - | 507 miles |
| NPS - - - - - | 175 miles |
| States - - - - - | 452 miles |
| Private and Roads - - - - - | 866 miles |

*From Trails for America.

B. 1968 - 1978 -- BUILDING A PARTNERSHIP

Passage of the National Trails System Act stimulated a refinement of the roles of government agencies and ATC. Memoranda of Agreement between National Park Service and Appalachian Trail Conference and the National Park Service and U.S. Forest Service were signed in 1970, establishing a partnership to protect the Trail. Similar agreements were signed with states and specific A.T. legislation modeled after the National Act was passed by most of the states.

A significant role for ATC in land protection was stipulated in the 1970 Agreements. The NPS/ATC agreement included the following provision:

The Conference will undertake and encourage its member clubs to undertake the acquisition of lands or interests in lands by donation or otherwise (through easements, restrictive covenants, etc.), or to negotiate written cooperative agreements for segments of the Trail that traverse private land holdings.

The National Trails System Act required that the NPS in cooperation with the state develop an official route for the Trail. This was published in the Federal Register in 1971. Also, the NPS prepared aerial photographs identifying the right-of-way (as defined in the legislation) and Guidelines for planning, design, and management of the Trail.

The Act encouraged the states to move first to protect the Trail. It gave them a two year period after publication of the official route during which they could initiate protection programs before the NPS would get involved. New Hampshire, Massachusetts, New Jersey, Maryland and Virginia launched programs to begin planning a permanent route during this period. Additional incentives were later provided

to the states through contingency reserve grants for land acquisition in 1977 and 1978 from Secretary of the Interior Kleppe. Also, an active USFS protection program was initiated within the boundaries of the eight National Forests through which the Trail passes.

Although the foundation of a protection program was developing and a partnership emerging among federal and state governments and ATC and its member clubs, the quality of the Trail route was deteriorating. Growth in the second home development market created competition for remote mountain-top land, and the once serene route of the Trail was being forced onto roads to make way for new houses and roads. Clubs were losing their ability to maintain an off-road route and continuity was broken by 15+ mile roadwalks in northern Virginia, Pennsylvania, New Jersey, and New York, and similar patterns were developing in Connecticut and Massachusetts.

C. 1978 to PRESENT -- PROTECTING A PERMANENT CORRIDOR

Following oversight hearings in the House of Representatives in 1976, Congress amended the National Trails System Act, increasing the NPS authority to protect the Trail. The authorized acquisition ceiling was increased by \$90 million over three years, and the eminent domain authority expanded. The Senate Report on the amendment reaffirmed the partnership between government and Trail clubs and concluded:

"The Committee believes that this cooperation is consistent with the past participation of the various volunteer trails clubs, local citizenry, and the Federal and State governments in locating and maintaining the Trail. The past administration of the Trail has been based on this partnership and it is the intent of the Committee that the future administration of the Trail will continue in this manner. Encouraging the role of volunteers in promoting, and should be continued."

The NPS quickly responded to the mandate of the amendment and developed a corridor planning program and a land acquisition capability. The pace quickened as Robert Herbst, Assistant Secretary of the Interior for Fish, Wildlife, and Parks, pledged that the 300 miles of most threatened Trail would be protected by the summer of 1979. A land acquisition plan was developed, and in an unprecedented move, responsibility for the program was placed under the Project Manager. Extraordinary cooperation and responsiveness was required to maintain flexibility in protecting the resource. To accomplish this, planning and acquisition became intertwined. Relocations were planned where the Trail was poorly located, and the corridor was designed to minimize its impact on adjacent properties. Thousands of landowner contacts were arranged in an effort to individually tailor every section of the Trail. Each owner participated in refining the route and corridor boundaries and selecting the most suitable protection instrument (fee or easement).

Stimulated by the NPS initiative and supported directly through pre-acquisition assistance, state protection programs in Maine, Massachusetts, New Jersey and Maryland were revitalized. The USFS program also broadened its scope and made significant progress towards completing Trail protection within the National Forests. Throughout the 14 states crossed by the Trail, state and local governments assisted in programs to protect the Trail. Local non-profit organizations also participated wherever possible in a truly cooperative effort.

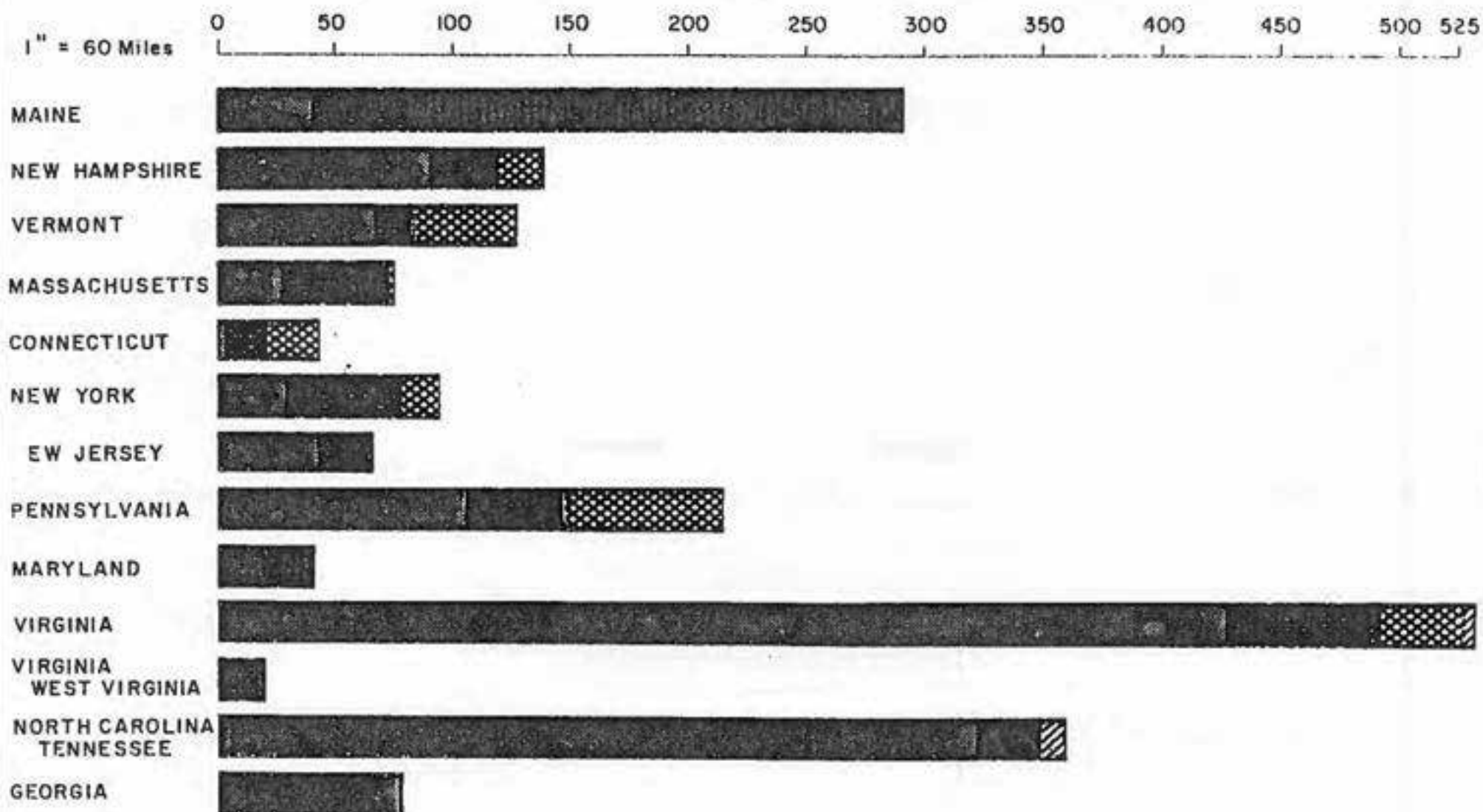
Success of the program is closely tied to the support of the communities through which the Trail passes. The credibility of a Trail club's management program is critical to building public support. Recognizing this, ATC established field offices to strengthen the volunteer network. Local management planning committees were established providing a forum for local participation in management of A.T. lands. Simultaneously, the clubs initiated programs to monitor newly acquired properties and began assuming management responsibilities. A.T. clubs began the transition from independent Trail maintainers to responsive community-linked managers. This broadening of responsibility marks a significant evolutionary step in the history of the Trail and a major innovative effort by government to have organized volunteers manage public lands.

In 1981 the NPS with broad consultation completed a Comprehensive Plan for the acquisition, development, management, and use of the Trail. The Plan established the framework of a cooperative management system for the Trail. This is supplemented by local management plans which develop site specific programs. Cooperative agreements will follow which will detail the delegation of responsibility between the volunteers and government.

The momentum of the protection program has stimulated a maturing of the volunteer effort into a well-organized, responsive network of managers. Also, state participation has solidified and local partnerships have been created, developing a genuine climate of concern for the Trail. The status of the Trail protection effort must be measured not only in terms of miles of Trail acquired, but also in terms of the growth of the cooperative system that assures its future.

APPALACHIAN NATIONAL SCENIC TRAIL STATUS OF LAND ACQUISITION

1/ 31/82



1,255.2 MILES

365.7 MILES

465.3 MILES

PROTECTED THRU FEB. 1978

PROTECTED MARCH 1978 TO PRESENT

UNPROTECTED



STATE



N.P.S.



N.F.S.

III. RESOURCE TO BE PROTECTED

The Appalachian Trail traverses the ridges and highlands of the Appalachian Mountain System—the backbone of the eastern United States—from Maine to Georgia. In the 2100-mile course the Trail crosses or goes through 6 National Parks, 8 National Forests (including several Wilderness Areas), a National Recreation Area, a National Zoological Park, a National Wild and Scenic River, several potential National Wild and Scenic Rivers, National Natural Landmarks, National Historic Landmarks, National Historic Register sites, more than 20 state parks, 17 state forests, 13 state wildlife management areas, and 11 preserves or other public lands.

In addition to threading together an impressive collection of natural, scenic, historic, and cultural resources that have already received national or state recognition and protection, the Appalachian National Scenic Trail itself constitutes an important addition to the National Park System. In 1970 the National Park Service produced the National Park System Plan, to identify gaps or voids in the National Park System's representation of the natural, scenic, and scientific heritage of the United States. The Plan divided the country into natural regions, each characterized by relatively homogeneous physiographic and biologic features. The Plan also categorized all the natural phenomena of the country into natural history themes. These themes are very broad categories, such as Mountain systems, Works of glaciers, Boreal forest, and Eastern deciduous forest. Each region is characterized by a number of themes. The Appalachian Trail passes through two natural regions, the Appalachian Ranges and the New England-Adirondacks. The Plan analyzed the adequacy of representation of the various natural regions in the National Park System and found that the adequacy of representation of the Appalachian Ranges region was 54%; that of the New England-Adirondacks region was 29%. The Appalachian Trail, then, contributes significantly to filling two voids in the National Park System. The Plan further identified for each region certain themes as having prime significance. Within the Appalachian Ranges region the theme of Mountain systems is not adequately represented. In the New England-Adirondacks region the themes of Mountain systems, Works of glaciers, and Boreal forest, all of prime significance, are inadequately represented in the National Park System. The Appalachian Trail can increase the adequacy of representation of these themes in both natural regions, thus contributing to a more fully representative National Park System.

The resource values that Congress intended to protect by the designation of the Appalachian National Scenic Trail are diverse and complex. The language of the National Trails System Act, as amended, does not go into elaborate detail as to the nature of the resources to be protected. The section of the Act designating the Appalachian Trail recognizes the Trail as "extending generally along the Appalachian Mountains from Mount Katahdin, Maine, to Springer Mountain, Georgia." The Act states that insofar as possible the Trail right-of-way shall comprise the Trail as it existed as of the date of the Act, in 1968. The only clues in the language of the Act as to the nature of the Trail are that "the Appalachian Trail shall be administered primarily as a footpath by the Secretary of the Interior, in consultation with the Secretary of

Agriculture," and that the use of motorized vehicles on national scenic trails by the general public shall be prohibited. However, while the Act is reticent as to the exact nature of the resources to be protected by the Trail, certain inferences can clearly be drawn from the history of Congress' involvement with the Trail.

The 1968 Act, in establishing the National Trails System and the Appalachian National Scenic Trail, stated that such trails shall be ". . . so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass." Indeed, it was the encroachment upon the Trail corridor by residential, commercial, and other incompatible forms of development that prompted Congress to assume a federal responsibility for protecting the continuity and quality of the Trail. The 1968 Act authorized acquisition of a permanent right-of-way and provided that not more than 25 acres in any one mile of the Trail could be acquired without the consent of the owner. It also authorized \$5,000,000 for the acquisition of lands or interests in lands.

The inability of the Park Service, Forest Service, the States, and the volunteer Trail community to protect the Trail adequately under the provisions of the 1968 Act led Congress to amend the Act in 1978. The 1978 amendments expanded the authority of the Federal government to acquire private lands, ". . . provided that condemnation proceedings may not be utilized to acquire fee title or lesser interests to more than an average of 125 acres per mile." The amendments also increased the authorization of funds for the acquisition of lands and interests in lands with an additional \$90,000,000. The legislative history of the 1978 amendments sheds further light on Congress' intent. The Senate report accompanying the 1978 amendments states: "Experience with the Trail has demonstrated . . . that additional authority is needed to insure the acquisition of a corridor sufficient to protect trail values." From this language and the ensuing amendments it may be inferred that Congress intended the Appalachian Trail to provide some minimum standards of scenic, historic, natural, and culturally significant experience.

The Appalachian Trail comprises a richly diverse set of resources, transecting not only a number of climatic, physiographic, and ecological zones but also a variety of land uses--wild and forested lands, rural hinterlands, agricultural valleys, and small towns. The continuity of the Trail across 2,100 miles of the eastern United States both dictates and includes this diversity. Congress appears to have intended this sort of variety, in providing that "development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land." Nonetheless, Congress' authorization to protect a corridor, substantially expanded by the 1978 amendments, suggests that, wherever possible, the Trail should provide a recreational experience in a natural setting. Where that objective is no longer attainable, the Trail should follow the least disturbed and most attractive route possible.

IV. COOPERATIVE MANAGEMENT SYSTEM

The cooperative management system for the Appalachian Trail is based on a recognition that 1) the existence of the A.T. is largely due to a volunteer effort that began 60 years ago, and 2) management of the Trail by a cooperative network of Trail clubs, National Park Service, U.S. Forest Service, state agencies, and other partners is both cost-effective and philosophically appropriate. In particular, the role of volunteers in management has been emphasized by Congress (Senate Report No. 95-636) as one of the Trail's great assets.

Trail management involves more than simple "maintenance" of the footpath. Shelters, privies, signs, and bridges must be provided, and soil erosion on the Trail itself must be controlled. Education of users in low-impact hiking and camping techniques is important not only on the Trail, but off it as well, in classrooms, summer camps, and publications.

In addition, the newly acquired state and federal properties must be protected against those who would take advantage of an absentee public landowner. Through the "corridor monitoring" program, the Trail clubs in cooperation with their local agency partners will regularly inspect the properties and handle problems in accordance with prearranged procedures.

A cooperative partnership arrangement comprising the Cooperative Management System exists for all parts of the Appalachian Trail (see table). Where clubs are small, the agency partners assume greater responsibility; conversely, where clubs are stronger, the role of the agency partners is less extensive. A close working relationship between NPS, USFS, ATC, clubs, and state agencies is the cornerstone of this system.

Because the Trail is more than 2100 miles long, passes through 14 states, crosses nearly one-hundred separate national and state forests and parks, and involves so many different partners, the task of cooperative management is complex and generally does not lend itself to centralized decision-making. For that reason, each of the Trail clubs maintains a "local management plan" for its section of Trail in cooperation with local agency partners. These plans form the foundation on which the decentralized decision-making process is built.

The volunteer role in management of the Appalachian Trail is unprecedented for a major federally-administered recreation facility. This public service by private citizens springs from the history of the Trail and its unique tradition of volunteer initiative.

Participants in Cooperative Management System, by State, as of July 1, 1981

| <u>STATE</u> | <u>TRAIL CLUB</u> | <u>GOVERNMENT AGENCY PARTNER</u> |
|------------------------------|---|--|
| MAINE | Maine Appalachian Trail Club Appalachian Mountain Club | Baxter State Park ME Dept of Conservation ME Dept of Inland Fisheries & Wildlife |
| NEW HAMPSHIRE | Appalachian Mountain Club Dartmouth Outing Club | NH Dept of Resources & Economic Development White Mountain National Forest |
| VERMONT | Dartmouth Outing Club Green Mountain Club | VT Agency of Environmental Conservation Green Mountain National Forest |
| MASSACHUSETTS | AMC, Berkshire Chapter | MA Dept of Environmental Management |
| CONNECTICUT | AMC, Connecticut Chapter | CT Dept of Environmental Protection |
| NEW YORK | NY/NJ Trail Conference | NY State Office of Parks & Recreation NY Dept of Environmental Conservation |
| NEW JERSEY | NY/NJ Trail Conference | NJ Dept of Environmental Protection Delaware Water Gap Nat'l Recreation Area |
| PENNSYLVANIA | Springfield Trail Club Batona Hiking Club AMC, Delaware Valley Chapter Philadelphia Trail Club Blue Mountain Eagle Climbing Club Allentown Hiking Club Brandywine Valley Outing Club Susquehanna Appalachian Trail Club York Hiking Club Mountain Club of Maryland Potomac Appalachian Trail Club | PA Game Commission PA Dept of Environmental Resources Hawk Mountain Sanctuary (private) Borough of Hamburg |
| MARYLAND | Potomac Appalachian Trail Club | MD Dept of Natural Resources C&O Canal National Historical Park |
| VIRGINIA/ WEST VIRGINIA | Potomac Appalachian Trail Club Old Dominion AT Club Tidewater Appalachian Trail Club Natural Bridge AT Club Roanoke Appalachian Trail Club Kanawha Trail Club Virginia Tech Outing Club Piedmont Appalachian Trail Hikers Mt. Rogers Appalachian Trail Club Tennessee Eastman Hiking Club | Harpers Ferry National Historical Park VA Dept of Conservation & Econ Dev Shenandoah National Park George Washington National Forest Blue Ridge Parkway Jefferson National Forest |
| TENNESSEE/ NORTH CAROLINA | Tennessee Eastman Hiking Club Carolina Mountain Club Smoky Mountains Hiking Club Nantahala Hiking Club | Cherokee National Forest Tennessee Valley Authority National Forests of North Carolina (Pisgah, Nantahala) Great Smoky Mountains National Park |
| GEORGIA | Georgia Appalachian Trail Club | Chattahoochee National Forest |

V. PROCESS

A. NPS AND ATC ORGANIZATION AND RELATIONSHIP

The Appalachian Trail protection program is a cooperative project involving the National Park Service, the U.S. Forest Service, the states crossed by the Trail, local governments, Trail clubs, other federal agencies, conservation organizations, and landowners. While responsibility for overall Trail administration lies with the National Park Service, the goal is to assure adequate management through the existence of a cooperative working arrangement between partners. A series of broad relationships are defined through formal agreements that the National Park Service has with the Appalachian Trail Conference, the Forest Service, the states and other Trail land-managing agencies such as the Smithsonian Institution.

The Appalachian Trail Conference, with over 15,000 individual members, is a private, nonprofit confederation of the 31 maintaining Trail clubs and their affiliates (with a combined membership of 60,000). It assigns Trail sections to clubs, acts as a central clearinghouse for trailwide information, publishes guidebooks, provides technical assistance to clubs, and allows the Trail clubs to speak with a united voice on issues affecting the Trail. There is a paid central office and field staff. The Conference is governed by a Board of Managers.

The Appalachian Trail Project Office, sometimes confused with the Appalachian Trail Conference, is a part of the National Park Service. Headed by a Project Manager, it has the responsibility to see that the requirements of the National Trails System Act for the protection and management of the Trail are fulfilled. The land acquisition function is organized under the Project Manager. Field offices operate in Lebanon, NH, to pursue negotiations with landowners in Maine, New Hampshire, Vermont and Massachusetts; in Allentown, Pa., for negotiations in Connecticut, New York and northern Pennsylvania; and in Martinsburg, W.V., for negotiations in central and southern Pennsylvania, West Virginia and Virginia. The work of these offices is coordinated by the Chief of Land Acquisition for the Project in a separate office in Martinsburg. In practice, the Conference and Park Service work in close partnership with the Forest Service in coordinating the federal and state protection programs and in supporting local management planning efforts.

B. STATE AND FOREST SERVICE ROLE

The Forest Service is acquiring land for the Trail within national forest boundaries, and several states are also acquiring land to protect the Trail. Land acquisition for the Trail in North Carolina, Tennessee and Georgia will be accomplished by the Forest Service, as well as within Forest Service boundaries in Vermont and New Hampshire. The States of New Jersey and Maryland plan to complete Trail protection without direct National Park Service acquisitions. Maine and Massachusetts are also maintaining significant protection programs for

the Trail, while some additional State acquisitions are expected in Pennsylvania. The National Park Service role is to fill in the gaps to assure a permanent, protected route for the Trail for its full length.

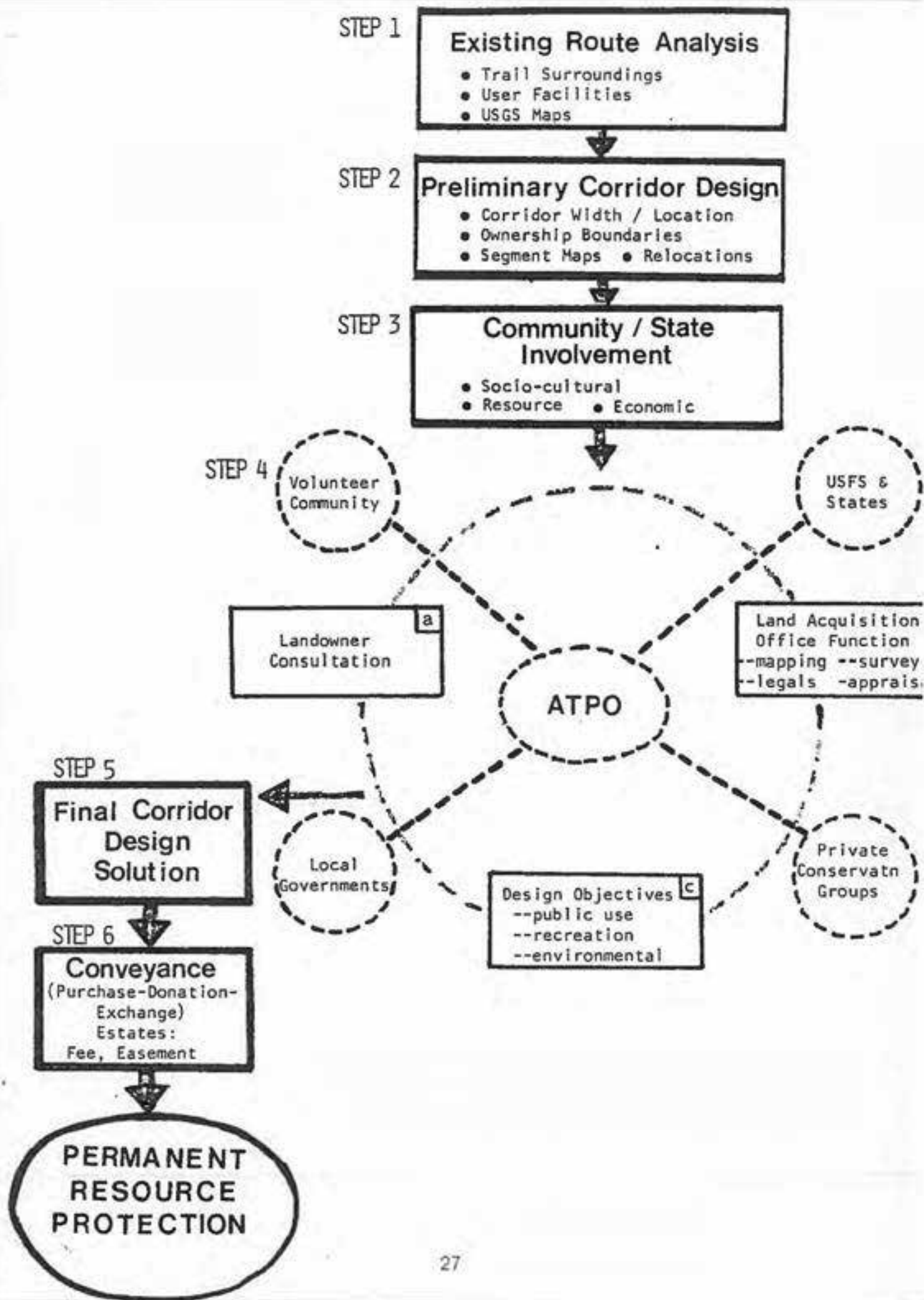
C. COMMUNITY RELATIONS

Local government participation is critical to the success of the protection program. Without the support of the communities through which the Trail passes, it would not receive the recognition it requires to sustain its viability as a valued resource. Long-term protection rests not only in acquiring tracts of land, but in nourishing relationships and fostering responsibility among the communities through which the Trail passes. To establish a climate of concern for the Trail, municipal, county and regional governments have been asked to participate early in the planning process.

Local support for the Trail is critical in management, as well as in protection. The federal government's Payment In Lieu of Taxes program, and an active and responsive volunteer community, provide valuable incentives to sustain local support. In an effort to further enhance partnership with the communities, NPS protection efforts, where possible, attempt to satisfy local conservation objectives while protecting the Trail. Local planning committees have been established to develop plans for management of AT lands, and local government has played a pivotal role in that process.

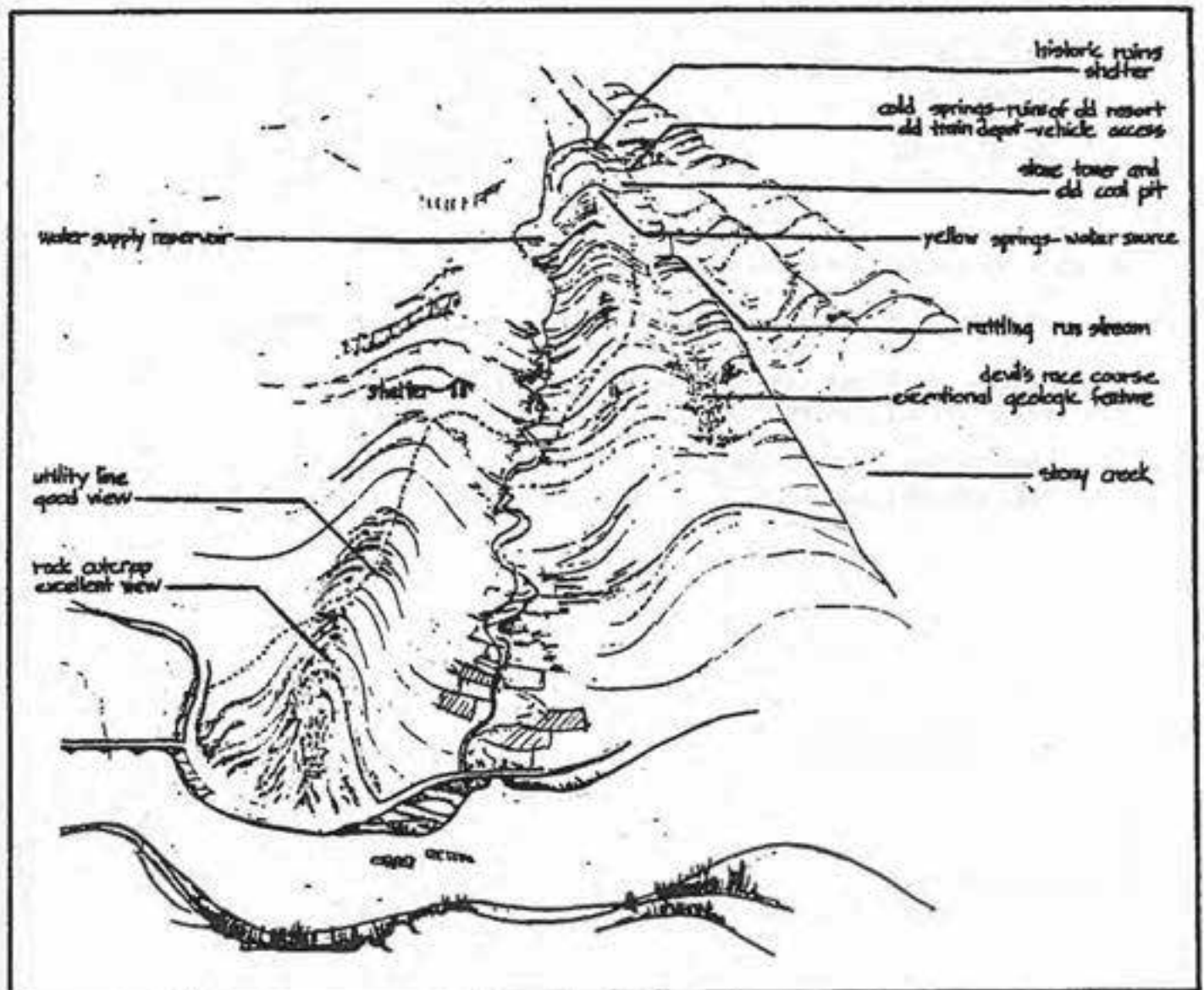
D. TRAIL PROTECTION PLANNING

A detailed description of the steps in planning a protective corridor for the Trail follows:



EXAMINE EXISTING TRAIL ROUTE:

During the initial stages of the NPS program in 1978, the existing route of the footpath was reviewed in consultation with Trail club and Conference representatives within each state. An evaluation of the adequacy of each section of Trail included an inventory of historic, geologic, botanic, scenic and cultural resources of a section of Trail, together with necessary hiker amenities. This analysis is graphically represented in the drawing below, but ordinarily would have been depicted on USGS, 7½ minute quadrangle maps.



PRELIMINARY CORRIDOR DESIGN:

A National Park Service Coordinator from the Project Office works with field representatives of the Appalachian Trail Conference, land acquisition specialists, and designated Trail club members to prepare a preliminary corridor within a given section of Trail using blow-ups of USGS Quadrangle maps referred to as Segment Maps. Ordinarily the planning team knows enough about the land adjoining the existing Trail to be able to make preliminary estimates about the width of corridor potentially needed to provide adequate visual and audio separation, as well as meeting Trail design objectives for the footpath. Plates 1 - 12 describe the techniques used to define the corridor and the extent of the resource to be protected.

Sight, sound and resource values are the principal considerations in determining width of the corridor and placement of the footpath:

| | |
|--|------------------------|
| LANDFORMS AND VEGETATIVE COVER | Plate 1.....Page 41 |
| RESOURCE CHARACTERISTICS | Plate 2.....Page 42 |
| COMMERCIAL | Plate 3&4...Page 43-44 |
| RESIDENTIAL | Plate 5.....Page 45 |
| RECREATIONAL | Plate 6.....Page 46 |
| AGRICULTURAL | Plate 7&8...Page 47-48 |

Control points are established where the footpath must cross highways, bridges or pass under electric power lines:

| | |
|----------------------------------|---------------------|
| UTILITY/TRANSPORTATION | Plate 9.....Page 49 |
|----------------------------------|---------------------|

Attractions and hiker conveniences are identified as features in the design of the footpath and corridor:

| | |
|--|------------------------|
| SUMMITS AND VIEWPOINTS/TOWNS | Plate 10....Page 50 |
| USER SUPPORT FACILITIES. | Plate 11&12.Page 51-52 |

COMMUNITY/STATE INVOLVEMENT:

Representatives of state and local government are routinely consulted before landowners are contacted. Their roles range from informal reviewers during the process, to regular participants on route planning advisory groups in Connecticut, New York, Vermont and Cumberland Valley, Pennsylvania. State and local planning and conservation commissions have recommended relocations, participated in environmental reviews, arranged and chaired public meetings, and arranged consultation between NPS and local government officials. Local planning and zoning boards continue to make a significant contribution to Trail protection by advising the NPS of applications for changes in use of lands along the Trail.

Some town governments are actively involved in working out cooperative agreements with the Park Service where the Trail crosses municipal lands. Town governments have already signed agreements to permanently protect one mile of Trail in Virginia, 9 miles of Trail in Pennsylvania, one mile of Trail in New York and lesser amounts in other states. Several states continue to administer cooperative understandings between state agencies and with local governments where the Trail crosses government land. Dutchess County, New York, officials will donate to the NPS tax delinquent Trail corridor lands. Zoning by local government provides some protection in the towns of Carrabassett, Maine, and Caratunk, Maine.

LANDOWNER CONSULTATION:

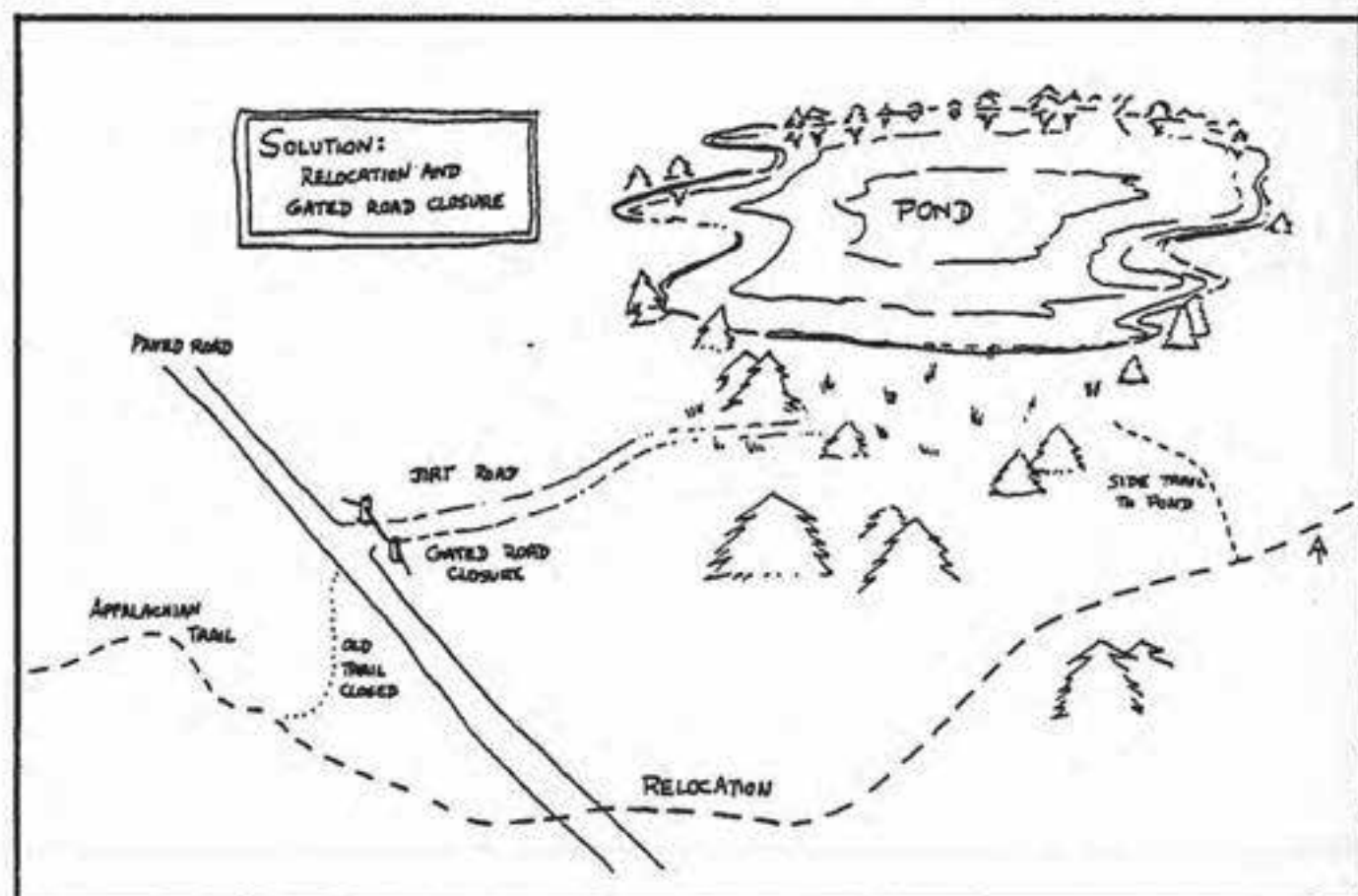
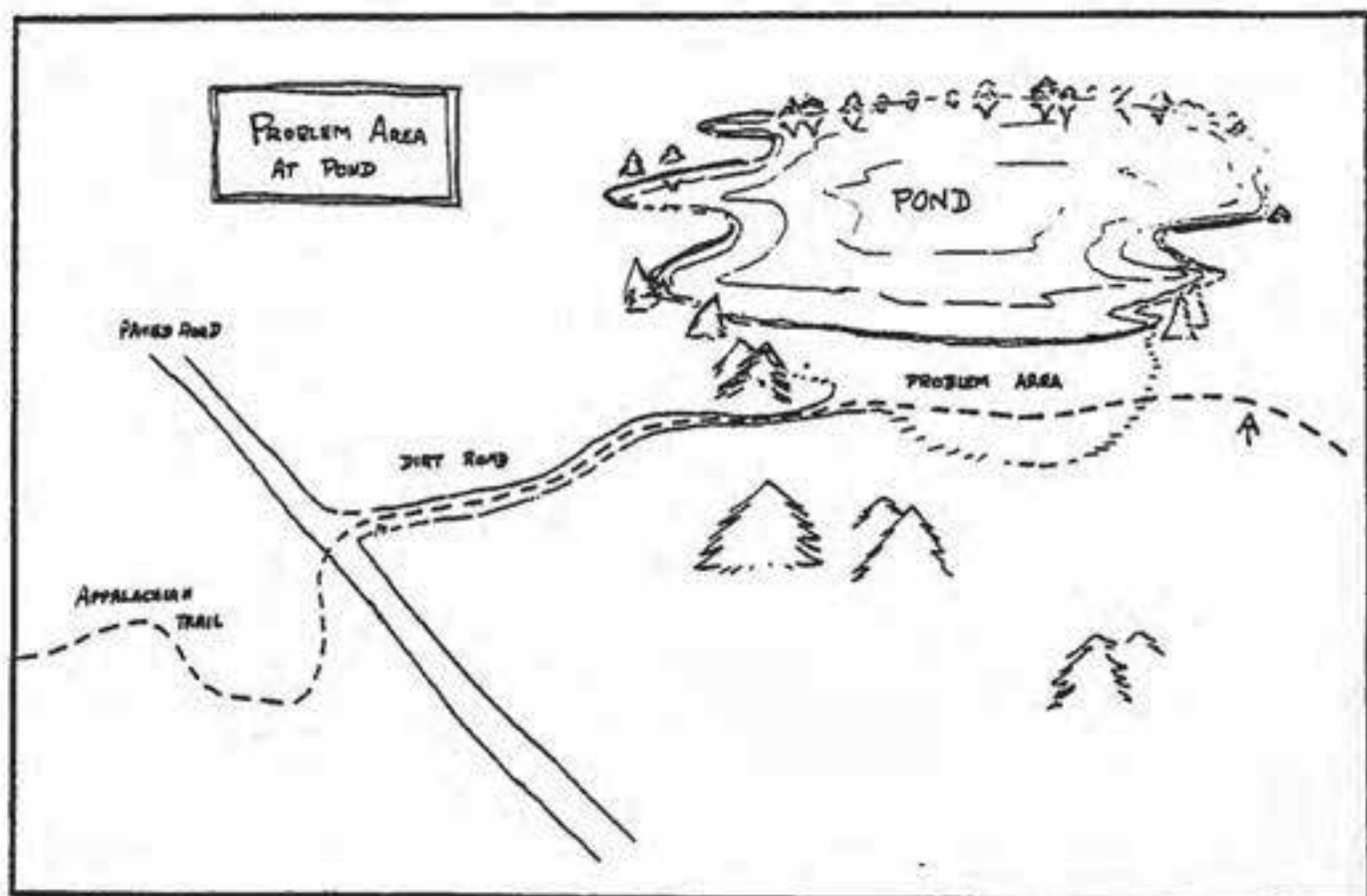
Following initial work to develop a preliminary corridor design and advise the appropriate state and local officials, Trail club representatives contact identified landowners to describe Trail objectives, advise of the NPS acquisition effort mandated by Congress, and ask for assistance in planning Trail protection.

The initial contact is followed by meetings with landowners, Trail club representatives and NPS realty specialists to begin discussions of how best to provide a corridor for the Trail along a three or more mile section. Considerations of the preliminary design are discussed with all landowners in a given section. Field work is done with permission of landowners and sometimes in their company. Relocation of the Trail is sometimes desirable because of hazardous conditions in the existing location, incompatible nature of the abutting land use, or landowner preference to have the Trail further away from developments.

Landowners are advised of the many options available to them to convey land or an interest in land for the needed Trail corridor. Landowners are given the opportunity to propose adjustments or alternatives over a period of several months until final corridor design recommendations are approved. In nearly every case a consensus is reached among all the landowners in a given section. Trail design objectives are incorporated, and communities concur before the corridor is released for acquisition.

When an apparent disagreement occurs at any time in the planning process, NPS planners work closely with the landowner, the club, realty specialists and occasionally, the community to resolve the impasse. The persons or techniques necessary to resolve differences will vary in almost every case. The solution could be as simple as surveying a property line, changing the language of an easement slightly, moving the footpath a few feet one direction or the other, providing for a special use permit or a retention of use for a number of years. Only a few situations remain where a final corridor design has not yet been agreed to by all parties concerned.

The drawings on the following page provide an example of how a simple Trail relocation away from a landowner's private service road satisfies the landowner's concern for privacy and results in an agreement with the NPS for placement of the footpath on the property.



LAND ACQUISITION OFFICE FUNCTION:

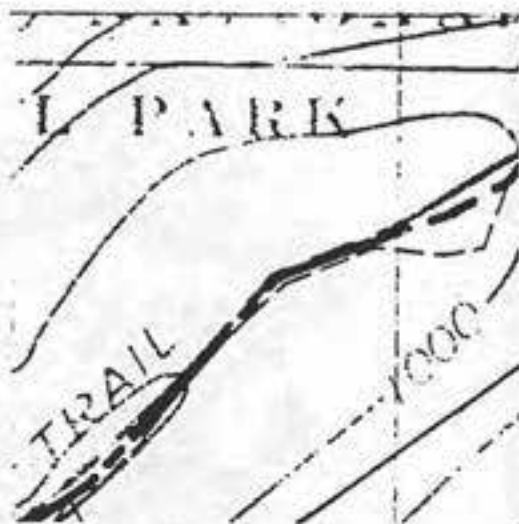
Realty specialists working on the A.T. project are involved early in the protection process, functioning in a role well beyond the scope of that traditionally performed by NPS reaty specialists. They act as a liaison between the landowner, the Trail club and the technical lands staff, providing expert assistance in planning the extent of the corridor and later the layout of the footpath. The relationship they establish among themselves, landowners and trail club managers is the key to success in achieving a satisfactory corridor design and adequate resource protection.

When a preliminary corridor design for a given section of Trail has been arrived at, a centerline survey is performed by contracted surveyors under supervision of the NPS staff surveyor. Any new information revealed by the survey is provided to the planners for incorporation into a final corridor design. Once the final corridor design has been agreed to, individual tracts can be released for acquisition and legal descriptions written by the professional cartographic staff in the Mapping Division of the Lands Office. The cartographic staff also has responsibility for producing and updating the segment maps for the Trail. When the legal description has been written, an appraisal is ordered and, upon approval, a letter of Just Compensation is mailed to the landowner. Realty Specialists then go back into action utilizing their traditional reaty skills to negotiate for conveyance of the desired interest in lands.

ATPO Segment Map

Scale: 1" = 200'

1" = 600 ft.

Shows approx. 2-3 miles of trail
Available from: ATPO

Information Displayed:

- same as 7.5' quad, only enlarged
- land ownership boundaries
- exact corridor boundaries
- easements
- special use permit areas

Uses of Map:

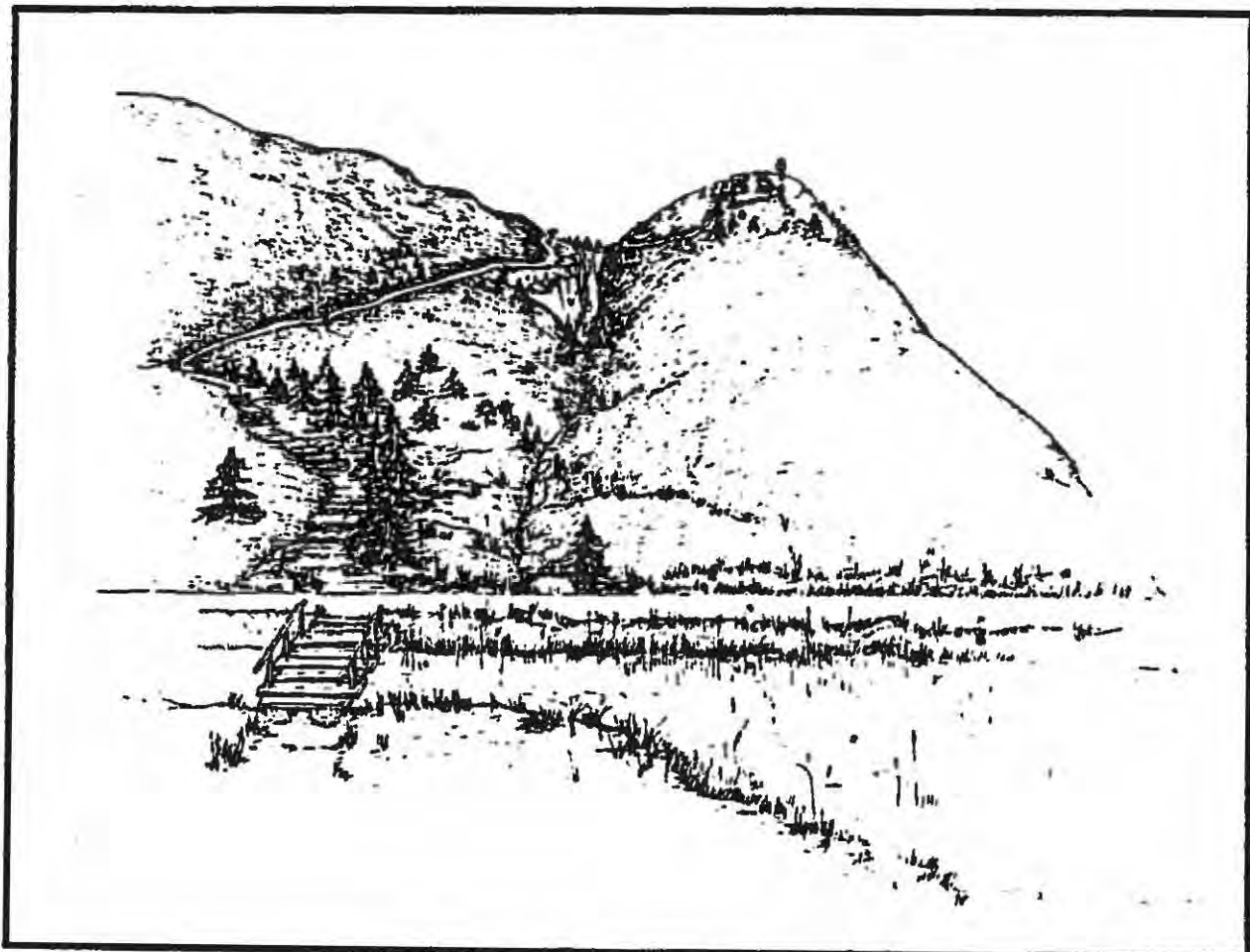
for Trail corridor monitors

DESIGN OBJECTIVES FOR THE FOOTPATH:

Incorporated into discussions with landowners, NPS coordinators, and technical NPS lands office personnel are recommendations of Trail club volunteers and Conference representatives about the design of the footpath. Three objectives for Trail design have been used informally for many years and provide guidance for decision-making:

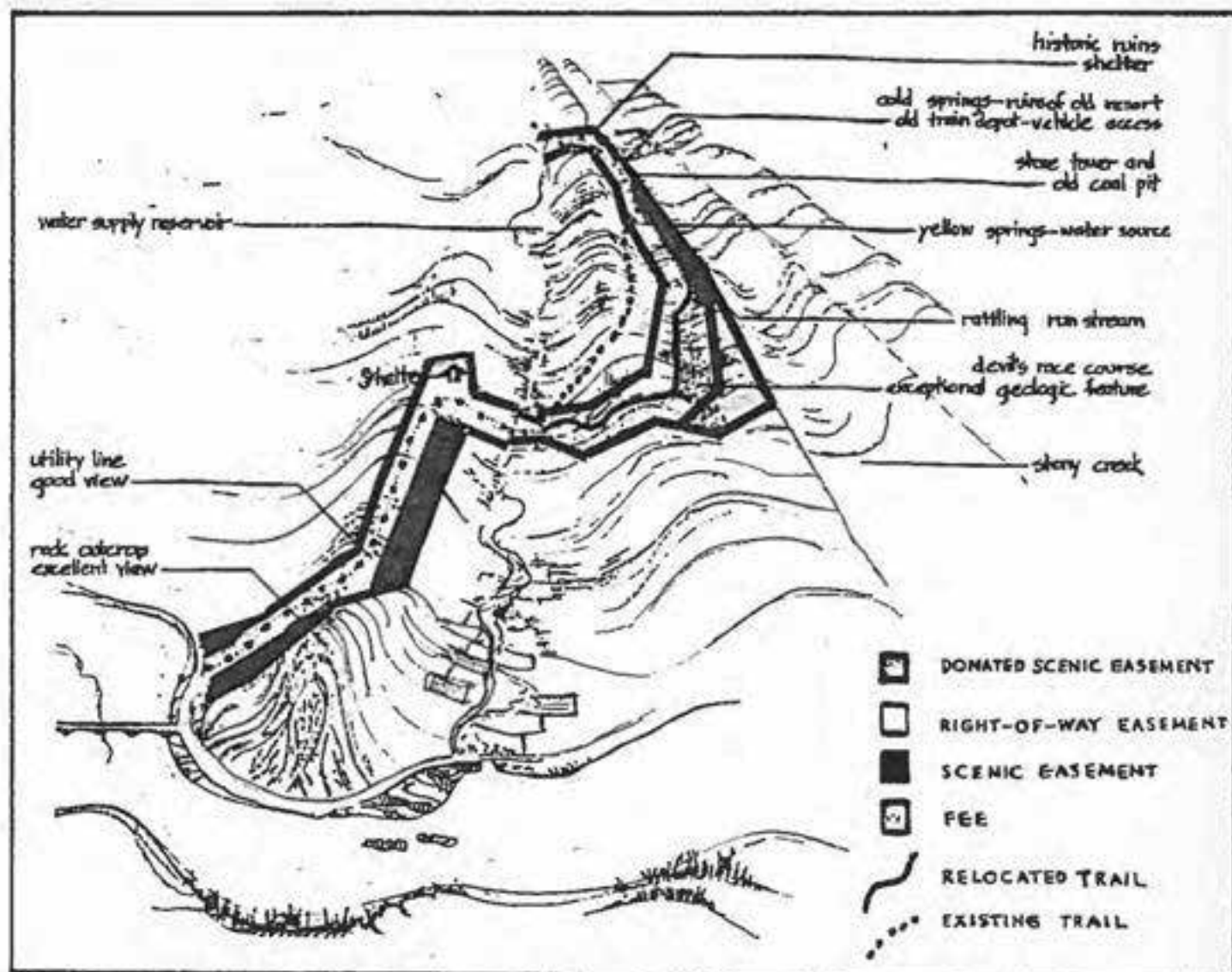
- o Public Use Objective: To provide a Trail designed and managed to reduce or eliminate conflicts among Trail hikers, other recreationists, and local residents.
- o Environmental Objective: To provide a footpath designed and managed to lie lightly on the land with a minimum disturbance to the natural surroundings.
- o Recreation Objective: To provide a continuous footpath designed and managed for enjoyable and reasonably safe hiking use in areas possessing traditional A.T. attributes.

All three objectives must be satisfied but circumstances may require balancing the importance of each objective in a particular situation. A community's desire to eliminate dangerous roadside parking, for example, may force the Trail from the most environmentally sound location. A thorough analysis of alternatives may yield a location of high quality which also satisfies the community's concern. The following drawing represents a blending of these objectives in an aesthetically pleasing scene:



FINAL CORRIDOR DESIGN SOLUTION:

The final corridor design is a result of a series of modifications to the preliminary design, worked out through negotiations among landowners, NPS realty specialists and Trail managers. Within a given section each landowner has conferred with NPS and Trail club representatives, and agreed with placement of the footpath and the extent of the Trail corridor. The final design map reflects a blending of resource protection objectives, footpath design objectives, and sensitive consideration of the social, economic and cultural impacts to communities and property owners. Graphic representation of a final corridor design appears below but ordinarily would be depicted upon segment maps (blow-ups of USGS, 7½ minute quadrangles).



CONVEYANCE:

Once the preliminary corridor design has been completed for a section of Trail, a centerline survey is performed by a contracted surveyor under supervision of the NPS staff surveyor. The results of the survey, including any new data, are submitted to the planning team for approval of a final corridor design.

Upon approval of the final corridor design for a given section of Trail, individual tracts within that section are released for acquisition and legal descriptions are prepared by the mapping division for the interest which the landowner desires to convey. Once the legal description has been written, an appraisal can be ordered for the required interest. Most appraisals are performed under contract by independent appraisers familiar with local property values and are reviewed by NPS staff appraisers to assure that requirements of the Uniform Appraisal Standards for Federal Land Acquisition are met. The landowner is encouraged to accompany the appraiser on his property inspection. Upon receipt and approval of the appraisal, an offer of just compensation is mailed to the landowner and realty specialists begin negotiations for conveyance of the required interest.

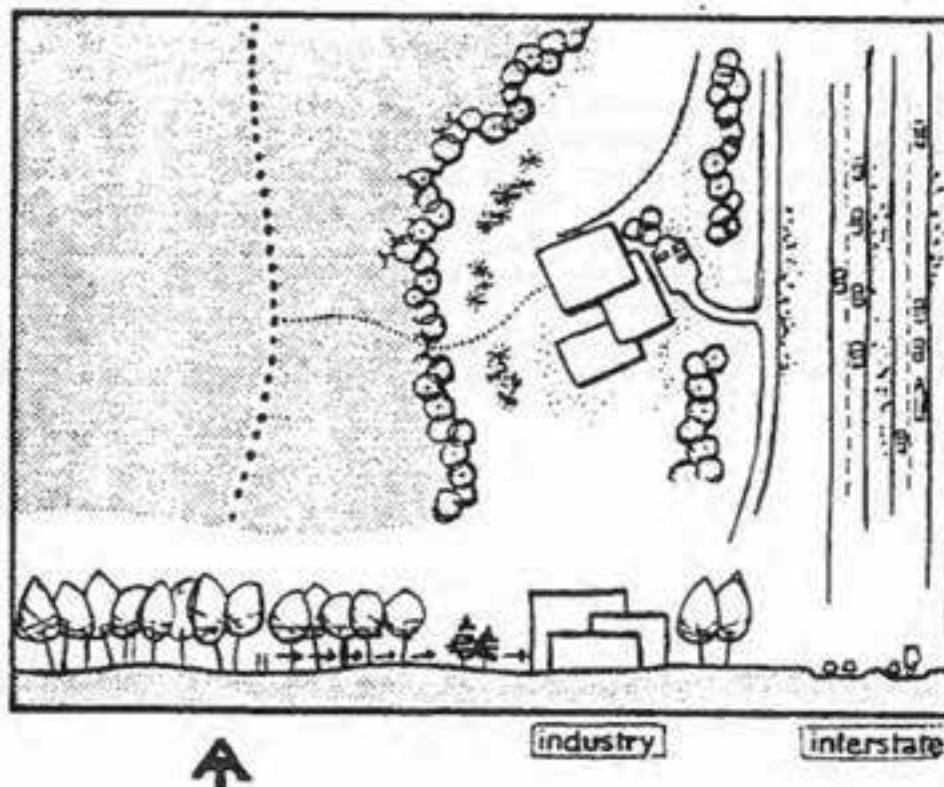
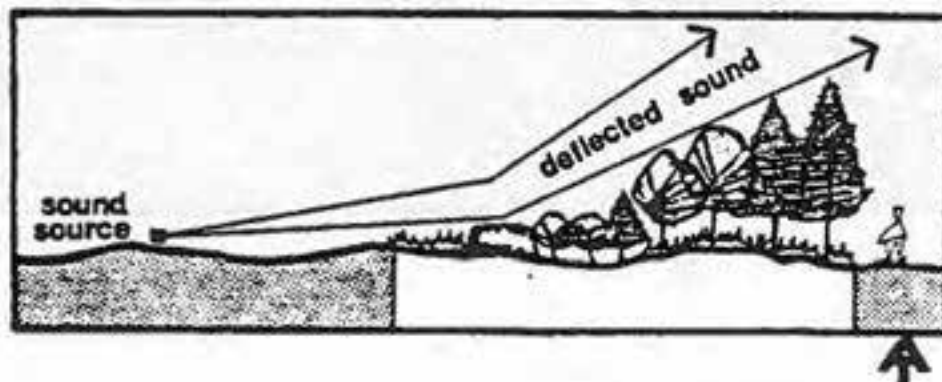
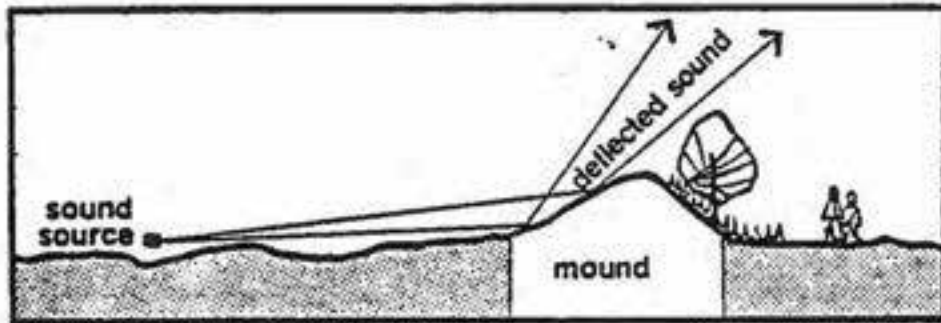
In most cases, landowners are offered the option of selling or donating easements. The types of easements will include a right-of-way for the Trail and related facilities, bordered by protective easements which limit future development near the Trail. Landowners are to continue most existing activities in the protective easement area, including farming, grazing and timber harvest. Special provisions in the easements can frequently be included to fit the circumstances of a landowner, such a right-of-way to cross the Trail when needed to reach another section of the landowner's property.

Full (or fee) title is acquired when landowners prefer not to sell or donate easements or when there is an identified need for public facilities, such as a camping area or trailhead parking. Facilities for camping and parking are located, to the extent possible, on lands already in public ownership or on lands where owners prefer to sell their full title. Landowners may also choose to sell their full interest but reserve specific interests for a period of years.

Sometimes an exchange can be worked out for an interest in previously acquired corridor lands, or an exchange can be facilitated between a landowner and the state for state lands.

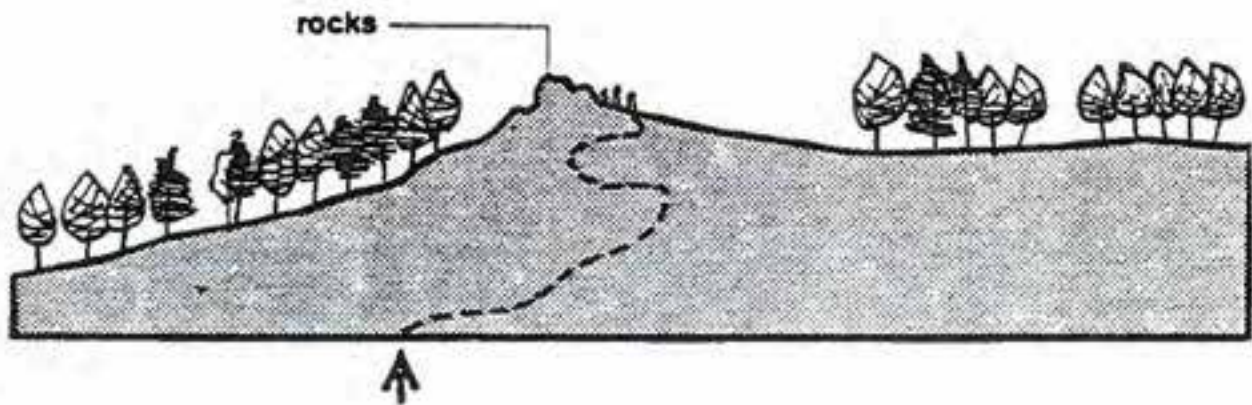
Landforms and Vegetative Cover:

Sight and sound are the principal considerations when determining recommended distances for permanent protection. To determine a total corridor width, distances have to be established for each side of the footpath. If the potential for adverse land use differs on either side of the Trail, it becomes necessary to design two separate widths.



Resource Characteristics:

ESTABLISH WIDTH AND DISTANCES



Visual impact is based on land form, unique site character, and resource significance. On-site investigation and topography are used to arrive at conclusions regarding width. The most significant landscape element of this site is the ridgetop. It is especially vulnerable to development because of the panoramic view it affords. A unique feature of this site is the rock formation with vistas which deserve protection.

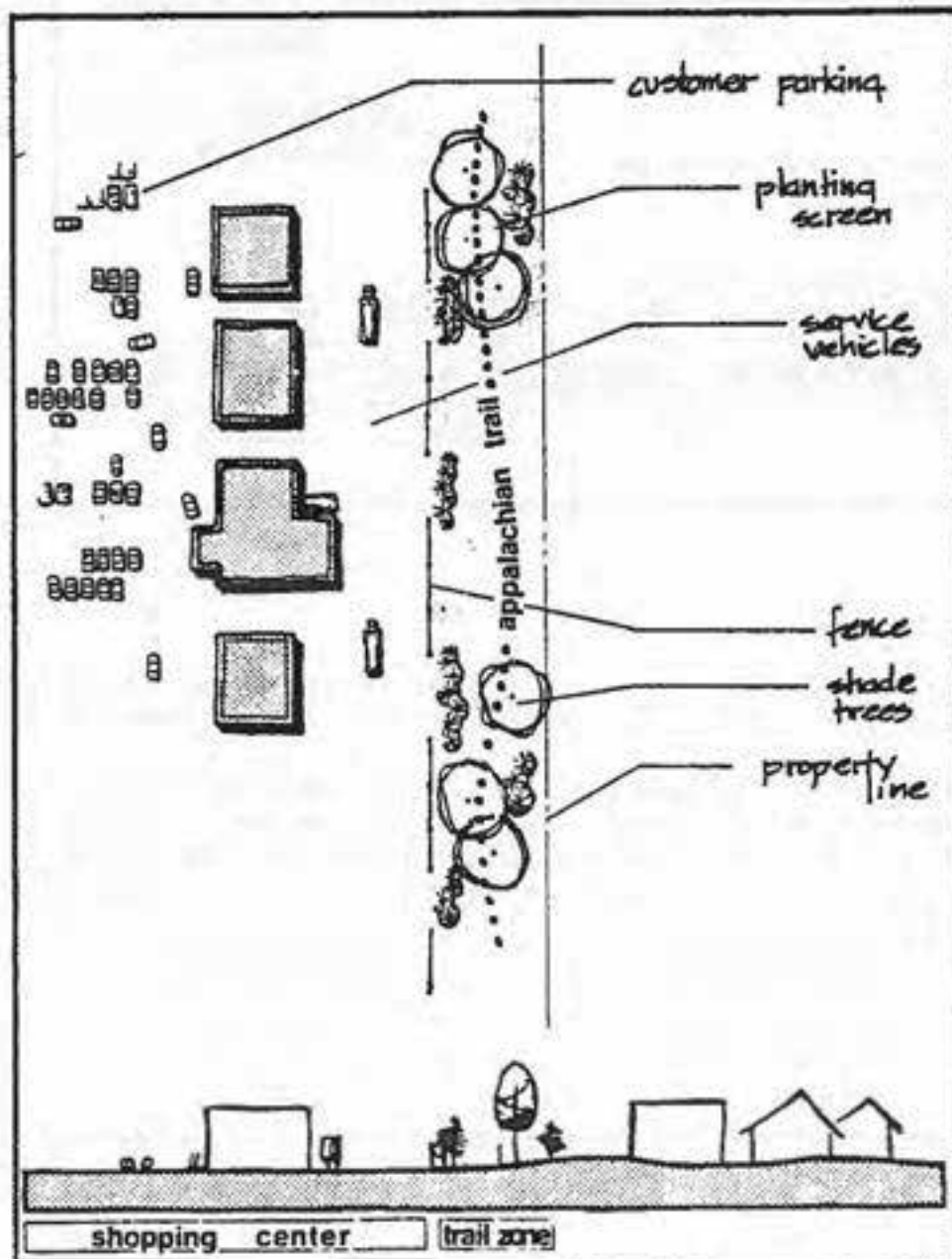
The design process needs to be far-sighted to assure a result that will make it possible to preserve Trail quality as use of adjacent lands changes.

Commercial:

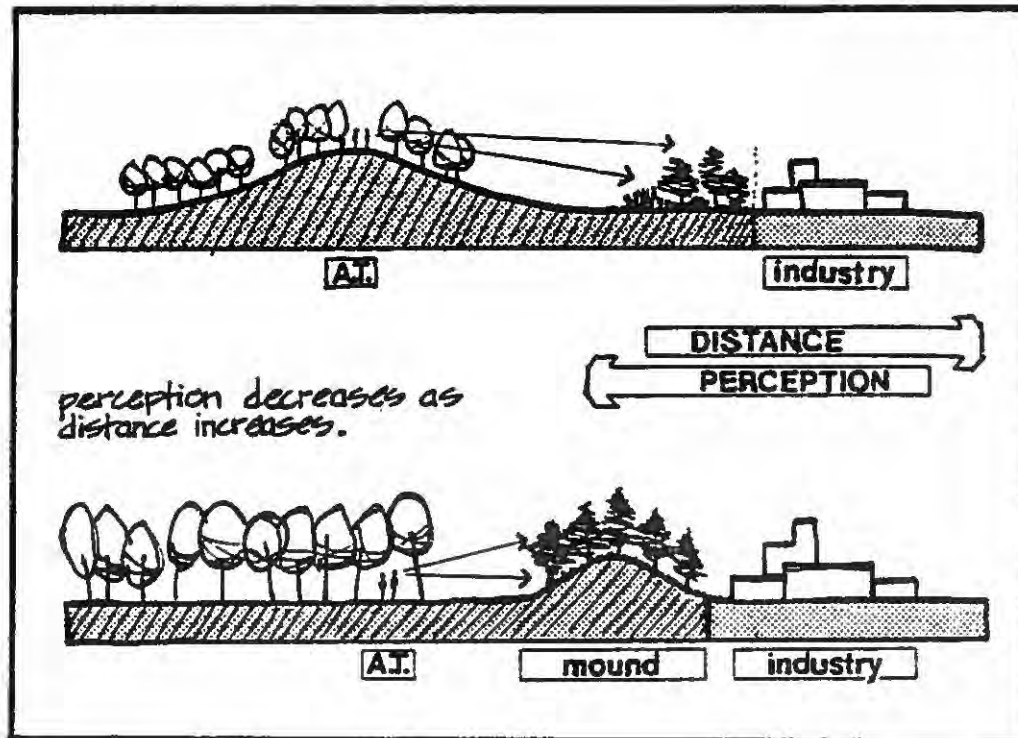
There are two major problems commercial land use generates with respect to the Trail. If the Trail must pass through a commercial development, the character of the Trail will be altered. It would be impractical to attempt a reconstruction. Instead, planning should recognize suburban character and take advantage of the existing amenities of the area.

Second, there is a major conflict between hikers and vehicles. Safety should be a major concern in planning these areas.

Occasional compromises of quality are acceptable so long as the overall character of the Trail is not compromised. The cumulative effect of corridor decisions must be considered. That is why the Appalachian National Scenic Trail Advisory Council has asked for a review of corridor decisions where substantial compromise is recommended.



Commercial (cont'd)



Vegetation and/or inclusion of a natural barrier might be necessary within the corridor to adequately screen the hiker from adjacent development.

Adequate width to control land use is also necessary where that opportunity exists in order to assure that adjacent land use remains compatible. The corridor should be sufficiently wide so that vegetation can be allowed to grow up and screen out adjacent adverse development if it should occur.

Residential:

Topographic or distance buffers separate hikers from adjacent owners, thereby helping to reduce potential conflicts.

Residential development can range from a private estate to a large subdivision. The private estate will not greatly detract from the hiking experience if it is appropriately sited, because the density (per acre) is very low. Cleared areas, grading for roads and home sites, and utilities all need to be considered as a part of residential development.



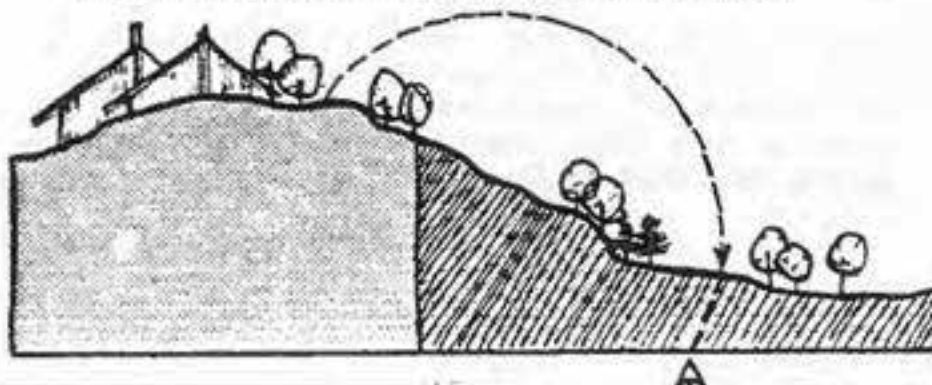
In some situations it might be impossible to establish an adequate corridor width. In this case, two basic alternatives should be explored to recreate a desirable hiking experience:

- shifting Trail to take better advantage of existing landforms and vegetation
- additional planting

In a shallow valley, moving the Trail may help to isolate it.



Where a steep slope exists, moving the Trail as shown will recreate the hiking experience.

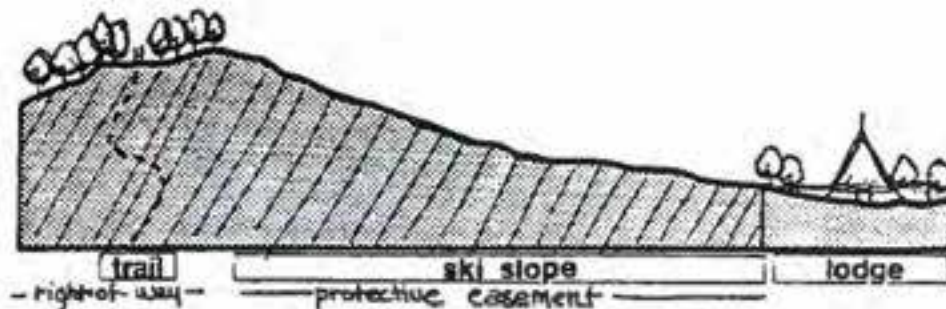


Recreational:

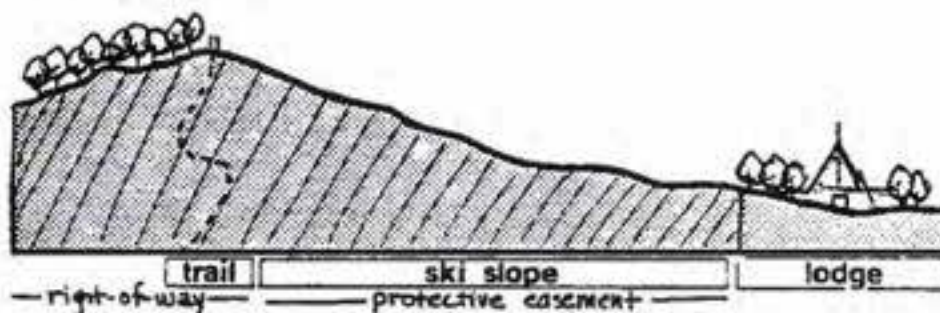
There are many forms of recreational activities that occur along the Trail corridor. The peripheral areas of most recreation developments are maintained in a natural state compatible with the Trail corridor. There is little conflict between recreational use and Trail protection and where such conflicts are anticipated they can usually be worked out by simple Trail relocations.

1. If it is decided for aesthetic or other reasons to avoid the slope, the Trail should be routed on the southern side of the ridgetop.

This is probably the best solution and should always be considered as an alternative.



2. If the ski slope provides a good view for the hiker and there is no objection by the owners, it may be possible to route the Trail across some of the slope clearing.



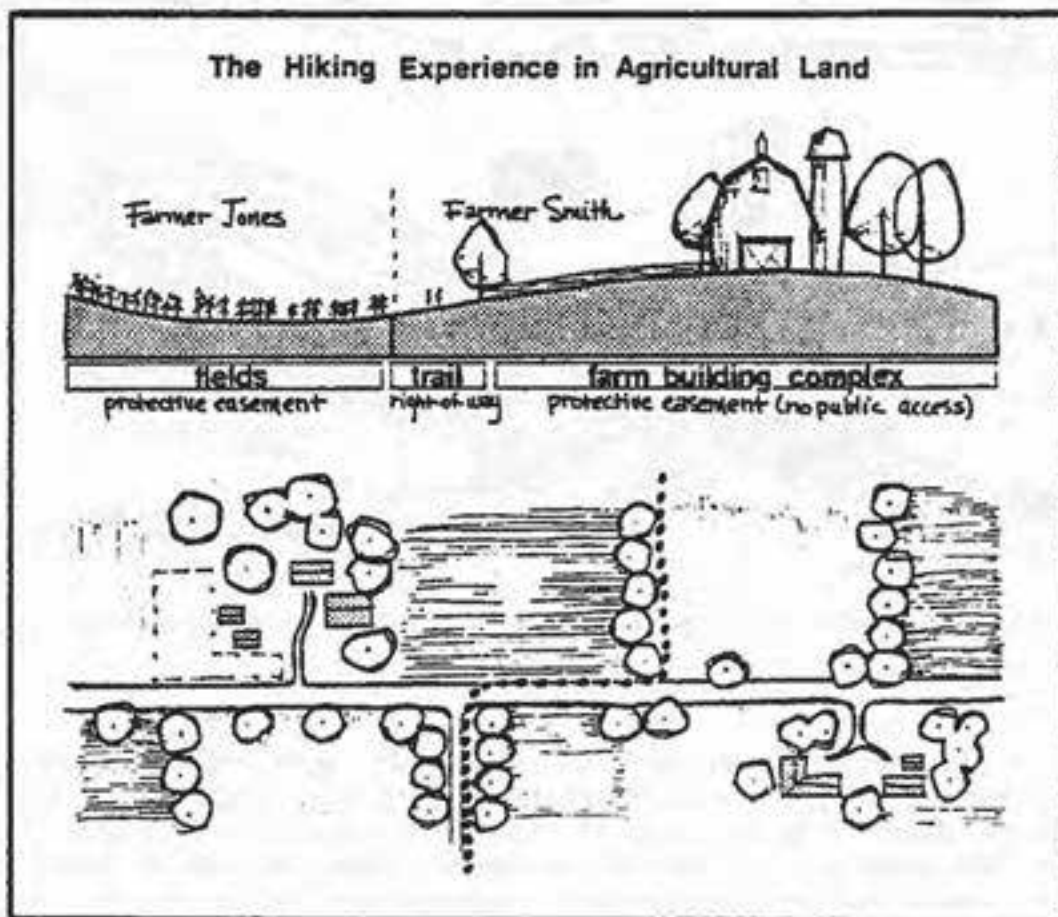
When possible, the Trail should cross the slope in such a location so that the hiker cannot see the entire slope and lodge area. Rather, he should cross an area where he will be able to take advantage of the view while still feeling securely a part of the ridgetop.

Agricultural:

The agricultural landscape is usually complementary to the hiking experience. Agricultural land consists of cultivated fields and grazing pastures, interlaced with hedgerows. Two lane dirt roads are typical and traffic is usually light. Buildings are usually clustered but tending to be of a very low density, and consist mostly of homes, barns, sheds and storage buildings.

Possible solutions for rerouting the Trail across agricultural land depend on the landowner's feelings concerning the use of the land.

The solutions presented show how a landowner may be protected from major inconvenience resulting from the Trail crossing agricultural land and also how to improve the hiking experience for the users of the Appalachian Trail.



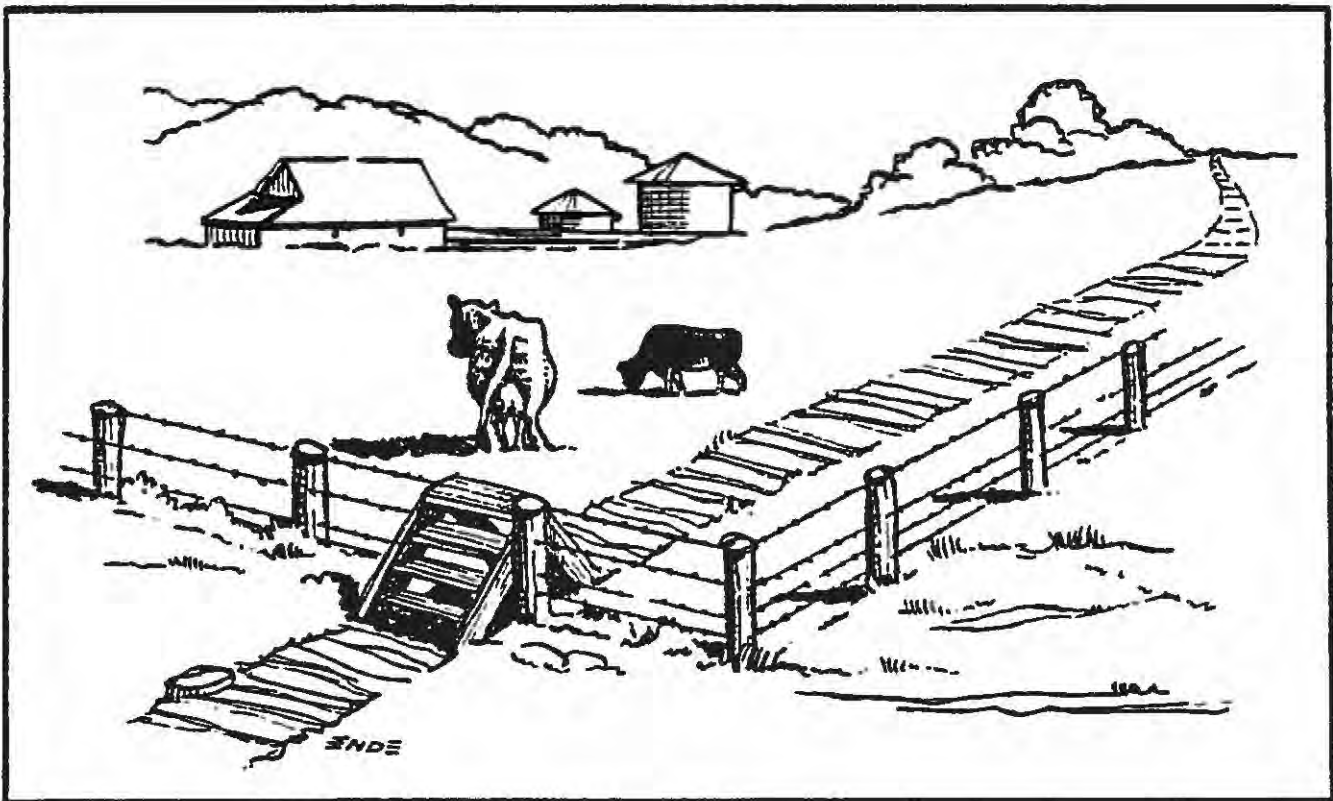
The best location for the Trail would be along the hedgerows between fields. This would cause the least crop damage and also provide shade for the hiker.

The Trail should have as direct a route as possible across agricultural land.

The Trail should not be routed near farm buildings.

Some crops are more susceptible to damage than others and whenever possible the Trail should be routed accordingly. Example-corn and grain crops are less susceptible than fruit orchards.

Most importantly, the individual farmer must always be included in planning a trail to cross his land.



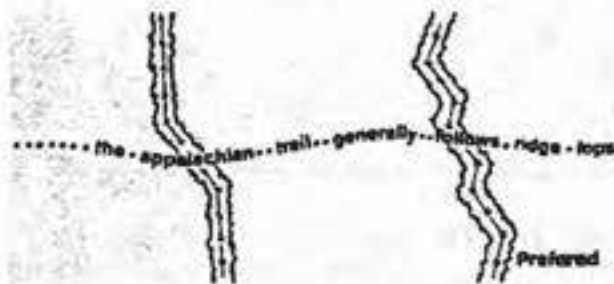
Fields, orchards, and pastures form the Trail environment in many places. The landscape's openness provides fine views and creates diversity. In order to ensure compatibility of agriculture and hiking, installing Trail improvements that prevent damage to crops and assure Trail access across fields without disruption to agriculture is the key to footpath layout.

Utility/Transportation:

Safe and aesthetically pleasing corridor crossings which do not conflict with utility or transportation corridors must be planned and often determine the destination points for the footpath.

• Powerline crossing ridge top

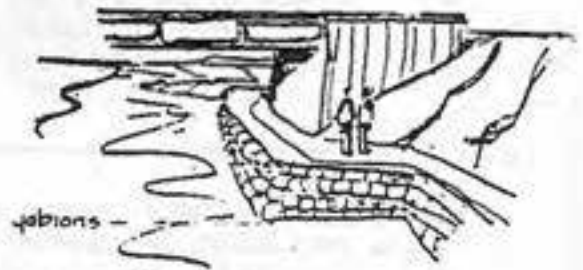
- the visual impact of overhead transmission lines on mountains can be reduced by routing them as shown above.
- this technique can be used in other mountainous areas.



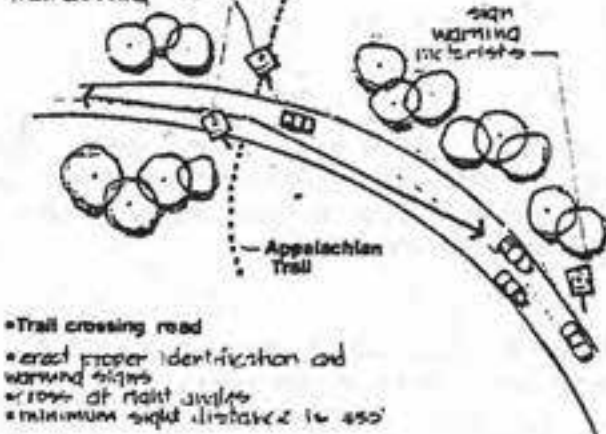
• Trail crossing limited access highway

• underpass

- use gabions (stone filled wire containers) to raise ground level out of water



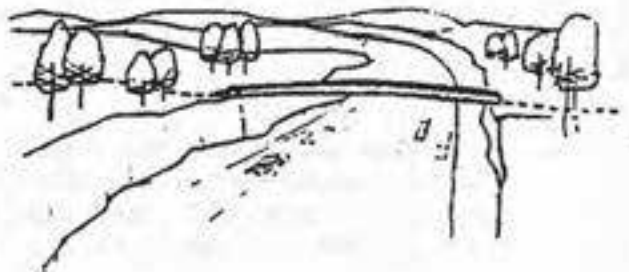
• signs to identify trail crossing



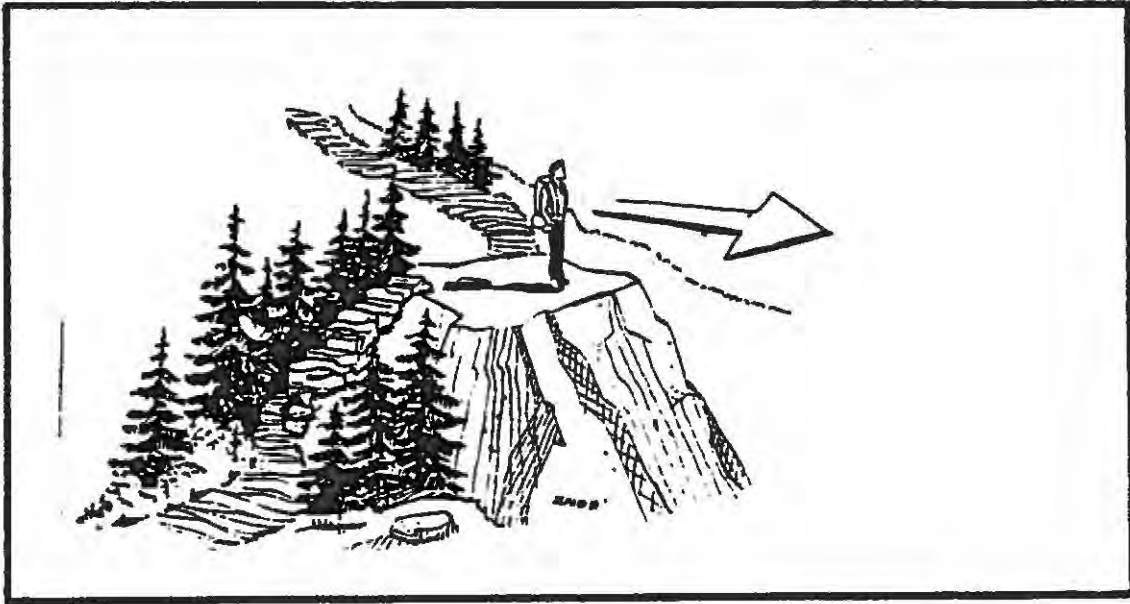
• Trail crossing road

- erect proper identification and warning signs
- cross at right angles
- minimum sight distance is 450'

• overpass (footbridge)



Summits and Viewpoints:



Placing the Appalachian Trail in quality settings in remote forests, rural woodlands and pastoral localities is a primary recreational design aim, especially including viewpoints which reveal the richness and variety of landscapes along the route of the Trail. Cultural and historical features also need to be taken into account.

Towns:

Although the Trail route should generally be in natural settings, Trail design should offer periodic access to towns for contrast, as well as provide points for hiker resupply. These stops provide hikers with well-remembered contacts with local people and culture.

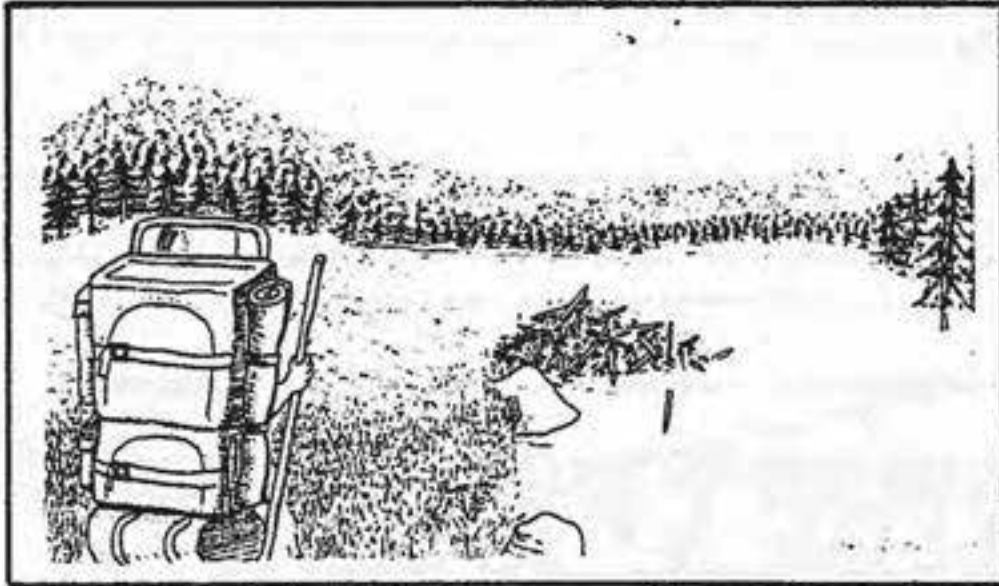
Damascus is one of the few towns through which the Appalachian hiking trail passes in its more than two-thousand-mile route from Maine to Georgia. Every year many hikers add to the town's life, especially in the summer, and a thirty-mile portion of the Trail is maintained by the local Mount Rogers Appalachian Trail Club, organized in 1960 and affiliated with the Appalachian Trail Conference. The Damascus United Methodist Church demonstrates its interest in the Trail and its hikers by providing a well-equipped hostel in the large house immediately behind the church. Every year hundreds of packages containing food and supplies for long-distance hikers are mailed to the Damascus post office; over the years, these visitors have learned that if they arrive after the post office has closed for the day, Postmaster Paschal Grindstaff will cheerfully open up and hand out the badly-needed supplies.

-- History of Damascus, Va.

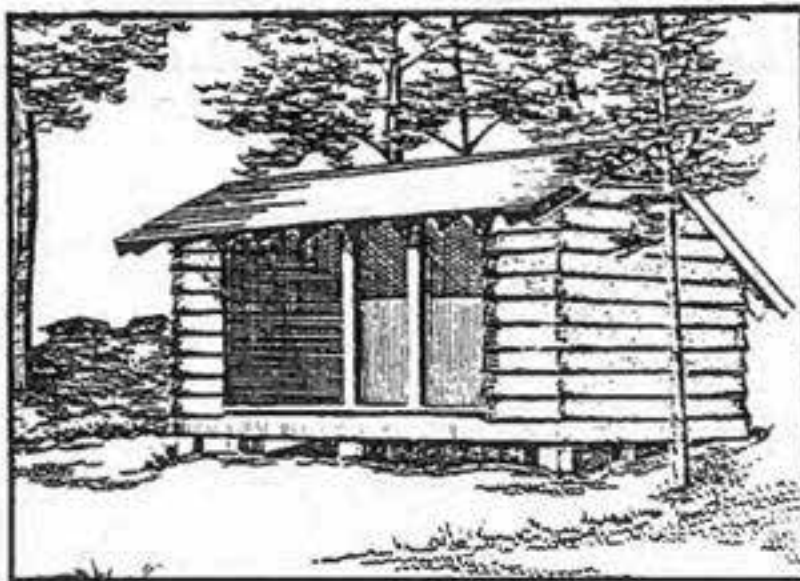
by: Louise Hall

User Support Facilities:

Water features along the Trail serve as sources of drinking water and as scenic features enhancing enjoyment. The Trail design should direct the hiker near mountain ponds, lakes and springs.

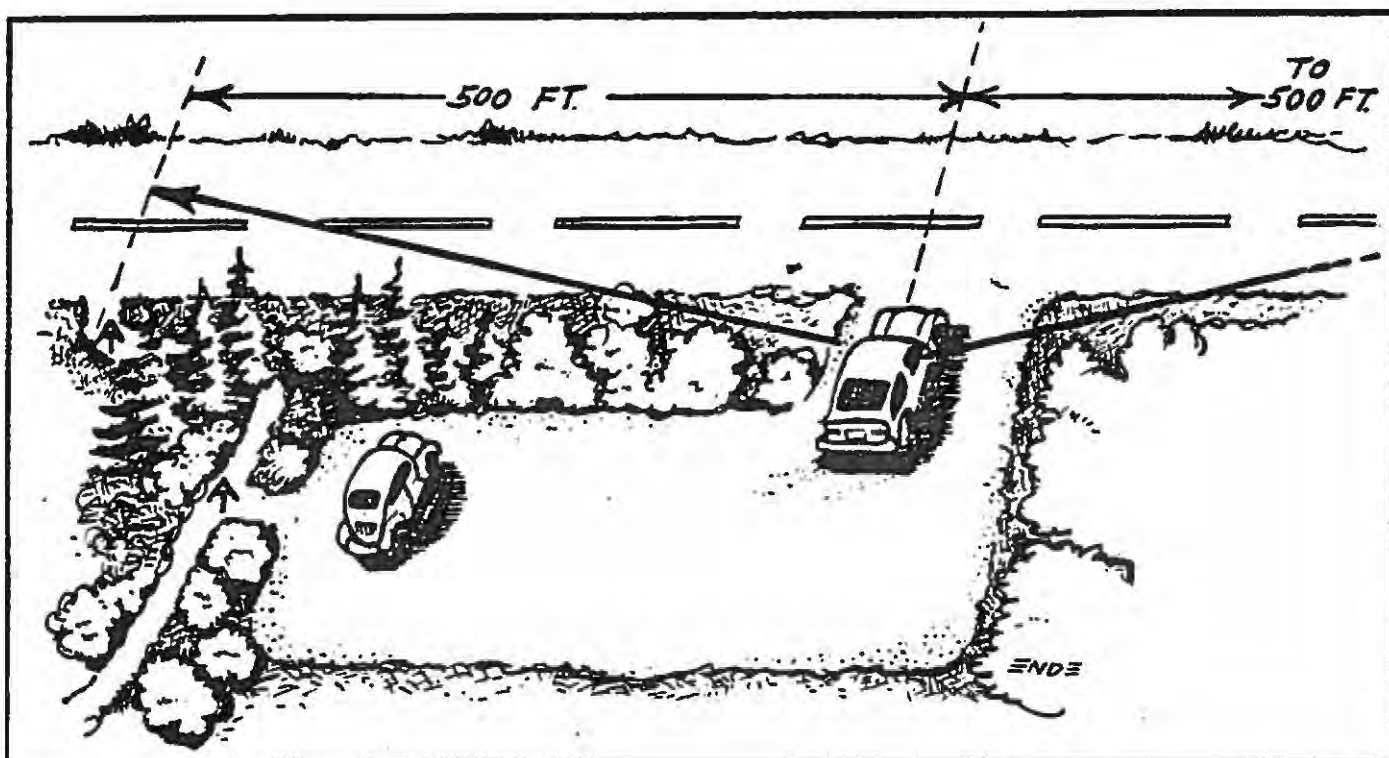


The Trail design should include shelters, campsites, and sanitation facilities on the existing route or provide good locations for shelters and campsites on a relocation.



User Support Facilities (Cont'd)

Selective location and development of trailheads control where and how much use the Trail receives. Proper location of trailheads and safe road access are critical factors in the relationship between the Trail users and managers and local residents, towns, and counties. Selection of trailheads and parking lots must be considered in relationship to the whole system of trailheads in the surrounding area and the level of use.



VI. ANALYSIS OF PROTECTION TECHNIQUES

A. FEE ACQUISITION

Overview:

Holding fee (or full) title over a property allows the owner to hold all of the rights associated with that property. Acquiring land in fee is the most commonly used technique for protecting the Trail corridor because most landowners prefer to sell in fee over the other alternatives available. Of the 616 tracts protected by the Park Service along the Trail, 495 have been purchased in fee at a cost of \$27.2 million.

Public Law 90-543, the National Trails System Act, specifies that rights-of-way for national scenic trails "should be acquired in fee, if other methods of public control are not sufficient to assure their use for the purpose for which they are acquired." In recommending increased authority for Appalachian Trail acquisitions in 1978, however, the Senate Energy and Natural Resources Committee report states that "where protection of the Trail corridor and adjacent lands can be accomplished through acquisition of lesser interests, the Secretary should pursue that option." The decision to use easements for the Trail when landowners prefer reflects both Congressional direction and appreciation of landowners' long-standing relationship with the Trail.

Advantages:

- Level and permanency of protection - Fee acquisition offers full and permanent control of the use and management of the resource, particularly where developmental pressures or threats to the resource are strong. Continuity and quality of experience along the A.T. can be assured through acquisition of the full interest in a major proportion of properties within the Trail corridor. Fee acquisitions are an essential part of a successful protection effort, considering the long, narrow corridor of the Trail.
- Public use - Lands protected in fee allow public access, whereas other forms of protection often involve restrictions on the extent of public access.
- Landowner concerns - Concerns about liability associated with public use of private land are mostly eliminated. Landowners often are quite willing to sell lands, particularly when there is no other market for their land, when they need capital, or if they do not want to pay taxes on the lands. Fee simple is also a relatively easy option to negotiate in that a total package of rights is purchased without limitations or restrictions.
- Commitment - Federal acquisition efforts demonstrate the commitment on the part of the federal government and act as incentive for others to join in the protection effort.

- Process - The acquisition of fee is a relatively straightforward procedural process. The costs associated with the administration and management of an acquisition effort are predictable. "Hidden costs" rarely arise.

Disadvantages:

- Budget - Land costs have been rising rapidly over the years and it is difficult to keep pace with inflation. Criticism has been expressed about the high initial cost of fee acquisition.
- Attitudes - Many citizens are concerned about federal control of private lands. Local governments are also concerned about the effect federal land acquisition can have on the tax rolls, although this does not appear to be a major issue on the Trail because acreages involved in any one jurisdiction tend to be small.

Impacts:

- Financial - As mentioned above, the costs of land continue to rise, making it more difficult for federal protection efforts to keep up. The loss of tax revenue at the local level is offset somewhat by in-lieu-of tax payments.
- Socio-economic - 88% of the Trail landowners preferred to sell their property in fee over easements. Those selling fee prefer it because they divest themselves of the whole property, receive fair market value, relocation benefits, and release from local taxes. Since Trail acquisitions involve mostly undeveloped land and limited acreages in individual communities, the social fabric of the area is not disrupted to a significant extent. Landowners who want to retain ownership in the underlying fee and sell easements are encouraged to do so. The greatest unfavorable impact occurs when there is an unwilling landowner whose property is condemned -- a rare circumstance for the Appalachian Trail.
- Resource - Lands acquired for the Trail are fully protected as required by the legislation when acquired by the Park Service and Forest Service. Some difficulty has been reported in controlling adjacent land uses and their impacts on the Trail.
- Management - Management of lands protected in fee present no special problems. Marking boundaries, monitoring the land uses, and dealing with encroachments are relatively easily resolved for both cooperating Trail clubs and government agencies. The cost of managing the Trail is minimized through the volunteer help of the cooperating Trail clubs.

Discussion:

The effectiveness of the protection effort for the Trail depends on a well-funded acquisition program. Without fee acquisitions, Trail continuity could not be protected adequately as mandated by P.L. 90-543 because of

the complexity in dealing with a 2100-mile resource. The acquisition program also serves as an incentive for other units of government and private conservation organizations to assist in the effort. Private groups such as land trusts are more willing to protect lands along the Trail if they can be reimbursed for their efforts. A federal acquisition program can also serve as a negative incentive by stimulating state or local protection as an alternative to federal involvement.

Condemnation has also been a necessary aspect of the acquisition and protection effort. This is particularly true on the Trail because of the large number of landowners and the linear character of the resource. Used only when necessary, condemnation helps overcome problem areas that block the continuity of the Trail. Condemnation proceedings have been used sparingly on the Trail with only 15 out of 616 cases going to condemnation.

Although the bulk of the Trail protection has been through fee simple acquisition, a range of other creative techniques and alternatives has been offered and used. The existing blend of private initiatives and alternative techniques has supplemented and complemented the protection effort. In cases where techniques other than fee were appropriate and economical, they were used. However, the fee acquisition effort has provided a major incentive and has been the driving force behind the protection effort as a whole and also in the use of alternative techniques. If the federal acquisition effort were reduced or eliminated, Trail protection could not be accomplished as mandated by the National Trails System Act.

RECOMMENDATION:

Continue an adequately funded federal acquisition program that encourages and allows use of alternative techniques where appropriate. Approximately \$28,000,000 will be required to complete the federal Appalachian Trail protection effort.

B. LESS THAN FULL MARKET VALUE

Overview:

Donations and partial donations (bargain sales) of land represent one of the least expensive ways the government can acquire land and can represent a significant part of a protection program. Donation of land for conservation purposes can result in tax benefits to the donor, and in most instances landowners are motivated by economic incentives. Sometimes, however, the conservation goals of the Trail or a property owner's sense of stewardship for the land can be determining factors. In most donations, title is transferred in fee simple.

In the protection effort, the Park Service has received 2 donations of fee, 15 donations of right-of-way easements, and 4 donations of protective easements. This includes 13 tracts where Trail use agreements have been provided by local governments. Donations have been received from both corporations and individuals, primarily through their initiative.

Advantages:

- Cost savings - A donation made directly to the agency is the least expensive form of acquiring land or interests for Trail protection and provides savings in acquisition costs.
- Landowner negotiations - Donations allow added flexibility in negotiations and provide an opportunity for landowners supporting protection of the Trail to contribute to the effort. Likely donors are usually large landholders or those who are interested in benefitting from the charitable deduction available from the Internal Revenue Service.
- Public relations - Landowners and the agency benefit from the positive publicity donors receive and donations demonstrate support of Trail protection.
- Protection - Donations provide permanent and adequate protection for the Trail because most donations are in fee.

Disadvantages:

- Policy - Current Park Service policy restricts realty specialists from offering tax advice, thus limiting their ability to obtain donations.
- Incentives - The financial incentive to donate for public purposes is decreased with the new tax laws.
- Willing landowners - Only a limited or select number of landowners along the Trail stand to benefit from donating to the protection effort with the result that donations are difficult to obtain. In addition, some landowners may be less willing to donate to the Federal Government than to private organizations.
- Assistance to landowners - The benefits of donating must be identified and provided to landowners. Expertise and procedures for soliciting donations need to be developed.

Impacts:

- Financial - Donations can provide cost savings to the Trail protection effort. Only willing landowners or those who stand to benefit from donations can be expected to contribute to the protection effort along the Trail. If donations were sought from likely contributors, some cost savings would result. Funds for appraisals, surveys, title transfer, etc., would still be required.

- Socio-economic - Landowners stand to benefit from tax deductions, the knowledge that their land will be permanently protected, and the recognition they receive for aiding in the Trail protection effort. Since donations are voluntary, landowners will only participate if it is to their benefit and if their particular needs are met.

- Resource - A donation provides the greatest level of protection if the land is acquired in fee. Donations of easements provide a lesser standard of protection, since the landowner retains some interest in the land. Donations of lands outside of the corridor would help protect adjacent lands or areas which the Park Service may not be authorized to acquire.

- Management - Management would be conducted in the same way as on other lands owned by NPS. There are no special management problems peculiar to donations.

Discussion:

Donations comprise only a small percentage of total land transactions on the Trail; however, they do provide cost savings and an added dimension to the protection program. In most cases, landowners opt for a donation because of the economic incentives available to them; however, some are motivated by the conservation goals of the Trail. The key to a donation program is being able to identify and seek potential contributions by discussing the benefits of donations with landowners. The potential to promote and increase donations as a protection technique along the Trail exists and should be encouraged wherever possible. The recommendations included in this analysis would increase the use of donations and partial donations. Bargain sales are also desirable and cost effective in situations where a landowner needs to receive some cash for his property, but can afford to make a partial donation of the land value while receiving a corresponding tax deduction.

Problems do exist, however, which make pursuit of an active donation program by the Park Service difficult at this time. In addition to Park Service policy restrictions, there is a general lack of educational material and expertise for soliciting donations. Also lacking is an adequate recognition program for landowners which could help motivate them to donate. New tax laws have decreased incentives to donate. There is a need for some system of certifying that a donation is for conservation purposes (enactment of H.R. 861 would meet this need for Trail lands). Finally, there is a need for more or different incentives to expand the number and range of people who can benefit from donating land for conservation purposes. The majority of landowners along the Trail own small tracts and are not in high enough tax brackets to benefit under existing tax law.

The Appalachian Trail Land Acquisition Office has developed suggested revisions to current Park Service policy which would:

- 1) allow realty specialists to become sufficiently knowledgeable of current tax laws to be able to encourage landowners to make whole or partial donations of their land or interests in their land;

2) suggest that efforts to seek donations be coordinated with cooperating nonprofit organizations to avoid conflicts and confusion to the landowners;

3) require that donations be confined to those necessary to implement the Land Protection Plan for the area.

In addition, the Appalachian Trail Land Acquisition Office has embarked on an active plan to study ways to encourage donations for the Trail protection effort. A member of the staff has recently been given a full-time special assignment to research and develop a strategy for encouraging donations, and to then develop a specific training program for Park Service negotiators to implement this strategy. The research will include examining the tax laws to obtain a clear understanding of what they provide and what the implications are with respect to donations. An effort will be made to understand the IRS valuation process of donations, as well as the certification process for donations to qualify. (It is understood that passage of H.R. 861 would qualify all Appalachian Trail corridor lands for certification.) Experts within the land trust community will be identified who can provide specific tax advice to individual landowners, since Park Service negotiators will still be limited to a factual presentation of advantages and disadvantages, rather than providing an individual's actual tax consequences of a donation.

RECOMMENDATION:

The project should continue to study all aspects of donations and to review existing Park Service policy regarding donations. The study should be aimed at developing procedures for soliciting donations in cooperation with private organizations, developing educational material, and designing a training program for NPS realty staff. A strategy for a high level donor recognition or acknowledgement program and a process for the valuation and certification of donations should also be developed.

The National Park Service should develop and adopt a policy that would allow realty specialists to seek and encourage donations and bargain sales as a protection method for the Trail.

Legislation should be enacted that would allow for tax credits or incentives to broaden the range of possible donors for public conservation purposes.

C. LESS THAN FEE INTEREST (techniques that do not result in full fee ownership by the federal government)

Overview:

Acquiring partial interests in property is often discussed as a cost-saving protection alternative to acquiring fee. The Park Service is authorized to acquire partial interests, and has done so for the Trail. Cost savings can result compared to fee purchase but often these savings are small.

To date, about 12% of all landowners who have sold have elected to sell easements. The Park Service has acquired a total of 616 parcels on the A.T. to date of which 121 have been easements. Right-of-way easements currently protect 27.2 miles of Trail. The 102 purchased easements cost an average of 74% of the fee value. The 43 right-of-way easements purchased cost an average of 82% of fee value and the 59 protective easements purchased cost an average of 70% of fee value. Easements have been donated over 19 tracts, including cooperative agreements with municipalities over 13 tracts.

EASEMENTS

An easement is a contractual agreement whereby the current owner retains possession of the property, while granting public access and/or agreeing to restrict development. Easements can be either purchased or donated. In most cases, Appalachian Trail landowners are offered the option of selling or donating easements rather than fee. The types of easements include a right-of-way for the Trail and related facilities, bordered by protective easements which limit future development near the Trail. Landowners retain the right to continue most existing activities in the protective easement areas, including farming, grazing, and timber harvest. Special provisions in the easements are frequently tailor-made to fit the circumstances of a landowner.

Easements vary considerably depending on the interest sought, the method by which they are acquired, and the value of the easement. This variety makes them a very flexible alternative tool in land protection. Easements have been the most widely used less-than-fee alternative by the Project.

Advantages:

- **Costs** - Easements can provide cost savings over fee simple purchase, and savings can be increased even more if donated.
- **Flexibility** - Easements can be tailor-made to meet landowners' specific land use needs. On the Trail, a layered system of easements is used. One easement allows public access within the corridor while an outer layer of easements within the corridor protects the footway from encroachment. The easements contain special provisions which permit some continued land uses by the landowner within the corridor.

- Private ownership - Continued private ownership of the land results when easements are used. Lands remain on local tax rolls, and lower tax payments may result for the landowner as a result of the federal payment-in-lieu of taxes program. A landowner who conveys easements is usually sympathetic to the protection effort and generally will guard against uses not permitted by the terms of the easement.

- Negotiating tool - Easements offer an alternative method of conveyance to fee for those landowners who wish to retain an ownership interest in their land. Offering landowners a choice has been an advantage in gaining their understanding of the resource protection needed and their acceptance of the corridor width.

- Protection - Easements, if not used too extensively in a given Trail section, provide for public access while protecting the A.T. corridor as mandated by the National Trails System Act.

Disadvantages:

- Costs - Costs of easements may approach the full cost of fee simple acquisition. Fewer rights are conveyed but the Park Service pays nearly as much as it would pay for fee particularly in areas of high development potential.

- Negotiations - Easements are generally not preferred by landowners when they have the option of selling in fee. Easements may also complicate negotiations in cases where landowners are unfamiliar with the concept of easements.

- Management - The complexity of monitoring the terms of easements and the added expense of monitoring and enforcing land use changes over time will result in costs over and above those incurred for management of fee. This is especially true where property changes hands.

Impacts:

- Financial - Purchased easements cost an average of 74% of the fee value. The price of easements, therefore, approaches fee value in many cases with fewer rights being held by NPS.

- Socio-economic - Some landowners view easements as a preferable alternative to fee acquisition because it allows them to retain ownership, and continue compatible uses of the land. On the other hand, most landowners prefer the fee option because they do not want restrictions on their land or prefer full compensation without further obligation.

Easements have the best potential to be applied where developmental pressure is not high; continued farming, timbering, or grazing is desired; shared stewardship for the Trail is attractive; easements and the restrictions that come with them are understood; and where easements can be flexible enough to fit local needs and land uses. If most or all of these conditions are not met, fee acquisition is preferred by landowners and is more economical to NPS.

Local governments may be partial to easements because land remains on the tax rolls although the amount of tax revenue may be diminished.

- **Resource** - Portions of the Trail can be adequately protected using the existing system of layered easements where landowners are willing to accept a shared responsibility for the Trail. Public access and protection of the Trail corridor must be provided to be consistent with the National Trails System Act. As Trail easements are conveyed from one landowner to the next, Trail managers fear loss of commitment by succeeding holders of the easements to the standard of protection of the resource agreed to during original negotiations.

- **Management** - Corridor monitoring is a part of the volunteer Trail club's management responsibilities. Volunteer monitoring of easements may not be a management problem to the clubs where friendly landowners monitor their own properties against trespass and adhere to the terms of the easements. Easements must be monitored by Trail clubs against unauthorized use by the general public as well as potential violations by the current landowner and holder of the easements. This problem increases significantly as land changes hands and subsequent owners are unaware or less committed to the easement restrictions agreed to by previous owners. Unauthorized use can become very difficult to ascertain, especially where easements are tailored to individual situations.

Monitoring easements can be very labor intensive and time consuming. Although volunteers provide this service, the cost and effort of such work should be recognized. The volunteer contribution, like all precious resources, is limited, and should be rationed wisely to provide the greatest public benefit.

Discussion:

From the beginning of NPS acquisition in 1978, landowners have been offered the option of selling easements rather than full fee interest. While easements have produced some cost savings as a result, their primary usefulness has been in creating a good climate for negotiations. The opportunity to choose the method of conveyance, together with the terms of easements, has made it possible to reach agreement in nearly every case without resorting to costly condemnation action. Because of the narrowness of the Trail corridor and the nature of the management system used to monitor the lands within the corridor, exclusive use of easements would not provide adequate resource protection and would not be justified based on cost savings.

As an extension of the flexible A.T. corridor planning process which is sensitive to local and landowner needs, offering landowners the choice of easements is cost effective and good policy. This corridor planning process, reflecting a balance of resource protection with landowner and community interests, has contributed to savings in Trail protection costs. Continuing to offer easements and tailor-making them to landowners' specifications should provide additional cost savings as the program continues.

RECOMMENDATION:

The project should continue its policy of offering landowners the choice of selling an easement instead of fee if adequate protection of the A.T. will result.

The NPS should conduct an analysis to determine the costs and management problems associated with easements vs. lands owned in fee.

D. LAND EXCHANGES

Overview:

Landowners can trade property or interests in property with public agencies or private organizations. Land exchanges are an attractive means of extending Trail protection because they usually require only a limited outlay of appropriated funds. States may provide one source of land for exchange and be willing to become more involved if encouraged to do so. Park Service policy directs that exchanges can be transacted if (1) the public interest is served by the exchange, (2) the land has been deemed suitable for exchange under the land use planning process, (3) the land is located in the same state as the non-federal land, (4) the land is under the jurisdiction of the Secretary of the Interior. The lands to be exchanged are to be of equivalent value and if not, payment can be provided to equalize value.

Advantages:

- Excess lands - Some lands acquired by the Service to help protect the Trail may be excess to basic Trail protection needs and could be disposed of in exchange for more needed property.
- Local tax rolls - Exchanges would allow productive use of excess lands and would return these lands to local tax rolls.
- Landowner negotiations - Exchanges offer an extra option to landowners who do not want to reenter the real estate market if an acceptable property for exchange can be found.

Disadvantages:

- Limited - Lands must be located in the same state and lands must be under the jurisdiction of the Secretary of the Interior in order for a transaction to occur.
- Candidates for exchange - There do not appear to be many parcels along the A.T. that would be acceptable for exchanges.
- Negotiations - It is usually difficult and time consuming to negotiate land exchanges.

Impacts:

- Financial - Savings in appropriated funds result from trading excess parcels and interests in land for areas needed for Trail protection.
- Landowners - Only a few landowners may stand to benefit from exchanges, when the details can be worked out, since there may be limits on the availability of parcels for exchange.
- Resource - Since property acquired through exchange usually involves the full interest, adequate resource protection would usually result.
- Management - No special management problems should result as long as the standard for the Trail protection is satisfied.

Discussion:

Exchanges can be useful in dealing with landowners on the A.T. to a limited extent. Because of the narrow protection corridor, there may not be many lands available for exchange and it may be difficult to locate parcels acceptable to landowners. Opportunities for exchange could be increased by allowing acquisition of access to some landlocked parcels, and by authorizing exchanges across state lines.

RECOMMENDATION:

The project should identify lands available for exchange and maintain an inventory of these parcels.

The NPS should consider seeking the authority to allow exchanges across state lines and seek amendment to H.R. 861 to allow purchase of access to parcels that are landlocked but suitable for exchange.

E. LEASEBACK/SELLBACK

Overview:

Leaseback - Subsequent to acquisition, the NPS may offer to lease lands acquired for specific non-conflicting purposes. The procedure involves a sealed bid process after which the previous owner may be granted the lease by equaling the highest bid. Either the previous landowner or another party obtains the right to use of the land in accord with the terms of the lease.

The lease will generally provide for an annual fee to be paid to the public agency. (This is one basic difference between a leaseback and a life or term estate. A life or term estate may also allow the landowner use of the land but the value of the reservation is deducted from the fair market value at the time of acquisition.) The rights of each party are spelled out in the lease. It can be an effective control where development might otherwise occur, and may be most applicable on lands needed to buffer basic Trail or park resources.

Sellback - Land acquired by the NPS may be sold to the former owner or another party after adding conservation restrictions to the deed. This allows land to be returned to the tax rolls, while protecting its recreation or conservation value. These restrictions are similar to those imposed by easements. Leaseback and sellback are similar in that restrictions run with the land. However, in a sellback arrangement, the resource managing agency usually does not retain the underlying fee interest in the land. The advantages and disadvantages associated with sellback are similar to those of leasebacks.

Advantages:

- Costs - Leasebacks and sellbacks do not reduce the amount of federal acquisition required. However, by allowing funds generated from leases or sales to return to the A.T. acquisition account, as proposed in H.R. 861, it would be possible for some acquisition funds to be recouped from lands previously purchased along the Trail.
- Protection - Since title is held in fee by NPS in a leaseback arrangement, there is strong land use control and resource protection. Sellbacks would be effective protection where certain uses are compatible with Trail management and where the Trail environment is being preserved as opposed to a need for public use. This approach would work well where the parties involved are interested in preserving existing uses and also own adjacent lands outside of the acquisition area.
- Land use - Customary and compatible uses of the land can continue.

Disadvantages:

- Administrative - Setting and collecting fees, monitoring use, and other aspects of administration require staff time and expertise that may not be available.
- Costs - The amount of revenue that could be generated through leasebacks or sellbacks along the Trail might not be significant.
- Public perception - The public and affected communities may find the leasing/selling of NPS lands difficult to understand, perhaps questioning the reason why these lands were purchased to begin with.

Impacts:

- Financial - Acquisition costs would not be reduced. The revenue generated from leases or sales could help recoup some of the acquisition expense and could provide a source of limited acquisition funds if H.R. 861 is enacted.
- Socio-economic - Some landowners and communities may object to lands being offered for leaseback or sellback, questioning the need for purchase in the first place. Those interested in leasing or buying may find it to be an economical way of getting access to a resource they need. The impacts on landowners and public agencies involved in these types of transactions need to be assessed further.
- Resource - A leaseback or sellback program could be consistent with protection for the Trail, provided that allowed land uses were compatible. In a lease, the title to the land remains in federal ownership, so strong control over the land can be exercised by the Service.
- Management - Leased lands should present no unusual problems for the Service or the volunteer clubs. Leases would probably occur in the more outlying areas of the corridor or on adjacent lands. Management costs may be minimized in that the land will be cared for by the lessee. If problems arise, the lease could be terminated. Sellbacks could result in the same types of management problems as described for easements.

Discussion:

Leasebacks can be particularly useful where the Service must purchase the land, but where customary use of the land could be continued. Revenue generated from the leases could be returned to the protection account if H.R. 861 were approved. This would allow some limited acquisition costs to be recouped. By retaining ownership of the land, NPS maintains strong control over the land and reduced management costs may result through private stewardship.

Sellback can be an effective tool where certain uses are compatible with Trail management objectives and where the Trail environment is being preserved as opposed to actual public access. This would work well where the parties involved are interested in preserving existing uses and also adjacent lands outside of the Trail corridor.

RECOMMENDATION:

The project should develop a system for identifying lands that have leasing or sellback potential.

NPS should encourage passage of H.R. 861, which would allow funds generated from leases or sales to be credited towards the A.T. protection account.

F. SELL OFF

NPS does not have the authority to sell lands already acquired which may be found to be in excess of those needed to protect the Trail. Such authority is proposed in H.R. 861. Some opportunity may exist to sell parcels or interests in lands in order to use the revenue generated to acquire other unprotected areas. H.R. 861 would provide a specific incentive to the Service to pursue this possibility.

The most likely candidates for sale would be lands that were acquired in total to satisfy landowners when only a portion of the tract was originally identified as being needed. These "remnants" often lack access and may not be marketable unless access is purchased or an adjacent landowner desires to expand an existing holding.

Advantages:

- Costs - Acquisition costs would not be saved; however, the proceeds from sales could generate revenue for the Trail protection account.
- Management - Management responsibilities would be eliminated on lands sold outright.
- Tax rolls - Lands sold would be returned to the tax rolls.

Disadvantages:

- Identification - There may not be many salable lands on the A.T. and it may be difficult to determine which lands could be considered for sale. Prospective purchasers might not have legal access.
- Landowners - Adverse reaction from some landowners who sold based on the rationale that the land was needed for protection could result.

- Process - A process for identifying parcels for sale and for marketing those parcels would need to be developed and administered.

Impacts:

- Financial - No savings to the protection effort would result unless proceeds from the sales returned to the acquisition account. Some investment in the property may have to be made, i.e., acquiring access.
- Socio-economic - Lands would be returned to local tax rolls; however, some landowners may react adversely, arguing that the lands should not have been purchased to begin with.
- Resources - Parcels that may be considered salable may be required for protecting the resource in the future. Development or use of lands sold off could present a future threat to the Trail corridor.
- Management - Management responsibility for lands sold would be eliminated.

Discussion:

Lands that may be considered excess along the Trail are likely to be quite limited. If excess land were identified, it would be desirable to sell it if proceeds could be returned to the Trail account.

In addition to authority to sell lands, authority to acquire access to some of these properties would be desirable. The costs of access acquisition should be more than offset by the increased value of land with legal access. The impacts of a sell-off program on the community and adjacent landowners needs further examination.

Another way to generate revenue from lands held by NPS may be to sell mineral or oil and gas rights. This could potentially be done if the process involved in using these resources did not have an adverse impact on Trail corridor lands.

RECOMMENDATION:

The Project Office should develop a process for identifying salable lands or interests in land as a step in determining the potential cost effectiveness of this concept.

The NPS should support H.R. 861 to encourage the sale of excess lands.

The authority to acquire legal access when needed should also be provided.

G. COOPERATION WITH PRIVATE CONSERVATION ORGANIZATIONS

Overview:

"Private protection", as used in this study, involves all techniques to protect the Trail that do not rely directly on public funding. Many of the techniques used by government are also available to private groups, including fee acquisition at full value, donations and bargain sales, easements, and exchanges, as well as a variety of "creative" techniques uniquely suited to 501(c)(3) nonprofit organizations. Such private groups often take the form of "land trusts", but may also include Trail clubs and other nonprofits.

Advantages:

- Private support - Since private protection does not have to rely on public funding, protection of at least some Trail lands can proceed in the absence of federal or state funds.
- Speed - Governmental land transactions tend to be slow-paced. In many situations, private organizations can move with greater speed to close a transaction.
- Voluntary transactions - Because private organizations deal only with willing sellers, landowners with whom they work are unlikely to have a negative reaction to the sale of land for the Trail.
- "Lesser evil" - Where the federal program with its condemnation authority is active, some essentially "unwilling" sellers may choose to deal with a private group rather than with the government.

Disadvantages:

The strengths of private protection are also its weaknesses:

- Voluntary transactions - Donations or bargain sales to private organizations are most likely where the landowner is in a position to realize a tax benefit from such a gift. These tracts are generally not ones that are threatened by imminent development or degradation; thus, the owners of less-threatened tracts are more likely to respond to this approach. In addition, recent changes in the federal income tax code mean that that tax advantages in donating land for "public benefit" are not as great as they were in previous years.

Where land can be purchased only at full value, nonprofit organizations must compete with all other potential purchasers. Where land is threatened by development, the selling price is usually high. Most private organizations have limited capital to commit to expensive acquisitions, and are particularly reluctant if the prospect for recouping their investment is limited.

In the case of landowners who are unwilling to sell at any price, private protection efforts are ineffectual.

- Capital - Raising sufficient private capital for land protection projects is difficult. The practice for many land trusts has been to arrange donations or bargain sales to the trust, with subsequent resale at full value ("take-out") to a public agency. In this fashion, trusts have been able not only to recoup costs, but build capital as well. For a number of reasons, it appears likely that federal agencies will become increasingly reluctant to "take-out" land trusts.

With this avenue for raising capital limited or foreclosed, trusts must attempt to recoup costs either through fundraising or through the sale of portions of their properties for limited ("creative") development. Both of these activities are labor intensive, time-consuming, and risky, although growing expertise with these techniques may broaden their usefulness.

- Priority - At this point, no land trust exists for the single purpose of protecting Appalachian Trail lands. Experience to date indicates that multi-purpose local land trusts, even those that have made a commitment to help protect the Trail, find it difficult to maintain the A.T. as a high priority in their programs.

Impacts:

- Financial, economic - As noted above, private protection strategies are most effective when coupled with an active federal acquisition program. When properties donated to nonprofits are in turn purchased by the federal government, savings may not be realized. In fact, the government may pay a premium for such properties: first, through the tax expenditure resulting from the deduction taken by the donor, and second, through the actual cash expenditure for purchase of the property.

To reduce the government's costs, the Appalachian Trail Conference and several cooperating local land trusts have agreed to earmark the net "gain" on sales of properties to government agencies for future A.T. acquisitions.

The government can realize substantial savings when land trusts do not resell donated properties to federal agencies. Such protection is not "free" however -- the deduction taken by the donor means that the government is sustaining a tax expenditure of up to 50% of the value of the donated property.

The only Trail protection that is "free" to the government occurs when a private organization uses no NPS or USFS preacquisition services, acquires the property at full value, and continues to hold title -- a situation which has not yet occurred on the Appalachian Trail.

- Socio-economic - Because private acquisitions are voluntary in nature and because they can sometimes proceed much faster than government transactions, land trusts and other nonprofits are likely to be well received by landowners.

Moreover, the federal and state tax deductions for charitable donations of land indicate that the gift of land to be held by qualified private organizations is itself an important social value endorsed by governments, notwithstanding the tax expenditure implications.

- Resource - So long as an adequate Trail corridor consistent with NPS design criteria can be protected, the impact on Trail resources should be essentially the same as that of federal protection. Private protection also offers the possibility of protecting lands adjacent to the corridor that could not be acquired justifiably by the Federal Government. There is a possibility, however, that poorly designed or sited "creative" development of adjacent lands by nonprofits in order to recoup costs could be incompatible with Trail values.

- Trail management - As explained earlier in this report, the Cooperative Management System is a remarkable network of volunteers working with agency personnel, local governments, and private land-owners to manage the Trail and its corridor. An early assumption in the Cooperative Management System was that, except where easements were to be negotiated, title to Trail corridor lands would eventually rest almost entirely in public hands -- primarily NPS and USFS, with substantial state holdings in some areas. These public agencies have generally assumed that the bulk of Trail and corridor management would be performed by the Trail clubs under the overall umbrella of the Appalachian Trail Conference. This arrangement is one with which the Trail community is comfortable because lines of authority and responsibility can be drawn fairly precisely.

There is some concern that the extensive ownership of Trail lands by nonprofit organizations unaffiliated with the management partners will complicate the cooperative management system. This uneasiness is based in part on an experience in which a section of the Trail in Connecticut was forced off land owned by a local trust because the trust perceived that public access to the A.T. would be detrimental to important natural resources on trust property.

If land trusts become more involved in holding title to A.T. lands, written understandings among all parties must be developed. These agreements would include an endorsement of the principles articulated in the "Comprehensive Plan" and in ATC's "Stewardship Manual", and could be a prerequisite for providing NPS pre-acquisition services to land trusts.

If carefully prepared, an agreement should satisfy the needs of all parties. It would assure NPS that the intent of the legislation to provide permanent protection for the Trail corridor is satisfied. For ATC, it would recognize the continuing leadership role of the volunteer Trail manager. And for the land trust, the agreement would provide assurances that the Trail will be managed to a widely-accepted, published standard.

Examples:

In Vermont, the A.T. Project has worked with the Ottauquechee Regional Land Trust (ORLT). To date, ORLT has assisted NPS realty specialists in their contacts with landowners, and has received the donation of two parcels of Trail land, which in turn the Trust has sold to the Park Service. Last fall, the Trust contacted all 90 remaining private landowners along the Trail in Vermont to determine their interest in dealing with the Trust instead of the Park Service. So far, only a few landowners have expressed any interest, but lack of ORLT manpower to promote the land trust alternative has been at least partly responsible for the lack of response. To assist this effort, the Appalachian Trail Conference made a grant to the Trust sufficient to provide a full time person for one year to work specifically on the A.T.

In Connecticut, the Housatonic Valley Association (HVA) has assisted the Park Service in making landowner contacts, and more recently, has begun its own land trust initiative. This effort has not yet borne fruit for the Trail, but hopes are high that HVA's attempts to work with small, local land trusts in the area will eventually provide some protection for the A.T.

The lack of substantive progress by these two land trusts is due in part to their competing priorities. For neither ORLT nor HVA is the Appalachian Trail the highest priority in their program. With limited time, money, and manpower, they have tended to focus on, for them, the more pressing issues of farmland preservation and watershed protection.

A single-purpose A.T. land trust is being considered by the Appalachian Trail Conference. ATC already has a modest land acquisition fund, and may seek to expand its protection capability substantially. The Conference is currently engaged in a professional study to determine the best way to proceed.

Discussion:

The effectiveness of private protection strategies for the Appalachian Trail depends largely on the presence of a well-funded federal land acquisition program. For example, if pre-acquisition assistance from Park Service A.T. land acquisition offices is not available, land trusts must spend substantial amounts of time and money getting accurate legal descriptions, surveys, and appraisals for a large number of tracts that are generally small and remote, and are often vaguely described in legal records. This initial commitment may deter some land trusts from getting involved in the A.T. program.

The federal authority to condemn lands along the Trail is critically important to the feasibility of private protection alternatives. Although used only as a last resort, the potential exercise of eminent domain by NPS is a major incentive for A.T. landowners to work with land trusts.

Private protection is clearly not a cure-all. Land trusts may play an important role as a supplement to a strong federal acquisition program. But if the federal effort is weakened, the effectiveness of private protection alternatives will also decline.

RECOMMENDATIONS:

Continue a strong federal land acquisition program that includes active involvement with private protection organizations in contacting land-owners and conducting lands transactions.

Stimulate mutual assistance ventures among existing and potential trusts along the Trail, including workshops and technical assistance.

Develop written agreements between NPS, ATC, and land trusts to ensure adequate protection for the Trail and the continued strength of the cooperative management system.

H. COOPERATION WITH STATE/LOCAL GOVERNMENTS

Overview:

Participation of state and local governments in protection of the Trail is as much a part of Trail tradition as is 60 years of volunteer involvement. Despite fears that the availability of federal acquisition money would discourage states from pursuing Trail protection programs, state programs remain active in Maine, Massachusetts, New Jersey, Pennsylvania, and Maryland. New Jersey has nearly completed its program with the NPS assisting in surveys, appraisals, and title evidence. Maryland remains committed to completing its program without federal support.

Assistance from local government is sought routinely. Several have entered into agreements with the Park Service or States to allow permanent use of municipal lands for Trail purposes. Others have indicated an interest in doing so in the future.

In the event that further Trail protection beyond the immediate Trail corridor is undertaken, state and local governments and private citizens will probably provide the initiative. As the need arises, local or state ordinances, easements, or conservation zones may be sought to protect adjacent lands.

Advantages:

- Costs - States can provide significant cost savings to the Trail protection effort, particularly if financed, at least in part, with state funds. Several states have exchanged lands for Trail corridor protection and may be able to do more. Local governments have provided for use of municipal land for the Trail through agreements.
- Planning - State agencies help by providing staff assistance and other support in planning the Trail route and in coordinating with state and local interests.
- Constituency - State and local agencies can promote feelings of stewardship and reinforce protection activities by demonstrating a commitment to federal Trail initiatives on the A.T.
- Supplement - State and local governments can protect adjacent lands in addition to the Trail corridor.

Disadvantages:

- Federal incentives - State and local governments usually need financial or technical assistance from the federal government as an incentive for their efforts.
- Standards - State and local governments may not be able to protect the Trail corridor to the standard anticipated in the Trails Act.
- Priorities - Priority at the state and local level is given projects that benefit state and local interests. National priorities are secondary.

Impacts:

- Financial - Federal acquisition costs can be reduced by encouraging states and local governments to become even more involved in the Trail protection effort. In order for this to be appealing, financial incentives may be necessary as well as technical assistance.
- Socio-economic - Since state and local governments are especially responsive to local interests, their involvement may tend to minimize adverse impacts on landowners and the community.
- Resource - In cases where state or local governments are acquiring lands for the Trail, adequate resource protection would be provided. Cooperative agreements which allow the Trail to cross publicly-owned conservation lands also seem to provide adequate A.T. protection. In cases where state or local governments use regulatory techniques to protect the Trail corridor, additional federal protection may be required to assure permanency. Regulatory techniques appear to be the most useful in protecting lands adjacent to the corridor.

• Management - If lands are protected by state or local governments, no special management problems would result. Coordination of management activities would be necessary and the protecting agency would participate in the Cooperative Management System. No difficulty in that respect is anticipated.

Examples:

State programs

- The existing Massachusetts, New Jersey and Pennsylvania programs were stimulated by Secretary Kleppe in 1976 with a \$1 million grant of State L&WCF from his contingency reserve.
- The Maine program depends on the continued generosity of landowners, but it has also used exchanges to good advantage and has a State zoning ordinance to assure short-term protection of the complete Trail route.
- Massachusetts has agreed to purchase about half of the unprotected route in that state and also assisted with negotiations for NPS acquisitions.
- Pennsylvania has protected 17 miles of the Trail since 1968 and retains the capability to make selective acquisitions through purchase or exchange should NPS efforts on key tracts falter. (New York and Virginia also retain an emergency acquisition capability, but to a more limited extent.)

Local government programs

- By acquiring trestles on an abandoned railroad right-of-way, the NPS helped the town of Damascus, Virginia complete a protected route for a hiker-biker trail and provide an improved route for the A.T. through the town. Town officials have also persuaded the owner of a critical tract nearby to cooperate with the NPS despite a previous unhappy experience with another federal acquisition program.
- The Borough of Hamburg, Pennsylvania, has recently signed a cooperative agreement with the NPS assuring permanent protection for the Trail for 9 miles across town watershed lands. In return, the NPS will try to acquire a few private inholdings along this route at a later time. Three localities (Warwick, New York; Carrabassett and Caratunk, Maine) have incorporated protection of the A.T. into their zoning regulations.

Discussion:

By coordinating with state and local governments, costs can be reduced and maximum benefits to all involved can result. The project must continue to provide incentives and act as catalyst to stimulate state and local protection efforts on the Trail. Stronger state and local ties may also increase the potential for their playing a role in controlling adjacent land use while meeting state and local objectives.

In addition to state and local corridor acquisition efforts, zoning may be helpful in protecting adjacent lands. Zoning is the principal regulatory technique for controlling land use at the state and local level. It involves imposing specific conditions regulating the development and use of specific parcels of land. Zoning is almost always a local function so a federal resource manager can only use it with the cooperation of the state or local government.

Zoning is rarely used for Trail protection. Only three local governments have used zoning as a tool for protecting the Trail. On the state level, the Maine Land Use Regulation Commission has developed a Recreation Protection Subdistrict which affords the Trail corridor a certain degree of protection from inappropriate types of land use. It is important to note, however, that it was determined by the Assistant Solicitor in 1979 that zoning of the A.T. does not provide the level of permanency of protection called for in the National Trails System Act.

RECOMMENDATION:

THE PROJECT SHOULD CONTINUE TO ENCOURAGE STATE AND LOCAL INVOLVEMENT IN THE TRAIL PROTECTION EFFORT BY PROVIDING TECHNICAL AND FINANCIAL ASSISTANCE WHERE POSSIBLE. THE PROJECT SHOULD ALSO WORK CLOSELY WITH STATE AND LOCAL GOVERNMENTS INTERESTED IN MODIFYING EXISTING REGULATIONS OR DEVELOPING REGULATIONS THAT WOULD CONTROL LAND USE IN AREAS ADJACENT TO THE CORRIDOR.

THE PARK SERVICE SHOULD CONSIDER DEVELOPING A MATCHING GRANT PROGRAM THAT WOULD ALLOW STATES TO COST SHARE IN THE TRAIL PROTECTION EFFORT. COSTS TO NPS COULD BE SAVED BY ENCOURAGING STATES TO FINANCIALLY AND THE MATCHING GRANTS WOULD PROVIDE A SUBSTANTIAL INCENTIVE FOR THEM TO DO SO.

VII. RESOURCE PROTECTION NEEDS

A. ESSENTIAL LAND OR INTERESTS NEEDING FEDERAL PROTECTION TO MEET MANAGEMENT UNIT OBJECTIVES

Trail protection progress reports indicate that there are 465.3 miles of Trail which are unprotected. Protection responsibility for these areas is as follows:

| <u>Responsibility for Protection</u> | <u>Number of Miles</u> |
|--------------------------------------|------------------------|
| State governments | 241.1 |
| U.S. Forest Service | 15.0 |
| National Park Service | 209.2 |
| Total Unprotected | 465.3 |

To fulfill the mandates of the National Trails System Act and the partnership described in the Comprehensive Plan, 224.2 miles of the remaining unprotected portion of the Trail must be protected through federal actions. Unprotected Trail areas where corridor design, survey work and landowner negotiations have been initiated or completed, should be acquired as soon as possible to protect the resources and to maintain cooperative relationships with participating landowners and local governments. The remaining miles of Trail should be protected as soon as funds are available.

B. LAND WHICH CAN BE PROTECTED THROUGH ALTERNATIVE STRATEGIES

The Comprehensive Plan indicates that state governments have accepted protection responsibility for over 620 miles, or more than 30% of the entire Appalachian Trail. States have already protected over 380 miles of the Trail. If the Comprehensive Plan is implemented as expected, the remaining unprotected 241.1 miles of Trail designated for state protection would not appear to require federal acquisition funds.

C. IMPLEMENTATION STRATEGIES

1. No Acquisition Funding for Five Years

If there were no federal funds for the protection of the Appalachian Trail for five years the following impacts would be likely to occur:

- a. Economic - An elimination of acquisition funds for five years would prevent the Park Service from executing its responsibilities for protection of the Appalachian Trail as mandated by the National Trails System Act. A substantial switch in the federal Trail protection role would also jeopardize the entire government and private sector partnership. Since the Park Service's protection and acquisition program is the driving force that makes alternative protection and management strategies possible, most if not all of these efforts would diminish or cease.

The elimination of funding would place the responsibility for Trail protection completely with state governments, corporate landowners, Trail clubs and private land trusts. There is no evidence that these interests could complete the Trail protection effort, and there are strong indications to the contrary.

The elimination of federal funding would jeopardize state Trail protection responsibilities for over 241 miles of the Trail. In addition, a lack of protection funds would be very discouraging to the Appalachian Trail Conference and reduce the motivation of its 61 member clubs to maintain the Trail. This contribution to the Appalachian Trail project presently is worth in excess of \$1 million dollars per year.

b. Socio-Cultural - The elimination of funding would disrupt, and place in "limbo", a large number of negotiations between landowners and the Park Service and Forest Service. Future initiatives by the federal government, after a possible five year hiatus, are likely to be met with distrust and opposition and could cost much more due to rising land prices and changed land uses.

Services essential to state and private protection efforts, such as surveys, appraisals and funding for landowner contacts would probably be eliminated. These services are frequently the financial incentive which makes the protection partnerships possible.

c. Resource - Elimination of federal funding would prevent the Park Service and Forest Service from protecting outstanding national natural resource values. The mandates of the National Trails System Act would not be executed. Major unprotected portions of the Trail, such as in Maine, would be much more difficult for the State to protect. In addition, in certain trail areas unprotected resource values are likely to be degraded and destroyed. Significant adverse impacts to Trail continuity will also occur. Link-ups between acquired tracts would not be purchased rendering useless millions of dollars worth of already-acquired lands.

d. Conclusion - Nearly 85% of the federal protection responsibility for the Appalachian Trail has been completed. The elimination of acquisition funds would not be cost effective and could have significant socio-cultural impacts especially where the Trail corridor has been agreed upon and landowner negotiations have progressed. The protection effort could not be implemented under this strategy and previous work accomplished would be jeopardized.

2. Low Level Funding

If the federal government were to reduce the amount of funds available for the protection of the Appalachian Trail, the following impacts would be likely to occur:

a. Economic - A low level of funding would sharply reduce the Park Service and Forest Service ability to protect the Appalachian Trail. Reduced funding would also sharply impact state and local government and private sector efforts to protect the Trail. The lack of a strong federal commitment to protect the entire Trail would significantly alter the protection partnership between Park Service, Forest Service, the states and the private sector.

Reduced funding would sharply curtail the momentum or driving force of the Project that helps to make alternative protection strategies possible. In addition, inadequate or delayed land acquisition money could disrupt negotiations between Park Service and Forest Service staff and landowners, many of which have gone on for significant periods of time.

Low levels of funding would place a much greater reliance on state governments, corporate landowners, Trail clubs and private land trusts to complete the protection effort. Without the substitution of other economic incentives it is highly unlikely that any of these interests could fill this protection void. Since each of these alternatives now play a supplementary role, their increased use would require considerable time and at best would only continue to serve as a supplement. Time delays in the protection effort could result in increased cost due to land price escalation.

b. Socio-Cultural - Low funding would decrease Park Service and Forest Service flexibility and use of alternative strategies. Support services now provided to assist state protection efforts would be curtailed or eliminated.

Reduced funding would also decrease the number of staff available to work with landowners and state and local officials. Such a reduction would hamper ability to be sensitive to landowner and local concerns in the planning, protection and management process, and hamper the ability of the Park Service and Forest Service to seek and develop alternative protection solutions.

c. Resource - Low level funding would prevent the Park Service from executing its responsibilities for the protection of the Appalachian Trail as mandated by the National Trails System Act. Various areas of outstanding national significance would not be protected and significant gaps in the Trail corridor would result. In addition, in certain Trail areas unprotected resource values are likely to be degraded and destroyed.

d. Conclusion - Low levels of funding would require the Park Service to seek to redefine its cooperative partnership with state governments and the private sector or enter into a "holding pattern." The "holding pattern" would involve continued pre-acquisition work, anticipating the future availability of funds, along with the increased use of donations and some reliance on emergency state protection actions and private land trust initiatives. Adequate funding would be needed to maintain staff and various support service functions as well as for increased financial incentives to states, private organizations and landowners to assume more of the responsibility for Trail protection.

3. Moderate or Full Funding

If the Park Service and Forest Service are to continue to execute their responsibilities for the protection of the Appalachian Trail at a moderate or full funding level the following impacts would be likely to occur:

a. Economic - In 1978 Congress authorized \$90,000,000 for protection of the Trail. It is currently estimated that \$28,000,000 is needed to complete Trail protection. This latest estimate reveals that Trail protection will have been achieved for \$67,000,000, a savings of \$23,000,000.

In addition, moderate or full funding will insure the continuation of the private cooperative management system which represents a private contribution to the Trail of over \$1 million dollars per year.

b. Socio-Cultural - Moderate or full funding will insure use of alternative protection techniques. Federal acquisition will also assure the continuation of the various public and private protection and management partnerships. The flexibility of these partnerships should continue to minimize the number of adverse condemnations and maximize cooperation with state and local governments, private groups and landowners.

c. Resource - Continued funding will insure the protection of a recreation area of outstanding national significance. This protection will help to fill significant representation voids in the National Park System.

d. Conclusion - Full or moderate funding would allow the Park Service to continue to execute its responsibilities for protection in a timely, flexible and cost efficient way. The Park Service should be encouraged to continue to make extensive use of creative protection and acquisition techniques, involving state and local governments and the private sector. This increased use of donations, private land trusts and state government agencies enhance a very effective protection program.

VIII. ANALYSIS OF H.R. 861

H.R. 861, a Bill to amend the National Trails System Act, is now awaiting House action after gaining Interior Committee approval in October 1981. Three of the Bill's provisions could have a significant effect on the protection and management of the Appalachian Trail, and thus on the conclusions of this case study. Each provision is described briefly and analyzed, below.

§207(h) of the Bill authorizes the donation of qualified real property interests in components of the National Trails System or environs to qualified organizations (essentially, non-profit land trusts), consistent with the provisions of Internal Revenue Code §170(b)(3), which governs charitable contributions of land interests. Such donations would be authorized even in jurisdictions which do not allow the transfer of certain property interests, for example easements in gross, where the receiving party does not own land adjacent to the easement.

This provision resolves the uncertainty, for donors of interest in and near ("environs of") designated trails such as the A.T., over I.R.S. approval of the donation under the vague "public benefit" standard of the 1980 Tax Treatment Extension Act. For the A.T., this means that land trusts in the areas around the Trail are given clear Congressional approval to protect both the Trail and the resources of the lands around it.

§§207(f) and 210 deal with the Secretary's authority to enter into cooperative agreements with states, private organizations and individuals for trail management. Under these sections, the Secretary may offer limited financial assistance to any cooperating party, loan equipment or grant Volunteer in the Parks or Forests (non-labile) status to private cooperators, and give financial and possibly technical assistance to states and localities to protect private adjacent land-owners from excessive liability and to promote compatible land uses by those owners. These two sections expand existing authority to help strengthen the Trail's unique Cooperative Management System with existing cooperators, and may attract more participants to the System.

§207(d) authorizes the acquisition of lands extending outside the Trail right-of-way, the subsequent exchange or resale of such outside lands, and the crediting of any sale proceeds to the Trail's acquisition account. The crediting clause, central to the resale scheme, effectively creates a revolving fund for each trail. A positive incentive for resale, particularly with NPS retention of protective covenants or rights, is also created, because the receipts immediately become available for further trail protection. These receipts may well be more than the difference between fee value and the cost of acquiring the protective covenants or rights directly, because the market for selling restricted lands in a park-like setting is often different from the market for those restrictions themselves when purchased directly from present owners. As the Cape Cod experience shows, buyers sympathetic to the restrictions are attracted, bid up the price, and

are thereafter more willing to limit their uses to those compatible with park (here, trail) values than present owners might be. They thereby help provide a buffer for the trail right-of-way while returning some lands to local tax rolls. This is a critical provision and although the Bill as worded appears to permit exchanges between States along the Trail, we would recommend that appropriate clarifying language be included in the section to secure this important additional flexibility.

The unanswered question here is the actual extent of such outside or "excess" lands. Certainly, lands legitimately needed for resource protection must not be bartered for a larger acquisition account or other needed lands. The intent of H.R. 861 is made clear in §207(d) specification that only lands outside the trail right-of-way (i.e., protection corridor) may thus be disposed. While the location and width of the right-of-way are flexible, that flexibility generally is to be used either for assuring trail resource protection or "minimizing the adverse effects upon . . . adjacent landowner(s) (§7(a)). Neither of these purposes ordinarily leads to purchase of lands outside the right-of-way.

More likely cases for producing "excess" lands for the revolving fund are situations involving owner hardship, emergency, severance costs, or an owner's wish to dispose of an entire tract. There may have been several instances of such purchases in the past along the A.T., instances which could well recur. Sometimes the excess parcels thus acquired are uneconomic for resale because they are effectively inaccessible from public roads. An appropriate amendment to H.R. 861 would allow Federal acquisition of reasonable rights-of-way for access to make such parcels marketable.

Use of this revolving fund provision may not be limited to these cases, but the extent of its full application is unclear. It certainly would be helpful to give the National Park Service the additional flexibility in land protection that this tool offers; speculation about its precise net effect is premature.

IX. ANALYSIS OF THE MAINE PROTECTION EFFORT

Background

The study team identified the Appalachian Trail within the State of Maine as an important area for the case study to examine. Over seventy percent of the 277 miles of the Maine A.T., which constitutes approximately ten percent of the entire Trail, is in private ownership. Responsibility for protection of the Trail in Maine is retained by the State. The State has determined that Trail protection would be most appropriately accomplished in cooperation with private landowners through donations, land exchanges and limited acquisition. Nearly all of the 207 privately owned miles is divided among eight national or international forest product corporations.

Research obtained through a brief search of the literature from past correspondence and from conversations with State officials, corporation representatives and Trail club members has been conducted to: 1) identify protection alternatives used in Maine; and 2) evaluate the potential of these protection alternatives for future use in the A.T. project.

The following points place the Appalachian Trail in the State of Maine in perspective.

1. The Maine Appalachian Trail Club (MATC) was formed in 1935 and completed, with the help of the CCC, the last section of the entire A.T. in 1937. Since that time most of Maine's portion of the Trail has been on private land and maintained by the MATC.
2. The National Trails System Act of 1968 established the Appalachian Trail as one of the two original National Scenic Trails. This Act provides that protection may be accomplished by local, State or federal government agencies entering into written cooperative agreements with landowners or by acquiring interests in land, as necessary.
3. In 1972, existing agreements between the landowner, MATC and the State of Maine were found insufficient by the Regional Solicitor. (See Attachment 1)* A stronger more satisfactory agreement was suggested. (Attachment 2).
4. MATC and Maine's Bureau of Parks and Recreation under agreement with the National Park Service since 1972 have been working with the private landowners on Trail locations and case-by-case landowner agreements, donations, land exchanges in the context of the consolidation of the State's Public Reserve Lands, and other forms of acquisition. Since 1978 the consolidation process has resulted in State ownership of the Trail segments through all of the Mahoosic and Bigelow Ranges and one half of the Borchairback Range.

*All attachments referred to in this chapter can be found immediately at end of chapter.

5. The Maine Trail System Act of 1973 authorized the State of Maine to protect the Trail with the acquisition of land or interests in land when necessary. No funds have ever been authorized, however, for this specific purpose.

6. The Maine Land Use Regulation Commission (LURC) was established in 1975. It provides the Trail with a limited protected zoning status. In 1979, the Solicitor's Office commented on LURC zoning by stating that such police power regulation "cannot possibly provide a permanent status to the actual Trail." They continued by making one very important point:

"There is one further point, however. In our view, the adoption of such police power regulations can be of extreme importance to protecting the established Trail corridor. While they would be no substitute for actual Trail acquisition of the right-of-way, such regulations can serve the invaluable function of protecting the right-of-way. In addition, they may also have an important role in the development of cooperative agreements with states and local governments with regard to the management of non-private lands where acquisition is not authorized."

7. On two occasions later in 1979, the Solicitor's Office wrote that "a cooperative agreement must insure the protection of the Trail" and that when "used in lieu of the acquisition of private lands must provide a similar level of protection." (Attachments 4 and 5) Clearly, by itself, no agreement could provide the necessary insurance of protection since they are not tied to the title of the land and are subject to termination.

8. The MATC with the support of Maine's Bureau of Parks and Recreation and the National Park Service is working to establish Trail corridor agreements and permanent protection. Proposals, including right-of-way and protective easements, have been submitted by MATC to most of the landowners in Maine. Negotiations are still in progress. The potential of federal acquisition has been an incentive for landowners to work with the MATC and the State.

Finding

Actions could be taken administratively and legislatively to assist the State of Maine in the protection of the Trail corridor.

- The State of Maine has received one donation protecting 6.8 miles of Trail to date.
- The Maine Appalachian Trail Club (MATC), the State, NPS and others are actively seeking the donation of necessary Trail interests in Maine.
- The MATC is working extensively with the local woodland managers of the forest product corporations.

- Additional donations of necessary interests at full market value may be possible.
- Donations at bargain sale may be possible using the State's unobligated balance of the Land and Water Conservation Fund which is expected to be exhausted by October, 1983.

Recommendation

THE ADMINISTRATION AND THE PARK SERVICE SHOULD PROVIDE INCENTIVES FOR TRAIL DONATIONS IN MAINE.

The Administration at either the Presidential or Cabinet level should:

- a. Seek necessary revisions of the tax laws to provide tax credit incentives for the donation of qualified conservation contributions, regardless of income.
- b. Create a Presidential or Cabinet level working group of public and private individuals: to identify the corporation's highest level concerns and interests in the Maine Appalachian Trail protection effort; to encourage donations; and, to publicize donations as an example of the President's initiative on volunteer and private sector support of public efforts.
- c. Provide federal funds as grants to states for the protection of the Trail.



United States Department of the Interior

OFFICE OF THE SOLICITOR
143 SOUTH THIRD STREET
PHILADELPHIA, PENNSYLVANIA 19106

ATTACHMENT 1

NOV 21 1972

Memorandum

To: Director, Northeast Region, National Park Service

From: Regional Solicitor, Philadelphia

Subject: Appalachian Trail Agreement, Maine

Acting Director Palmer's memorandum dated October 10, 1972 requested us to review a Memorandum of Agreement "for the promotion of the Appalachian Trailway" which is apparently intended to provide a route for the Appalachian National Scenic Trail over privately owned lands in the State of Maine. You state that the Chairman of the Appalachian Trail Conference questions the sufficiency of this agreement. In my opinion, his concern is well founded.

This agreement, from a legal standpoint, accomplishes very little. It does not contain a grant by the landowner to the general public to use the Appalachian Trail as a pedestrian path. It does not contain a description of the route. It does not specify the width of the route. Finally, it is not an agreement with anyone. It was the intention of the Act that the landowner would enter into a cooperative agreement with state or local governments to provide the necessary trail right-of-way. The agreement before us states that the respective owners mutually agree to carry out a program; no mention is made of any state, county, city or trail club as the other party to the agreement. Having noted these objections, I cannot see where any useful purpose would be served by revising the instrument. In a letter to Mr. Gray dated September 8, 1972 the President of the Maine Appalachian Trail Club indicates that the landowners are reluctant to enter into stronger agreements and this would undoubtedly be his response if a revised agreement was furnished to him. At page 52 of the guidelines prepared by the National Park Service there is a suggested Appalachian National Scenic Trail right-of-way cooperative agreement. The state and local agencies should be encouraged to use this agreement to the greatest extent possible in obtaining the necessary trail right-of-way. If a cooperative agreement cannot be obtained, the state or local governments should be encouraged to acquire lands or interests therein to provide the necessary right-of-way. I am not at all certain as to the role the Maine Appalachian Trail Club plays in this matter. Section 7 e of the Act provides that the state or local governments should enter into written cooperative agreements with landowners and makes no mention of private trail clubs. I assume there would be no objection to a trail club negotiating an agreement with a private landowner for the necessary right-of-way but it would seem advisable to me that the agreement should be assigned to a state or local agency. The agreement before me provides, however, that it cannot be assigned without the written permission of the grantor.

To summarize, it seems to me there should be an agreement between a landowner on the one hand and an eligible agency on the other which would provide a right-of-way for public use across the property of the landowner and that, so far as possible, the duties and responsibilities of the parties which are set forth in the cooperative agreement suggested by the Park Service should be included. If the Maine Appalachian Trail Club enters into these cooperative agreements with the landowners, provision should be made in the agreement for the assignment of the rights to the state or local governments involved.

William W. Reimond
WILLIAM W. REIMOND

**SUGGESTED APPALACHIAN NATIONAL SCENIC TRAIL
RIGHT-OF-WAY COOPERATIVE AGREEMENT**

WITNESSETH, that _____, landowner, hereinafter referred to as Conferer, in order to assure preservation and perpetuation of the Appalachian National Scenic Trail for public use and enjoyment, desires to cooperate with (State, county, city, trail club), hereinafter referred to as Conferee, in the matter of providing a route for such trail.

THEREFORE, in consideration of the mutual promises and covenants of this agreement, the Conferer hereby agrees to allow the general public the right to use the Appalachian National Scenic Trail as a pedestrian path across the lands described below:

Description of area granted or conferred [This need not be a technical metes and bounds description, but may be a linear description of the trail route and specify a certain number of feet on each side of that route.] to be utilized as a part of the Appalachian National Scenic Trail in accordance with the Act of October 2, 1968 (Public Law 90-543).

A. The Conferee [State, trail club, or other party] agrees to:

1. Assume responsibility for maintaining the right-of-way for pedestrian use by the public and for placing and maintaining trail markers and signs on the premises granted; provided, that the Conferee may enter into agreements with local governments, private organizations, or individuals for maintenance of the trail, trail facilities, markers and signs.
2. Recognize the right of the Conferer to cross or use the granted premises as a means of ingress to, or egress from, Conferer's adjoining lands or timber rights, including the use of motorized vehicles for such purposes.
3. Discourage the use, except by the Conferer, of motorized vehicles on the right-of-way and to authorize use of motorized vehicles by representatives of the Conferee on the premises granted only for special or unusual maintenance and emergency operations.
4. Discourage littering and other spoilage to or encroachment upon the natural features on the premises.
5. Secure the consent of the Conferer prior to construction of any shelter or other structures (except trail markers and sign) on said right-of-way by the Conferer or other maintaining agency, organization, or individual, and for the cutting of trees thereon, other than for normal maintenance purposes.

6. Hold harmless and indemnify Conferer against all loss, liability, damage, or injury to the person or property of any person who uses the granted premises for hiking and related purposes. Conferer shall have the full benefit of any insurance obtained by the Conferee upon the property and against the hazards involved.

7. Encourage use of the right-of-way for pedestrian travel only.

8. Termination of Conferee's interest in the premises granted, in the event the trail is relocated off these premises. Thereupon such interest shall revert to the Conferer.

B. The Conferer agrees to:

1. The assignment by the Conferee of Conferee's rights hereunder to the state or states in which said land is located, to the local governments involved, or to other governmental agencies, if The Appalachian Trail Conference, a body corporate of the District of Columbia, is the Conferee hereunder.

2. Secure the consent of the Conferee, or its assigns, prior to cutting any trees and removing timber within a distance of one hundred feet on either side of the footpath.

3. Refrain from the placement or development of structures and the undertaking of any other operations on the granted trail right-of-way which destroy the quality of the natural environment or detract from the primitive or pastoral setting of the trail; and consistent with this purpose, Conferer will secure the consent of Conferee prior to the placement of any structure (other than authorized trail markers and signs) within one hundred feet on either side of the trail right-of-way.

4. Notify the Conferee in writing if at any time within 20 years from the date of this agreement the lands involved in the use herein granted or any parts of such lands, are offered for sale to any person or party, and to afford the Conferee during, a period of 120 days from such notification the opportunity to purchase the trail right-of-way at the same price, proportionately, and on the same terms and conditions afforded another party.

5. Reversion of all interest in the above-described property to the Conferer if the trail is relocated off the premises herein granted.

IN WITNESS WHEREOF, the parties hereto affix their hands and seals this
day of , 19 .

WITNESS:

(SEAL)

(SEAL)

(SEAL)



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

18 JAN 1979

Memorandum

To: Assistant Secretary for Fish and Wildlife and Parks

From: Associate Solicitor, Conservation and Wildlife

Subject: Land Use Regulations for the State of Maine and their
Applicability in Assuring the Protection of the
Appalachian Trail Corridor in that State

This is in partial response to your request that we review a series of rules and regulations promulgated by the Maine Land Use Regulation Commission which provide, in part, for protection of a 200-foot wide corridor for major trails located in that State. You have asked (1) for our impression as to how much protection they really offer the Appalachian Trail; (2) whether they are enforceable and would withstand a court test; (3) how effective we anticipate they would be; and, (4) our opinion as to whether they would be strong enough for the Department to declare publicly that a 200-foot wide Appalachian Trail Corridor stretching for 275 miles through Maine has been effectively and adequately protected as a result of the adoption of these rules and regulations.

Because we are of the view that the response to the latter question — number four (4) — is not related to the effectiveness of these rules and regulations, we have decided to respond to that issue by separate memorandum. In our opinion, the National Scenic Trails Act, as amended on March 21, 1978, does not provide this Department with the option of determining that the Appalachian Trail is protected solely as a result of the exercise of state or local police power authorities. As a substantive matter, we also believe that the Congress was correct in structuring the Act in this manner.

Section 7(e) and (g) provide the basic direction this Department is to take with regard to land acquisition matters. These subsections provide, in part, as follows:

(e) Where the lands included in a national scenic trail right-of-way are outside of the exterior boundaries of federally administered areas, the Secretary charged with the administration of such trail shall encourage the States or local governments involved (1) to enter into written cooperative agreements with landowners, private organizations, and individuals to provide the necessary trail right-of-way, or (2) to acquire such lands or interests therein to be utilized as segments of the national scenic trail: Provided, That if the State or local governments fail to enter into such written cooperative agreements or to acquire such lands or interests therein within two years after notice of the selection of the right-of-way is published, the appropriate Secretary may (i) enter into such agreements with landowners, States, local governments, private organizations, and individuals for the use of lands for trail purposes, or (ii) acquire private lands or interests therein by donation, purchase with donated or appropriated funds or exchange in accordance with the provisions of subsection (g) of this section. The lands involved in such rights-of-way should be acquired in fee, if other methods of public control are not sufficient to assure their use for the purpose for which they are acquired.

(g) The appropriate Secretary may utilize condemnation proceedings without the consent of the owner to acquire private lands or interests therein pursuant to this section only in cases where, in his judgment, all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and in such cases he shall acquire only such title as, in his judgment, is reasonably necessary to provide passage across such lands: Provided, That condemnation proceedings may not be utilized to acquire fee title or leases interests to more than an average of one hundred and twenty-five acres per mile.

These provisions demonstrate that the various states were provided a two year period after publication of the initial notice of selection of the original right-of-way within which to obtain trail protection either by written cooperative agreement or acquisition. These were the only options provided. If the states failed to achieve protection in this manner, the Secretary was then authorized to act, once again through cooperative agreements "for the use of lands for trail purposes" or through acquisition.

The 1978 amendments did not change this basic structure. They did provide, however, that it was "the express intent of the Congress that the Secretary should substantially complete the land acquisition program necessary to insure the protection of the Trail within three complete fiscal years following the date of enactment of this sentence." In our opinion, this amendment closes the circle. Initially, the states were provided two (2) years to act pursuant to acquisition or cooperative agreements. If they failed to act in this manner, the Congress has now directed that the Secretary shall undertake these actions. Congress has not provided the Secretary with the authority to waive his acquisition responsibilities to protect the trail because of the enactment of state or local police power type rules and regulations.

We agree with this action. Police power regulations such as those in issue cannot possibly provide a permanent status to the actual trail. Any such regulations are subject to change by their very nature.

There is one further point, however. In our view, the adoption of such police power regulations can be of extreme importance to protecting the established trail corridor. While they would be no substitute for actual trail acquisition of the right-of-way, such regulations can serve the invaluable function of protecting that right-of-way. In addition, they may also have an important role in the development of cooperative agreements with states and local governments with regard to the management of non-private lands where acquisition is not authorized. We will comment further on these aspects of this issue upon completion of our review.


James D. Webb



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

JUL 6 1979

Memorandum

To: Karen Wade, Regional Coordinator for Virginia and Pennsylvania, Appalachian Trail Project Office

From: Assistant Solicitor, Parks and Recreation

Subject: Proposed Cooperative Agreement between the Virginia Division of Parks and the Town of Purcellville for Protection of the Appalachian Trail

This is in response to your request for our review of the above captioned document. As we have indicated informally, we have an initial concern about the types of cooperative agreements the Congress intended be used to protect the Appalachian Trail. We question whether the National Scenic Trails Act, as amended, contemplated agreements between a state and a local government as a basis for trail protection. Our second concern is whether the terms of this agreement are adequate "to provide the necessary trail right-of-way" as required by the National Scenic Trails Act, as amended.

Both issues turn on the terms of section 7(e) of the Act. This provision is as follows:

(e) Where the lands included in a national scenic trail right-of-way are outside of the exterior boundaries of federally administered areas, the Secretary charged with the administration of such trail shall encourage the States or local governments involved (1) to enter into written cooperative agreements with landowners, private organizations, and individuals to provide the necessary trail right-of-way, or (2) to acquire such lands or interests therein to be utilized as segments of the national scenic trail: Provided, That if the State or local government fail to enter into such written cooperative agreements or to acquire such lands or interests therein within two years after notice of the selection of the right-of-way is published, the appropriate Secretary may (i) enter into such agreements with landowners, States, local governments, private organizations, and individuals for the use of lands for trail purposes, or (ii) acquire

private lands or interests therein by donation, purchase with donated or appropriated funds or exchange in accordance with the provisions of subsection (g) of this section. The lands involved in such rights-of-way should be acquired in fee, if other methods of public control are not sufficient to assure their use for the purpose for which they are acquired.

As the first portion of this subsection indicates, states and local governments are encouraged "to enter into written cooperative agreements with landowners, private organizations, and individuals to provide the necessary trail right-of-way." This provision does not specifically authorize states to enter into cooperative agreements with local governments. Accordingly, there is a significant question in our mind whether this Department could recognize trail protection based upon such an agreement absent some other basis for participation. We would conclude, however, that this is not a problem with regard to the cooperative agreement in issue because the Town of Purcellville is acting as a landowner.

The second question is whether this cooperative agreement provides the type of protection contemplated by section 7(e). As indicated above, to be adequate this agreement must serve to "... provide the necessary trail right-of-way..." In our opinion, this phrase must be interpreted in a manner consistent with the remaining provisions of the National Scenic Trails Act. Cooperative agreement must meet the same standards of trail protection as other means of protection. Cooperative agreements are provided as an alternative, but not a lesser means of protection; they must be sufficient to carry out the purpose of this Act, as amended.

This purpose has been reenforced by the 1978 amendments to the National Scenic Trails Act. Those amendments require the Secretary "to insure the protection of the Trail within three complete fiscal years..." The Secretary must complete this responsibility through acquisition, where authorized to do so, absent approved cooperative agreements that can meet this standard, or state or local acquisition. Accordingly, to be satisfactory, a cooperative agreement must insure the protection of the Trail.

In our judgment, the proposed cooperative agreement between the Commonwealth of Virginia and the Town of Purcellville does not presently meet this standard -- it will not insure the protection of the Trail -- because it does not provide any form of significant permanent protection.

Initially, we note that both paragraphs 3 & 4 of subsection C provide that use of this land for trail purposes is subject to the use of the area as a public watershed, which use we will take precedent over any conflicting provision of the agreement. In C-3, trail use is also subject to "such other rights in said premises as have heretofore been granted."

As you have noted, the provisions of section A-12 also represent a problem. Despite language suggesting this agreement "shall continue in perpetuity," the Town has clearly reserved the right to sell this property at any time subject to a right of first refusal running to the State. Such a right does not insure the protection of the Trail. Finally, we note that section A-8 provides for termination of the agreement "upon 90 days notice of a violation of any of the foregoing conditions." While we can understand why the Town would want assurances that the agreement would be enforced, such a provision virtually insures that the agreement can be voided if that becomes appropriate.

We understand that several of these provisions are being strengthened to afford more extensive protection for the trail. We also understand, however, that given the use of the area in question as a public watershed, it is not possible to establish the trail right-of-way as an exclusive or necessarily permanent use. Finally, we recognize that acquisition of such public lands is not authorized by Congress.

Accordingly, we suggest that the most satisfactory solution to insure the protection of the trail in these situations may be to include a provision in the agreement, as between the Commonwealth and the Town, that in the event the trail must be relocated they will assume relocation responsibility in a mutually satisfactory way. In this manner, the Department of the Interior can in good faith recognize and approve such a cooperative agreement as providing the requisite trail protection and the present selection and acquisition of an alternative route by the National Park Service over private lands can be avoided.

We would be happy to review or participate in the development of such a provision. One possible version is attached hereto for your consideration.

(Sgd.) David A. Watts

David A. Watts

Attachment

cc: Director, NPS
ATTN: Jim Tobin, Allen Harpine
Regional Solicitor, Boston
Regional Solicitor, Atlanta

bcc: Secy's File
Chron CW(1)
Div. File ✓
PRaynor:ak: 3/6/7

ATTACHMENT

Subsection 5 to Section C:

This agreement will be submitted to the National Park Service of the Department of the Interior for review and acceptance as a cooperative agreement that will insure the protection of the Appalachian Trail in accordance with the requirements of subsection 7(e) of the National Scenic Trails Act, as amended, and that acceptance of this cooperative agreement by the National Park Service as protection of this portion of the Appalachian Trail will serve to eliminate the alternative federal responsibility to identify and acquire a trail right-of-way crossing private lands. Accordingly, conferer and conferee mutually agree that in the event the various terms and conditions of this agreement may serve to bar the further usage of the agreed upon trail route both conferer and conferee shall act to reestablish a trail right of corridor for the Appalachian Trail, acceptable to the National Park Service, for this portion of the trail.



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

NOV 2 1979

Memorandum

To: Assistant Secretary for Fish and Wildlife
and Parks

Attention: Dave Sherman

From: Assistant Solicitor, Parks and Recreation

Subject: Protection of the Appalachian Trail

This is an interim response to your memorandum requesting our views concerning the development of a strategy for the protection of the Appalachian Trail. As you have discussed with Pete Raynor of our staff, we feel protection of the Appalachian Trail is a three-part problem. Methods to protect the Trail vary depending upon the nature of the land in question.

The simplest problem is when the Trail corridor is in private ownership. The second and third situations arise when the Trail is owned either by a Federal agency or by a State or political subdivision.

In the first situation, land acquisition is typically the appropriate solution. In this regard, we understand that the land acquisition program is making progress to provide this element of protection for the Trail as contemplated by Congress with the 1978 amendments to the National Scenic Trails Act.

In the situation when the Trail is owned or administered by either another Federal agency or a State or political subdivision land acquisition is not a viable means of establishing Trail protection. Acquisition is specifically limited to private lands.

In these situations, there are several alternatives available. The most obvious is to develop cooperative agreements with these other units of government to provide adequate Trail protection. Other options are also available, however.

With regard to State and local governments, the cooperative agreement issue has been generally discussed in our memorandum of July 6, 1979, concerning a proposed cooperative agreement between the Virginia Division of Parks and the Town of Purcellville for the protection of the Appalachian Trail, copy enclosed. As indicated in that memorandum, we believe that Congress intended that cooperative agreements between State or local governments and private landowners provide permanent protection. This means that such cooperatives should not be used with private owners unless Trail protection is assured; that cooperative agreements used in lieu of the acquisition of private lands must provide a similar level of protection.

We recognize, however, that such a conclusion would not be appropriate concerning cooperative agreements between this Department and States or this Department and political subdivisions of States with regard to publicly owned lands.

As indicated above, such a conclusion would leave a protection gap because there is no authority to acquire such public lands and therefore no viable protection alternative to such cooperative agreements.

In this situation, we feel that such cooperative agreements -- between this Department and a State or political subdivision thereof for the management of publicly owned lands -- need not provide permanent protection but should be negotiated to provide as much protection as possible. We would be happy to participate in this process.

In dealing with State and local governmental lands, however, a second viable alternative is also provided by the provisions of the L&WCF Act. Both the SCORP planning process and the protections afforded by section 6(f)(3) of that Act, provide this Department with a viable method of assuring permanent protection to State and local publicly owned lands within the Appalachian Trail Corridor. To accomplish this, however, the Department must be willing to strongly encourage or to require the various States to submit planning, acquisition and development projects for L&WCF assistance that will result in the application of the no conversion provisions of section 6(f) of the Land and Water Conservation Fund Act.

In this regard, section 8 of the National Scenic Trails Act specifically encourages the use of the L&WCF program for historic trails purposes.

The problem is somewhat different with regard to federal lands. While a cooperative agreement approach is feasible, it is interesting to note that the National Scenic Trails Act specifically provides several alternative provisions with regard to the management of the trail on federal lands. Section 7, subsections (h) and (i), are specifically in point.

Subsection (h) provides that the Secretary charged with the administration of a national scenic trail "shall provide for the development and maintenance of such trails within federally administered areas..." Section 5(a)(1) provides that the Appalachian Trail shall be administered primarily as a footpath by the Secretary of the Interior, in consultation with the Secretary of Agriculture.

Subsection (i) provides, in part, that the Secretary may issue regulations governing the use, protection, management, development, and administration of the Appalachian Trail, with the concurrence of the heads of other Federal agencies administering lands through which the Trail passes.

We believe that these provisions may provide the Secretary of the Interior with additional authorities beyond cooperative agreements with other Federal land administrators. Once again, we would be happy to assist in the further interpretation and implementation of these provisions.



David A. Watts

Enclosure

X. CUMBERLAND VALLEY

The Cumberland Valley in south central Pennsylvania, just across the Susquehanna River to the west of Harrisburg, interrupts the chain of mountains followed by the Appalachian Trail. The Valley is approximately 12 miles wide, the longest valley crossing along the entire 2100 miles of the Appalachian Trail. The Cumberland Valley has been selected for particular attention in this case study for two reasons. The first is that the experience of the Park Service here may provide useful lessons to other Park Service personnel elsewhere faced with acquiring land in a community where such acquisition is unwelcome. The second is the hope that the study team might be able to provide fresh insights toward a solution that would meet the mutual needs of the Park Service and the people of the Cumberland Valley.

This chapter contains a brief chronology of significant events, the study team's thoughts as to their significance, recommendations for future actions, and some general principles of community relations. Our objective has not been to find fault with any group or individual, but rather to exploit the benefits of hindsight both to avoid similar situations in the future and to find a way through the present impasse in the Valley. The study team has reviewed the material in the Project's files, visited the Valley to acquire a sense of the physical environment, and interviewed as many people who have been involved as possible.

The Area

The Cumberland Valley portion of the Trail is in Cumberland County. The county is 355,200 acres in area, with about 555 square miles. The valley is bordered on the east by the Susquehanna River, on the north and west by Blue (or North) Mountain, and on the south by South Mountain. These mountains are more properly ridges. Most of the valley floor consists of low, gently rolling hills. The eastern end of the county is largely developed, with a mix of commercial, industrial, and residential land uses—heavily influenced by nearby Harrisburg. Moving westward into the valley, land uses become more residential, and of lower density. Mechanicsburg roughly six miles from the Susquehanna, marks the western boundary of more or less continuous suburban development. West of Mechanicsburg the predominant land use is agriculture, on some of the best agricultural land in the country. Many of the farms are dairy farms; the principal field crop is corn. The Borough of Carlisle is located about 12 miles west of Mechanicsburg. West of Carlisle the land use becomes even more predominantly agricultural, with less residential development.

The Appalachian Trail has traditionally crossed the Cumberland Valley between Mechanicsburg and Carlisle. Over the years it has followed a number of different routes. In places the Trail has been across private lands, generally on the basis of handshake agreements with landowners, but for most of its length and most of the time, the Trail across the Valley has been on public roads, which presents an increasingly serious safety problem. In a number of places the present route is experiencing rather dense roadside development.

The Cumberland Valley has grown substantially in population in recent years. The 1980 population was approximately 178,000. In the ten years prior to 1980, the population grew by 12.6%, while the population of Pennsylvania as a whole remained unchanged. This increase in population was not distributed evenly across the county. Four townships lie between Mechanicsburg and Carlisle: Monroe and South Middleton in the southern part of the county, Middlesex and Silver Spring in the north. From 1970 to 1980, the population of Middlesex Township increased 57.7%, that of Monroe increased 45.4%, South Middleton, 18.9%, and Silver Spring, 13%. Thus the land use in these townships is changing, in some cases dramatically, from rural and largely agricultural to a more suburban and residential character.

Chronology

In 1975, the Pennsylvania Department of Environmental Resources (DER) commissioned a study by Pennsylvania State University to develop Trail specifications and a protection strategy for the Appalachian Trail in Pennsylvania. Cumberland Valley was studied specifically. Secretary of DER Goddard wrote to local communities along the Trail advising them that the State would probably be acquiring land to protect the Trail. Around the same time an ad hoc committee was formed, consisting of representatives from DER, the Pennsylvania Game Commission, County planners, and the Trail community, to deal with Trail-related problems in the state as they arose. When the likelihood of federal legislation became apparent, the State decreased its level of involvement in the Cumberland Valley.

In 1977, Dr. Thurston Griggs, of the Mountain Club of Maryland and board member of the Appalachian Trail Conference, carried out a field survey in the Cumberland Valley to lay out a new route off roads. His field work was supplemented by a joint DER/NPS group working from aerial photographs. On March 21, 1978, the amendments to the National Trails System Act were passed, providing a greatly expanded role in Trail protection for the Park Service. One of the first decisions of the A.T. Project Office under the new provisions was to address the problems of the Cumberland Valley, both because of its long roadwalks and because it is one of the few areas in Pennsylvania experiencing substantial development. Griggs volunteered to make the initial contacts in the Valley. Because he had already done field work there, and because he is an influential and respected member of the Trail community, the Park Service agreed, with the concurrence of the ATC. In May 1978, Maurice Forrester sent out a letter on Keystone Trails Association (KTA) stationery to 65 landowners. Griggs followed up this letter with personal contacts. Of the 65 landowners, 54 responded, and Griggs reported that he had identified 31 potentially willing sellers.

Unfortunately, the situation quickly deteriorated from this point. Griggs began talking to landowners on May 15. Almost immediately he found a number of landowners who were hostile to the idea of the Trail crossing their property. By early June opposition was sufficiently strong to be organized into a group, Citizens Against the New Trail (CANT). At the same time, articles began appearing in the local newspapers portraying

Griggs and his activities in a most unfavorable light. They portrayed him as threatening unwilling sellers with condemnation. There was also uncertainty in the press as to Griggs' status, questioning whether he was in fact speaking for the federal government. By the end of June the atmosphere in the Valley was so unfriendly that Griggs felt obliged to suspend his activities.

On July 10, a large public meeting was held in Monroe Township, at which Dave Richie represented the Park Service. This meeting was well attended by CANT and others who by this time were unfriendly to the idea of locating the Trail on private lands. CANT used this meeting as an opportunity to get local elected officials on record in support of CANT's position against a new Trail route. The outcome was that Jacob Myers, a County Commissioner, took responsibility for arranging a meeting among local officials, the Park Service, and private citizens to develop a process for evaluating the Trail route across the Valley.

That meeting was held ten days later, on July 20. It was chaired by Myers and was attended by the two other County commissioners; the supervisors of Dickenson, Monroe, Middlesex, South Middleton, and Silver Spring Townships; representatives of the local Congressman and State legislators; the leadership of CANT; and representatives of DER, ATC, and the Park Service. It was decided that the commissioners should appoint an Advisory Committee representing all interested parties. It was agreed that this Advisory Committee would hold public meetings, which landowners could attend but not participate in directly.

At the beginning of August, the Commissioners announced the membership of this Trail Location Committee. It included three representatives of CANT; three representatives from the Cumberland County Planning Commission; two representatives from the Park Service; State Senator John Hopper; Caren Glotfelty from DER; Craig Dunn, a board member of ATC and a resident of the Valley; Richard Snelbaker, the solicitor for the five townships; and Frank Masland, a local resident and former chairman of the National Park Service Advisory Board. This group held its first meeting on August 29, 1978. At that meeting it was agreed that a professional planner from the Tri-County Planning Commission should prepare a comprehensive array and analysis of alternatives. At the same time, a subcommittee chaired by Masland would conduct field investigations of alternative routes. The members of the Committee expected that their work might take a year or more.

The Trail Location Committee held a series of meetings from the fall of 1978 into the spring of 1979, examining a number of proposed routes. However, no consensus emerged as to the desirability of any of them. In August of 1979, the townships of Middlesex, South Middleton, Monroe and Silver Spring passed identical resolutions regarding the proposed relocation of the Trail. Each township agreed "to support a plan to incorporate the Appalachian Trail into its public road system in cooperation with the adjoining townships similarly affected whereby the Trail would be a generally unpaved path or walkway immediately adjacent to the existing public roads equivalent to an unpaved sidewalk, said path or walkway to be a portion of this township's public road system and under its jurisdiction thus allowing local control of path crossings."

The acceptability of a "sidewalk" route was reviewed by the Trail Location Committee, leading to rejection of the Supervisors' proposal at a meeting in November 1979, following an official communication from Assistant Secretary Herbst that an off-road route in the Valley was necessary to meet the Trail protection mandate in the 1978 Trails Act amendments. The Trail Location Committee proposed to hire a local planning consultant, funded by the National Park Service, to study Trail location alternatives. Opposition to this course of action by CANT representatives and Township Supervisors became so heated, however, that the decision to hire a consultant was postponed indefinitely at a Committee meeting in January 1980. Project Office representatives, at the encouragement of Committee Chairman Myers, began a series of meetings with Township Supervisors and Richard Snelbaker to try to work out differences.

In May of 1980, Les Brewer, who had been hired by ATC as the field representative for Pennsylvania, proposed a new route following, in part, an abandoned railroad right-of-way. This route lay east of the other proposals, passing just west of Mechanicsburg. Project Office representatives felt that it was promising. Brewer arranged a meeting with the Silver Spring Township Planning Board to present the proposal to them. CANT representatives also attended this meeting, along with some landowners who vocally opposed use of the railroad right-of-way for the Trail. This opposition caused the board to cease further consideration of this alternative.

On November 20, 1980, the township supervisors met with Project representatives and reaffirmed their original position that the Trail should remain on roads across the Valley. On March 25, 1981, Commissioner Jacob Myers, Chairman of the Trail Location Advisory Committee, wrote a letter to members of the Committee, township officials, and concerned citizens, thanking them for their efforts--effectively suspending further work by the Trail Location Committee.

A. ANALYSIS OF COMMUNITY RELATIONS

In retrospect it is possible to identify a number of factors responsible for the impasse in the Cumberland Valley, which continues to the present time. Some of these factors resulted from decisions made by the Project Office that, with the benefit of hindsight, would have been made differently. Other factors are the result of the special characteristics of the Cumberland Valley. There is little doubt that, even under the best circumstances, the task of protecting a permanent Trail right-of-way across the Valley is a difficult one.

The mistakes made by the Project in the Cumberland Valley were made primarily at the very beginning. A closer look at the chronology of events is instructive. The 1978 amendments to the National Trails System Act were passed on March 21. Thurston Griggs began contacting landowners on May 15, less than two months later. The decision of the Project to go into the Cumberland Valley quickly was a natural one. One of the express intents of the 1978 amendments was to address the problem of roadwalks on the Trail, and the Cumberland Valley was and continues to be one of the longest roadwalks along the entire length

of the Trail. In addition, the Park Service was under some pressure from ATC to begin work in the Valley. Thurston Griggs had done field surveys in the summer of 1977 and was eager to discuss the proposed Trail route with landowners. The fact that the Park Service was not yet well organized ultimately contributed to inadequate procedures for consulting with affected parties and general misinformation about the intentions of the Project.

Griggs talked with affected landowners, but did not seek out county and township officials. As it was, local officials became aware that there was an effort underway to locate the Trail off roads when they began hearing complaints from their constituents. This tended to dispose them unfavorably to the whole effort.

Had they been consulted, local officials could have encouraged Griggs and the National Park Service to proceed more cautiously. Development pressures are intense in the Valley and many landowners, particularly those with large holdings, view their land as an investment. Many landowners, according to the township supervisors, are waiting for the right opportunity to derive the maximum economic benefit from their lands. A corridor for the Appalachian Trail did not necessarily fit in with these plans. Local officials might also have described the area's long history of adverse condemnations. U.S. Route 11, the Pennsylvania Turnpike, and Interstate 81 all run through the Valley, as do a number of utility rights-of-way. All these transportation and utility corridors required condemnation, generally of easements. Landowners in the Valley have acquired considerable experience in dealing with condemnation efforts, and it is a matter of some local pride that they generally drive hard bargains. The idea of another corridor across the Valley for the Appalachian Trail fell on particularly unreceptive ears.

The reasons for selection of a proposed route were unclear to landowners contacted. The route selected generally follows Stony Ridge. This ridge is the only north-south topographic feature across the Valley. From a resource-oriented point of view it was a logical choice. It is high ground and generally wooded along the crest, and provides some views of the surrounding farmland. However, the same features which make it desirable for the Trail make it attractive for residential development.

Landowners gained the impression that this route had been decided upon by the National Park Service and that lands needed for this route would be condemned if not sold willingly. Local newspaper articles reinforced this impression and contributed to attitudes unfavorable to Trail protection which still linger in the Valley.

In summary, a number of mistakes can be identified. They are: The failure to communicate with local officials before making contact with landowners; insufficient awareness of the development pressures at work in the Valley, the history of condemnations, and the attitudes of the people there; the impression given of inflexibility and readiness to use condemnation; and the failure to develop a process initially which would have involved landowners and local officials in planning the Trail route.

By the time the Park Service became actively involved in the Valley, the situation had deteriorated beyond the point where a quick reversal was possible. All the interested parties whom the study team has interviewed have agreed that the conduct of the Park Service in general and Dave Richie in particular has been exemplary. Several persons have spoken highly of Richie's honesty, flexibility, and openness. His involvement simply came too late.

A question that logically arises is why there has been so little substantial progress in the past three years, despite the best efforts of the Park Service. One reason is the recent uncertainty about and unavailability of adequate funding for Trail protection. No matter what route is ultimately selected, protecting it will be expensive. Land values in the Cumberland Valley are high and getting higher. Without adequate funds there has been no sense of urgency to arrive at a solution acceptable to all interested parties. Another reason is the attitude of the supervisors. It is not that they are obstructionist, although they do have an adversarial attitude. Rather it is that they are working from very different assumptions and perceptions from those of the Park Service.

In a recent meeting with the study team, the township supervisors and their solicitor, Richard Snelbaker, offered four arguments in support of their proposal to locate the Trail as a sort of sidewalk along existing roads. The first was that they perceived no problem with the existing situation, other than a safety problem that would be remedied by a sidewalk. They maintain that the Trail has traditionally crossed the Valley on roads, that the present roadwalk is direct and fast, makes a nice break for hikers, and offers services and the opportunity for friendly interaction with people along the route. The tradition of friendly relations with hikers is a matter of pride to a number of supervisors. They maintain that moving the Trail onto private lands would threaten those friendly relations.

The second argument is that land in the Valley is very highly valued for its development potential. They argue that the sale of lands for Trail protection would be a permanent loss of the development potential of those lands. Thirdly, they argue that they have acquiesced to condemnation for highway and utility corridors because those facilities provide a clear benefit to their communities; they see no such benefit from the Trail. Fourthly, they maintain that because of high land values an off-road corridor will be unjustifiably expensive for the small portion of the population who will use it.

If Trail protection efforts in the Valley are to proceed, it is important to understand two very different objectives. These objectives must be taken into account and further mediation must focus on resolving them through working together to find a mutually acceptable solution.

The objective of the Park Service is to implement Trail protection in accordance with the National Scenic Trails Act and the intent of Congress as reflected in the legislative history. Keeping the Trail continuous, providing permanent protection, assuring a safe hiking

experience off roads, and meeting landowner concerns are important considerations in planning the Trail route. Every effort is made to meet these standards everywhere along the Trail. At this time the route in the Valley does not meet these standards.

The Park Service planning process provides flexibility both in planning the Trail location and meeting local concerns. In the case of Cumberland Valley, various route alternatives have been evaluated from the perspective of meeting the intent of Congress and maintaining a high standard of quality, while remaining responsive to local needs. One alternative proposed by the Park Service included the use in part of a railroad right-of-way as the Trail route. It appears that this route may meet most of the criteria set by Congress without having a significant adverse impact upon the community. This proposal was discussed with the township supervisors to a limited extent and could use additional analysis.

The township supervisors do not perceive the existing Trail route as a problem. In a sense, they never agreed with the Park Service position that the Trail corridor in the Cumberland Valley is inadequate and in need of protection. They feel that the Park Service is trying to resolve a problem that doesn't really exist. The supervisors view the Valley as a unique section of the Trail in that it is a growing and populated area which distinguishes it from the rural ridgetops which the Trail usually follows. The supervisors conclude that the Trail has a designated route through the Valley. They feel there is no need to develop something new, and their objective is to maintain the present Trail route given their contention that the Valley situation is unique.

The supervisors have developed a proposal which would incorporate the Trail into the county's public roads system and provide for a protected unpaved path along the roadways. They have considered other proposed routes for the Trail, but have selected the route along roadways as the preferred alternative. This proposal also requires further clarification and analysis.

Clarification of the two proposals described above in terms of costs, design, location, and social and cultural impacts may provide a good framework to work out terms for deciding on an acceptable route through the Valley. As an extension of this idea the study team has developed the following findings and recommendations:

FINDING 1

The Cumberland Valley portion of the Appalachian Trail may be unique environmentally and culturally. Protection of this portion of the Trail requires additional planning and flexibility in order to insure that the effort is sensitive to local social and economic concerns.

RECOMMENDATION:

THE PROJECT SHOULD CONTINUE ITS EFFORTS TO PLAN AND PROTECT A PERMANENT RIGHT-OF-WAY FOR THE TRAIL ACROSS THE VALLEY IN CONSULTATION WITH TOWNSHIP OFFICIALS AND IN A MANNER WHICH IS SENSITIVE TO THEIR UNIQUE CONCERNS.

FINDING 2

The process used in planning a national trail route, or any other type of recreation area, and in making landowner and local government contacts is critical to a successful protection effort.

RECOMMENDATION:

THE PARK SERVICE SHOULD DEVELOP A PROCESS AND GUIDELINES TO BE USED SERVICEWIDE FOR IDENTIFYING AND ASSESSING THE SOCIAL AND CULTURAL VALUES AND DYNAMICS OF A GIVEN AREA BEFORE COMMENCING ACQUISITION EFFORTS. THIS SHOULD BE DONE IN ORDER TO IDENTIFY APPROPRIATE RESOURCE PROTECTION TECHNIQUES.

B. PRINCIPLES OF COMMUNITY RELATIONS

The following principles are offered for the consideration of Park Service personnel faced with the situation of having to go into a community to protect and acquire lands in pursuit of the Park Service's mission. These principles have been drawn from two sources. The first is the experience of the Project, not only in the Cumberland Valley but also in places where the consultation process has worked well, as in Connecticut and Dutchess County, New York. The second source is the

experience of the Division of Natural Resource Planning of the Mid-Atlantic Regional Office in carrying out various technical assistance projects. These principles should not be regarded as a cookbook procedure or checklist; rather, they should be viewed as different manifestations of a single point of view or attitude. That attitude is one of open cooperation, flexibility, and sympathy for the points of view of other interests. A discussion of the principles of community relations has a place in a study of other-than-fee-acquisition techniques for a very practical reason. Where the community relations process is carried out successfully, it creates a congenial atmosphere in which a broad range of alternative strategies are possible, including less-than-full-market-value techniques such as bargain sales and donations. Where the community relations process is ignored or not carried out successfully, an atmosphere of mistrust, hostility, and confrontation may result in which no desirable solutions are possible.

- First impressions are important. If the community forms an unfavorable impression of you at the outset, you will have a big problem for a long time. It is crucial to show a positive attitude right from the beginning. Flexibility, patience, and an attitude of dealing with equals in a spirit of cooperation will make the job a great deal easier.
- Contact elected public officials before initiating actions. This is basic courtesy. If they are friendly, local officials can be an invaluable source of assistance and information. If they are not friendly to your project, it will still be necessary to consult with them, and it is better to have spoken with them at the outset rather than have them find out about your presence after you have begun contacting landowners. It is also a matter of courtesy to observe a certain protocol in contacting officials, beginning with United States and State Senators and Congressmen, and proceeding in order to State officials, county officials, and local officials such as mayors and township supervisors.
- Understand the community into which you are going. Communities which look almost identical through the windshield of your car may in fact be very different in terms of history, attitudes, values, and the way the people use the resource. What are the values of people in the community? What are the attitudes among landowners of stewardship for the land? How do they use and what do they expect from the land? Are they tax farmers holding land for investment purposes waiting for the right price, or has the land been in their family for generations and they hope to pass it on to their grandchildren? What are their feelings toward government in general? Does the community have a history of adverse condemnations for highways and utilities? It is important to acquire at least a sense of the answers to these kinds of questions as you begin to work in a community. Without this kind of knowledge it will be impossible to develop protection strategies that accomplish the missions of the Park Service while also being sensitive to local needs and desires. The best--in fact the only--way to get this kind of information is to talk to people, as many people as you can.

Ask questions and listen carefully to what people tell you and to what they do not tell you. Learn to read between the lines of what you hear. You have a powerful incentive for taking the time and effort to do this. Your work will go much more smoothly if it is sensitive to local attitudes, values, and needs.

- Maintain your credibility. This is among your most valuable assets. In talking with opponents it may sometimes be tempting to say what they want to hear rather than what is the case. Resist this temptation. You will be much more effective in the long run if they believe what you say, no matter how unpalatable it may sometimes be.
- You must not only be reasonable and fair, you must also appear to be so. You will not only be dealing with people at first hand, you will also be dealing with people's perceptions of you, and it will be to your benefit to give them every opportunity to see what a sterling person you are. If you perform all your good deeds in private you will receive only half the benefit of them. Keep your process open and accessible to the community.
- It is better to deal with opponents face-to-face rather than through the mail. If you suddenly encounter opposition or conflict in the course of your work, you may feel tempted to withdraw from the scene and conduct further dealings with your opponent by correspondence rather than face-to-face. This is a natural tendency - few people enjoy conflict - and it is usually a mistake. Consider the effect it has on your opponent. Rather than dealing with a flesh-and-blood person, he or she is now receiving impersonal communications on official government stationery from a faceless bureaucracy. The result is almost always a heightened feeling of conflict. Talk to your opponent, in person if at all possible, by telephone if absolutely necessary. Establishing a personal relationship will go a long way toward preventing a situation in which a negotiated settlement is not possible.
- Never underestimate the power of the press. Do not be deceived by a small town paper's appearance. Just because it does not look like the New York Times does not mean it is not influential. A local newspaper can be very important in shaping people's opinions, setting a community's agenda, and influencing the attitudes of local officials. It is an effective vehicle for disseminating information. Maintain friendly relations with the press, even--especially--when they print unflattering things about you or your project.
- Anticipate objections to your project and have responses ready. People will have entirely legitimate concerns about the effect of your project upon them. You will be better able to set them at ease if you can demonstrate that you have already anticipated these concerns and have developed appropriate measures to address them.

- State your interests clearly and identify the interests of the community. It will be easier to reach an agreement if you negotiate from the interests you wish to protect rather than from a position. In the case of the Appalachian Trail, an example of a position might be a particular Trail route. Examples of interests would be that the Trail be continuous; that it meet some standard of quality, e.g., that it be located off roads; and that some measure of protection be achieved for whatever corridor is finally agreed upon. It is also important that you identify the community's interests. This may require some effort if they respond to you with a position. You will have to identify the reasons why they adopted that position. Those reasons are their basic interests. Once your and their interests have been clearly identified it may then be possible to reach an agreement that satisfies everyone's interests. But whether or not that ideal result is attained, it will be easier to negotiate some compromise on the basis of interests rather than from hardened positions.
- It is not enough to reach an appropriate and legitimate result; you must reach it by an appropriate and legitimate process. No community wants to feel that a decision has been imposed on them. People will react negatively to a decision that they perceive as having been made behind their backs, even if they have no objection to the substance of the decision. People want to feel that they have been involved in the decisionmaking process, and that their concerns have been heard and addressed.
- Involve potential opponents in the decisionmaking process. Everyone with an interest in your project should have the opportunity to be involved in the decisionmaking process. You should take special care to ensure that potential opponents are involved. An opponent of a project will be less likely to adopt and maintain an extreme or irresponsible position if he or she has been actively involved in the decisionmaking process. It is important to make the invitation to participate public. An opponent who publicly refuses to participate will lose a great deal of credibility within the community-at-large.
- "I'm from the Federal government, trust me" is not an effective way to respond to community concerns. Take the time to persuade people of the legitimacy of your mission and the validity of your techniques for accomplishing it. It is better to go into the technical aspects of your work, even if lay people cannot fully understand or appreciate it, than to attempt to gloss over it, which will encourage them to assume the worst. If the way you do business cannot stand up to this sort of scrutiny, the chances are it could do with some improvement anyway.
- Enlist the support of local persons having moral authority in the community. It is perhaps regrettable but nonetheless true that your supporters will not be as strongly motivated or as active as your opponents. This is because those who will benefit from your project are distributed across the country and through

future generations, whereas your opponents are on the scene and are very directly and concretely affected. This makes it all the more important to enlist local people to your support who enjoy the respect of the community. Their support will make it much easier for local elected officials to support you as well.

- Designate one person—or at the most two—to speak for you and represent you in the community. Do not deluge the community with a rotating cast of characters. This will only lead to their confusion and your own. Having no more than one or two spokesmen also makes it much easier to establish personal relationships, which are vital for creating an atmosphere of trust.
- It may be useful to designate a person to whom people can appeal. Despite the foregoing principle as to the benefits of only one or two spokesmen, it may sometimes be useful to involve another person in the role of a higher court, especially in cases where feelings are running high and there is an atmosphere of conflict. This person should be a sort of higher authority, someone to whom members of the community can appeal for redress of any grievance they may have with your principal spokesman. This is important, because it is vital that your principal spokesman not be perceived as standing in the way of a possible solution. The higher authority figure allows your spokesman to continue working effectively toward a solution.
- Strive for substantial effective agreement rather than for unanimous agreement, which you may never achieve. The more people who have become involved in the consultation process, the less your chances of achieving unanimous agreement on any particular course of action. However, this need not result in no action being taken. If you have carried out a fair and reasonable consultation process, and if you have made a serious attempt to involve all the parties with an interest in the decision in that process, and if as a result of that process you have arrived at a fair and reasonable decision, and if you have achieved substantial agreement within the community that the course of action decided upon is the right and proper thing to do, then the community will allow you to proceed with your project even in the absence of unanimity. You should always strive for unanimity, but be realistic about your chances of achieving it.
- Take as much time as—but no more than—you need to reach substantial effective agreement. It takes time to win the trust of a community and time to reach an agreement that the community accepts. This process has a certain tempo that cannot be speeded up beyond a certain point. However, once you have reached agreement on a course of action, it is best to move quickly. This is to the benefit of the community as much as the Park Service. It is unfair to ask landowners to

live with the uncertainty that you may be acquiring some or all of their property for longer than a minimal amount of time. Do the business you agreed to do as expeditiously as possible, and let the community get back to going about its business.

XI. APPENDIX

A. CASE STUDY PROCESS

The Appalachian Trail Case Study has been conducted by the Appalachian Trail Project Office (ATPO) and the Mid-Atlantic Regional Office (MARO) of the National Park Service (NPS). Active participants to the case study included representatives from the U.S. Department of Agriculture's Forest Service, the States of Maine, Massachusetts, Connecticut, Maryland, and Pennsylvania, the Appalachian Trail Conference including numerous member organizations, a variety of local governments in Pennsylvania, the Department of the Interior's Offices of the Solicitor and Policy Analysis and three private land trust organizations.

The Appalachian Trail Case Study began in early October, 1981. Team members initially assembled and reviewed background information on the legislative history of the Appalachian National Scenic Trail, resource characteristics, current plans and other topics germane to the study mandate.

The next portion of the study required team members to identify various protection alternatives used in the Project. The objective of this identification effort was to assess the effectiveness of current protection techniques and to evaluate the potential of these and other alternatives for future use in the Project.

Staff met with a wide variety of representatives from federal, state and local government agencies and private organizations to discuss existing and potential Trail protection efforts. In addition, staff reviewed a variety of selected public and private initiatives that illustrate different types of protection strategies. This material was then documented and circulated to the study participants for review and discussion.

Specific topical and geographic areas, such as land trusts, the State of Maine and the Cumberland Valley in Pennsylvania, were then identified by the study team for further research and analysis. These areas were selected because the study team felt that they illustrated issues appropriate to the objectives of the case study.

In addition, study team staff, with the assistance of the Appalachian Trail Conference, designed, distributed and analyzed a survey of Trail managers. The purpose of the survey was to gather information on the opinions and attitudes of Trail managers on existing and potential protection efforts.

A series of study team meetings were held to discuss the information being collected. The results of these meetings were summarized, in the form of preliminary findings and options, and presented at a mid-study meeting of all the case study leaders in Denver, Colo., in December, 1981. After the Denver meeting, the study team, with considerable assistance from other case study participants, conducted additional research on various aspects of the study. Study findings were revised and refined in order to represent the consensus opinion of the study participants.

B. TRAIL MANAGERS' SURVEY

One of the primary objectives of the Appalachian Trail Case Study was to: 1) document protection alternatives used in the Project; 2) review selected cases that illustrate protection strategies; and 3) evaluate the potential of protection alternatives for future use in the Project. Case study leaders determined that one desirable element in this review process should be an assessment of perspectives, concerns and priorities of "Trail managers," or individuals who possessed experience in Trail-related protection and/or management programs.

The staff of the Park Service A. T. Project Office were assigned the responsibility of identifying individuals who met all of the following criteria: 1) had personal and direct experience with the Service Trail protection process; 2) had experience or knowledge of Trail maintenance, Trail construction, or backcountry management issues; 3) were familiar with a particular region, area, or section of the Trail; and 4) were affiliated with one or more organizations involved in Trail protection and Trail management. A list of 42 individuals was assembled including representatives from most geographic areas along the Trail and members from 24 different organizations. (A complete list is attached.)

The Appalachian Trail Conference was asked to assist case study leaders in developing an appropriate survey form and transmittal letter, for distribution to the above list of individuals. (A copy of this letter and the survey form is also attached.) The survey form included 19 short answer type questions pertaining to a variety of subjects including; perceptions of the current Trail protection process, familiarity with various alternatives, experiences with state and local governments and landowners, management concerns, and priorities for the future.

The transmittal letter and survey forms, as well as return envelopes, were mailed to each individual on the survey list on January 12, 1982. Participants were requested to complete and return the survey forms to the Appalachian Trail Conference by January 29, 1982. As of February 10, 29 responses were received. The following is a summary of these responses.

1. How important do you think a continuation of the current Park Service land acquisition program is to the permanent protection of the Appalachian Trail?

All respondents indicated that the Park Service acquisition program was "critical" or "essential" to permanent protection of the Trail. Several of the participants stated that this need was particularly necessary in order to provide Trail continuity.

2. Do you see zoning or other land use regulations as providing adequate permanent protection for the Trail in your area? Are there management problems associated with using land use regulations, easements or leases as protection techniques?

Only one respondent indicated that zoning or other land use regulations had proven effective in providing protection to the Trail. This response was in reference to the Land Use Regulation Commission in the State of Maine. Act 250 in Vermont was also cited as an example of land use regulation that could afford some protection in the vicinity of the Trail. Virtually all of the participants however stated that zoning did not provide adequate protection. Most of these people cited lack of permanency as their primary concern. Some also indicated that zoning and land use regulation was subjected to political "whim," was politically unpopular, or was simply non-existent in many rural areas along the Trail. One participant objected to zoning on the grounds that it constitutes a "taking" of certain property rights without just compensation to the landowner.

Responses concerning easements were generally more favorable. Several participants stated that easements had proven to be a useful alternative to fee simple acquisition. Others suggested that easements could potentially provide adequate and permanent protection. Some concerns were noted however. For example, several respondents indicated that most landowners preferred to sell their property outright or in fee simple. A number of people (25%) also expressed concerns related to additional administrative or enforcement problems associated with easement provisions or the necessity to "monitor" such properties more frequently. Similar concerns were expressed with respect to leases.

3. Several Trail clubs have been involved in A.T. protection by negotiating with landowners and purchasing land. Has your club done this sort of work? If not, do you see this as a possible role for your organization in the future?

A large majority of respondents indicated that they or their organizations had been involved in landowner contacts related to corridor design or in negotiations. Less than half stated that their organization had acquired Trail-related properties through purchase or gift. Generally, only the larger organizations (i.e.-AMC, PATC) or organizations with an existing land trust capability (i.e.-Berkshire Natural Resources Council, Ottawaquechee Regional Land Trust) had experience in land acquisition. Most of the representatives of organizations that lacked such experience stated that future land acquisition activity was unlikely, generally because of a lack of adequate funding and other resources.

4. Would you or members of your club be interested in learning more about alternatives to fee simple (full ownership) land acquisition? Are there any topics such as donations, acquiring partial interests, establishing or working with land trusts, fundraising, and so on that are of particular interest?

A majority of participants (55%) indicated that they were already familiar with such alternatives and/or would welcome additional information. Those who did not wish to learn more about such issues generally cited their preference for the current land acquisition program or reluctance to pursue such alternatives due to inadequate resources.

5. Are you familiar with the use of land trusts (nonprofit organizations empowered to acquire lands and other interests in property for the benefit of the general public) for protecting natural resources? Do you think there is an opportunity to involve land trusts further in the protection of the A.T. corridor in your area?

Most of the respondents (79%) were at least familiar with the land trust concept and many of these people recognized at least some potential for the use of land trusts in A.T. protection. The majority of these participants however stated that the likelihood of any significant contributions from land trusts was very limited.

6. Has your organization worked with land conservation groups such as The Nature Conservancy, Trust for Public Lands, or others? If so, please identify the group, project area, and results.

Participants from Maine, Vermont, Connecticut and Virginia expressed knowledge of purchases in their areas by The Nature Conservancy, although not all of these people had worked directly with TNC. Other organizations that were noted included: Ottauquechee Regional Land Trust (Vermont), Housatonic Valley Association (Connecticut), Berkshire Natural Resources Council (Massachusetts), American Farmlands Trust (Vermont), Trust for Public Lands (Vermont), National Audubon Society (New York), Scenic Hudson Association (New York), Lehigh Valley Conservancy (Pennsylvania), and Southern Appalachian Highlands Conservancy (Tennessee).

7. Is your organization involved in land protection or management activities other than those concerned with the A.T.? If so, please describe.

All but six of the participants stated that their organizations were involved in activities other than those associated with the A.T. These activities ranged from maintenance programs on other trails and property or facility management to a broad range of programs related to backcountry management and resource protection.

8. Has your club encountered any landowner concerns about such things as trespass, property damage, or personal liability? If so, were you able to resolve them?

A large majority of respondents indicated knowledge of at least some landowner concerns over such issues. Trespass and property damage were cited more frequently than liability as relevant issues. The frequency of such concerns however appeared to be limited. Most participants reported resolution in these instances, primarily through discussions with affected landowners and remedial action (repair, signing, trail patrol, etc.). A few people however stated that trail relocations were required in order to satisfy the landowner. With respect to personal liability, the representative from the Green Mountain Club stated that the club provided insurance coverage to landowners. Another respondent cited a limited liability law in the state of New Hampshire.

9. An important aspect of any land protection program is establishing and maintaining good rapport with landowners. Has there been good rapport in your area? Have the government agencies along the A.T. worked effectively with private landowners? Do you have suggestions for improving relations with landowners?

Virtually all of the participants reported that rapport with landowners was generally good (the one exception was Cumberland Valley, PA). Most of these people also indicated that relations with landowners were improving as a result of two factors:

- 1) increased contact due to current acquisition program; and
- 2) increased involvement of landowners in local management planning initiatives.

A number of respondents indicated that NPS approaches to landowners had been effective, but few suggested that other government units had provided much assistance. Recommendations for improving relationships with landowners included increased communications (i.e. visits, phone calls, letters, newsletters) and increased involvement in management planning and decisions.

10. Have local governments (municipal, county) been helpful in protecting the A.T. in your area? Do you work with them often?

Most respondents stated that local governments have been generally neutral to sympathetic, but few examples of tangible support were cited. These included a number of cooperative agreements related to municipal watershed properties, preacquisition assistance from the town of Damascus (VA), and several resolutions of support. Several participants indicated that local government bodies want to be kept informed of acquisition activities, however. Others stated that these units have been more helpful in management issues such as law enforcement. Two people noted some local government concerns related to loss of tax revenue from federal land acquisition. A majority of respondents indicated that they maintained at least periodic contact with local governments.

11. Has the state been helpful in protecting the A.T. in your area? Do you have any ideas or suggestions for improving their efforts?

Responses reflected a broad range of state involvement in Trail protection. Some states, such as Massachusetts, New Jersey and Maryland have assumed a major responsibility for protection. Others like New York, Pennsylvania and Virginia have been involved in a limited number of purchases, generally in areas near existing state holdings. Still others have provided technical assistance in planning or negotiations. In areas where federal ownership is dominant (i.e. the southern national forests), states have been relatively inactive. Funding limitations were cited as the primary reason for limited state involvement in some areas.

12. Are there any particular governmental policies, programs, or regulations that present a problem to you on the A.T.? Are there any that have aided your efforts?

The most frequent response to this question related to the current NPS land acquisition program. Participants indicated that the program has been very helpful, but that delays in funding and corresponding delays in land acquisition have been disruptive. Other problems noted included inadequacies in long term payments-in-lieu-of taxes to local governments and limitations of federal appraisal practices. Helpful policies or suggested policies included: VT Act 250, state liability limitation laws, federal reimbursement for local fire fighting activities, cooperative agreements for trail management and related funding, eminent domain authority, and the authority to sell surplus lands with revenues returned for other land acquisition.

13. Do you have any ideas or suggestions for the federal government in protecting the Appalachian Trail?

Approximately 80 percent of the respondents stated that continued progress in the federal Trail protection program and funding in support of this land acquisition was their primary concern or suggestion. Other recommendations included: less emphasis on timber harvesting in the national forests; the formulation of regulations for public use in the Trail corridor; more flexibility in appraisal practices; a more effective payment-in-lieu-of-taxes program; boundary surveys and marking of the Trail corridor; and general support for volunteer programs.

14. What are the major problems your organization is experiencing regarding the maintenance of the Trail? What kind of assistance would help ease these problems in terms of resources, information, or technical advice?

The majority of participants indicated few if any problems with trail maintenance. Some respondents however noted concerns over major new trail construction, facility development (i.e. parking

lots, bridges), and conflicting uses including easy road access and ORV use along the Trail. Recommendations included: funding for major construction; volunteer recruitment, training and supervision; and staff assistance or supplemental manpower programs such as YACC.

15. Changes in the tax laws may reduce the attractiveness of tax deductible gifts to nonprofit organizations. Do you feel this will affect your fundraising or land protection efforts? If so, do you have any plans to deal with this problem?

Responses ranged from no concern to considerable concern over these tax law changes. In general, those who were least concerned represented organizations whose financial resources were developed primarily or entirely from membership dues rather than donations. Those representing organizations that receive substantial contributions of lands or funds were quite concerned. No suggestions were offered for dealing with the problem.

16. In addition to protecting the Trail corridor itself, the protection of adjacent lands on a voluntary landowner basis may be desirable to enhance the A.T. experience. Do you view protection of adjacent lands as an appropriate role for your organization?

A majority of respondents indicated that additional protection near the Trail was desirable and an appropriate role for their organization. Many of these people suggested, however, that completion of the current federal program was their first priority. Additional protection was viewed as a long term goal. Several participants expressed doubt that voluntary protection would prove to be significant.

17. In general, do you feel that the section of Trail your group is involved with has adequate protection from incompatible uses? If not, what needs to be done?

Most participants stated that protection was adequate in acquired areas, but was inadequate in areas remaining to be purchased. Some however indicated that even after federal acquisition is completed, incompatible uses may remain. Examples included ORV use, major facility development (i.e. wind turbines, transmission towers, etc.), trespass and vandalism, etc. Recommendations included timely completion of federal land acquisition, effective monitoring programs, and increased recognition and community support for the Trail corridor and adjacent lands.

18. Please identify your three highest priority needs at this point. These could include topics such as need for funds, volunteers, staff, technical advice, tools, and so on. What actions are you taking to meet these needs? (NPS and ATC have information which might be helpful--please write for details.)

The most common response to this question was the need for funds in various forms, including: appropriations for federal land acquisition; funds for major Trail and facility construction; and funds for staff support, training programs, travel expenses, and education programs. Other priorities included: more volunteers, established monitoring programs, boundary surveys and marking, and law enforcement.

19. Although private protection alternatives have been used on the A.T., the program has been based primarily on the federal purchase of interests in Trail lands. Do you think that the federal government should see private alternatives as a supplement to or as a replacement for the regular federal program?

Essentially all of the respondents stated that private protection alternatives represented only a supplement to the federal acquisition program. Several people cited the linear nature and general complexity of Trail protection in support of this view. Others emphasized the limited application or feasibility of private alternatives in many areas. Some participants also noted the necessity for eminent domain authority in certain instances. Finally, a number of participants indicated that the existing blend of private alternatives, less-than-fee alternatives, and fee-simple acquisition that characterizes the current NPS protection program represents the most effective approach to Appalachian Trail protection.

APPALACHIAN TRAIL
CONFERENCE

P. O. BOX 236
HARPERS FERRY, W. VA. 25425
TELEPHONE (304) 535-6331



January 12, 1982

Because of your experience in the planning and design of the Appalachian Trail corridor, we are hoping you will be able to take time to assist the U.S. Department of the Interior, the Park Service's parent agency, by answering the enclosed questionnaire.

As you know, many policy changes are taking place in the federal government. Budgetary constraints and political considerations may affect the ability of the Dept. of the Interior to acquire and protect national resources like the Appalachian Trail. In order to meet Interior responsibilities and the conservation challenges that lies ahead, a "Case Study" team from the Park Service is studying the possible use of land conservation alternatives that rely either on private purchases or on "less than fee" (less than full purchase) rather than a "fee simple" (full) acquisition.

The Dept.'s team has developed the enclosed questionnaire and has thoughtfully asked the Conference to assist them in their efforts to determine the Trail club reaction to possible changes in the federal protection role. Filling out and returning the questionnaire will enable the "Case Study" team to represent better your interests and concerns, as well as document those innovative approaches to land protection that have already been used on the Appalachian Trail.

Please return the questionnaire to ATC by January 29 in the return envelope provided. If you have any questions, please don't hesitate to contact me or Joe DiBello, Dept. of Interior, Philadelphia, Pa. (215) 597-1581.

Thank you very much!

Sincerely,

Laurence R. Van Meter
Executive Director

LRV/rb

Enclosures

cc: Joe DiBello
Dave Richie

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Ruth E. Blackburn
Chairman
Stephen Clark
Vice Chairman
Thurston Griggs
Vice Chairman

James L. Bore
Vice Chairman
Arthur P. Foley
Treasurer
Charles Sloan
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Corresponding Secretary
Harry F. Peet, Jr.
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Lawrence J. Gross
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David L. Repner
M. Scott Johnson
Hollye Hight
Charles A. Blankenship
Raymond F. Hunt
William R. Nelson

Margaret C. Drummond
John W. Davis
Laurence H. Van Meter
Executive Director

Questions: Please reply to only those questions you feel comfortable answering. Leave blank those you feel you can't answer. If you need more space, feel free to use the backs or additional sheets. Please return questionnaire to ATC by January 29.

NAME:

PHONE:

ORGANIZATION:

A.T. RESPONSIBILITIES:

1. How important do you think a continuation of the current Park Service land acquisition program is to the permanent protection of the Appalachian Trail?

2. Do you see zoning or other land use regulations as providing adequate permanent protection for the Trail in your area? Are there management problems associated with using land use regulations, easements or leases as protection techniques?

3. Several trail clubs have been involved in AT protection by negotiating with landowners and purchasing land. Has your club done this sort of work? If not, do you see this as a possible role for your organization in the future?

4. Would you or members of your club be interested in learning more about alternatives to fee simple (full ownership) land acquisition? Are there any topics such as using donations, acquiring partial interests, establishing or working with land trusts, fundraising, and so on that are of particular interest?

5. Are you familiar with the use of land trusts (nonprofit organizations empowered to acquire lands and other interests in property for the benefit of the general public) for protecting natural resources? Do you think there is an opportunity to involve land trusts further in the protection of the AT corridor in your area?

6. Has your organization worked with land conservation groups such as The Nature Conservancy, Trust for Public Lands, or others? If so, please identify the group, project area, and results.

7. Is your organization involved in land protection or management activities other than those concerned with the AT? If so, please describe.

8. Has your club encountered any landowner concerns about such things as trespass, property damage, or personal liability? If so, were you able to resolve them?

9. An important aspect of any land protection program is establishing and maintaining good rapport with landowners. Has there been good rapport in your area? Have the government agencies along the AT worked effectively with private landowners? Do you have suggestions for improving relations with landowners?

10. Have local governments (municipal, county) been helpful in protecting the AT in your area? Do you work with them often?

11. Has the state been helpful in protecting the AT in your area? Do you have any ideas or suggestions for improving their efforts?

12. Are there any particular governmental policies, programs, or regulations that present a problem to you on the AT? Are there any that have aided your efforts?

13. Do you have any ideas or suggestions for the federal government in protecting the Appalachian Trail?

14. What are the major problems your organization is experiencing regarding the maintenance of the trail? What kind of assistance would help ease these problems in terms of resources, information, or technical advice?

15. Changes in the tax laws may reduce the attractiveness of tax deductible gifts to nonprofit organizations. Do you feel this will affect your fundraising or land protection efforts? If so, do you have any plans to deal with this problem?

16. In addition to protecting the trail corridor itself, the protection of adjacent lands on a voluntary landowner basis may be desirable to enhance the AT experience. Do you view protection of adjacent lands as an appropriate role for your organization?

17. In general, do you feel that the section of trail your group is involved with has adequate protection from incompatible uses? If not, what needs to be done?

18. Please identify your three highest priority needs at this point. These could include topics such as need for funds, volunteers, staff, technical advice, tools, and so on. What actions are you taking to meet these needs? (NPS and ATC have information which might be helpful—please write for details.)

19. Although private protection alternatives have been used on the AT, the program has been based primarily on the federal purchase of interests in Trail lands. Do you think that the federal government should see private alternatives as a supplement to or as a replacement for the regular federal program?

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C. COST ANALYSIS

The 2100-mile Appalachian Trail requires numerous operations to keep it open and well managed. These include:

- o maintenance of existing Trail
- o reconstruction of existing Trail route.
- o construction of relocations
- o construction and maintenance of 250 campsites and shelters
- o sponsorship of volunteer and staff ridgerunners and caretakers
- o publication of maps, guidebooks, other information
- o preparation of plans for the Trail
- o monitoring of corridor lands acquired for the Trail
- o assistance in planning final corridor design

These management operations are shared by a unique cooperative system of private and public organizations: The Appalachian Trail Conference, its 31 maintaining Trail clubs, landowners, the Forest Service, National Park Service, and Tennessee Valley Authority, and the park and forest services of 14 states. Given this diversity of organizations (volunteer vs. government, local vs. national), the variety of management tasks, and the range of cost estimates between different sections of the A.T., predicting costs for the Trail as a whole is difficult.

However, it is clear from the direction provided in the Comprehensive Plan and the tradition of the Trail, that the great bulk of the costs associated with operating the Trail will be assumed by the volunteer-based organizations which created the Trail 60 years ago and have maintained much of it ever since. No significant new expenses for governments at the state or federal level are expected.

By way of example of the volunteer contribution, the costs of three management tasks--Trail maintenance, reconstruction, and construction--have been estimated below.

Analyzing costs shared by 32 private organizations, 2 federal agencies, and approximately 16 state agencies must necessarily depend on broad "replacement costs", as if the government were to suddenly be encumbered with the work done by the federated clubs. The estimates below are calculated in this way. In reality, these costs have been and will continue to be a cashless contribution from Trail volunteers.



Financial savings to government for maintenance, reconstruction and construction of the Appalachian Trail:

- I. Maintenance: The U. S. Forest Service estimates that annual maintenance of trails in regions 8 and 9 (eastern regions) costs \$350 per mile per year. These repeating cycles of annual work assures the opening and clearing of the Trail, paint blazing, signing, clearing of drainage structures and repair of bridges.

Existing state and federal park and forest programs contribute varying amounts of work to the effort. Therefore, this estimate must account for this share. Experience indicates that the Trail clubs provide approximately 50% of the trail work, where the A.T. crosses established state forests and parks, or established federal forests and parks.

| <u>Administration</u> | <u>Mileage</u> | <u>% share of work assumed by Trail club</u> |
|--|----------------|--|
| NPS (established parks) | 212.6 | 50% |
| USFS | 804.1 | 50% |
| Established state forests and parks | 252.8 | 50% |
| NPS lands, outside established areas | 137.7 | 100% |
| State land, outside established areas | 95.4 | 100% |
| Private land | 554.0 | 100% |
| Total | 2056.6 | |

Totals: On 1269.5 Trail miles, the clubs provide 50% of the costs of maintenance, which @ \$350/mile/year = \$175/mile/year (50%) contributed or \$222,162.

On 787.1 Trail miles, the clubs provide 100% of the cost of maintenance, which @ \$350/mile/year = \$275,485.

Total Trail club contribution to maintenance per year = \$497,647.

- II. Reconstruction: Reconstruction is the capital improvement of existing Trail mileage through installation of drainage structures, treadway excavation and, in the case of wet terrain, bridge boardwalks. The U. S. Forest Service estimates that reconstruction costs \$3000 per mile, and that the life expectancy of this work (its depreciation) is 20 years. Therefore, planners may surmise that 1/20th of the Trail is rebuilt each year. Trail club records indicate, in fact, that approximately 5% (1/20) of their Trail sections, receive capital reconstruction each year.

The clubs will reconstruct 438.9 miles of Trail outside state and federal holdings in the next 20 years. This estimate is derived by the fact that, of the approximately 348.2 miles of the Appalachian Trail that will be relocated in the next 5 years, most of this is on the 787.1 miles of the Trail outside existing state and federal holdings. Reconstruction costs should exclude work on trail segments slated for relocation. $787.1 - 348.2 = 438.9$ miles of trail to be reconstructed.

5% of 438.9 = 21.95 miles per year X \$3000 (100%) = \$65,850 reconstruction cost per year, contributed entirely by volunteer organizations.

Reconstruction efforts where the Trail is on existing state and federal holdings, averages out to be shared on a 50:50 basis between the Trail clubs and the resident agency.

5% of 1269.5 = 63.48 miles X \$1500 (50%) = \$95,220.00, $\frac{1}{2}$ of total reconstruction cost that is contributed by the Trail clubs each year.

Total annual club contribution to Appalachian Trail reconstruction
= \$161,070.00.

III. Construction of Relocations: 348.2 miles of the Trail, as stated previously, will be relocated in the next 5 years. The U.S. Forest Service estimates that construction of new trail in the eastern regions costs \$5100 per mile. This expense includes all major capital investments, including bridges over streams, clearing, excavation, drainage and hardening of the Trail in wet areas.

The 348.2 miles will be almost entirely executed by the Trail clubs, because this mileage is outside established state and federal holdings.

69.64 miles will be relocated each year ($\frac{1}{5}$ of 348.2), therefore, the cost per year = $69.64 \times \$5100$ or \$355,164.00.

| | | |
|---------------|----------------|---------------|
| <u>Totals</u> | Maintenance | \$ 497,647.00 |
| | Reconstruction | 161,070.00 |
| | Construction | 355,164.00 |

\$1,013,881.00 Annual contribution over next
five years.

D. A SELECTED CASE STUDY

Ottawaquechee Regional Land Trust

The Ottawaquechee Regional Land Trust (ORLT), headquartered in Woodstock, Vermont, is playing an important role in assisting the National Park Service to protect the 54.9 miles of Appalachian Trail in Vermont for which the Park Service has protection responsibility. Most of the ORLT's contribution to date has been in the form of pre-acquisition work, making landowners aware of the Congressional mandate to protect the Trail and the probable need to acquire property or interest in property along the Trail corridor. If NPS funding for the Appalachian Trail should be substantially reduced in the future, the ORLT would be in a position to play a much larger role in protecting the Trail. Already the ORLT has accepted two donations of property on the Trail which it expects to resell to the Park Service, and the Trust is contemplating the possibility of holding interests or property along the Trail in the future. The Ottawaquechee Regional Land Trust is a good example of a private sector conservation tool that shows great promise not only for protecting portions of the Appalachian Trail but for other sorts of natural resource protection as well.

Background

The ORLT was incorporated in 1977, after approximately two years of planning and laying groundwork. As a tax-exempt organization, a land trust must be chartered by the State in which it operates. The founder and Executive Director of the ORLT is Rick Carbin. In the mid-1970s Carbin served as Executive Director of the Ottawaquechee Regional Planning Commission. He became frustrated with the ability of local zoning and planning efforts to deal with the area's problems of poor development, scattered growth, and a speculative real estate market. Carbin talked about his concerns with many residents of the Woodstock area and found that a number of like-minded people shared his perceptions, and were particularly disturbed by the loss of productive farm and forest lands. The Ottawaquechee Regional Land Trust grew out of this nucleus of concerned citizens.

At the outset Carbin served as director of the Trust while continuing to serve as director of the Regional Planning Commission. During the planning stages and for a time after the ORLT's formal organization, a number of private groups were helpful in providing advice and guidance. The Nature Conservancy was particularly helpful, as were a number of regional or local land trusts in Connecticut and Massachusetts; the Redding (Connecticut) Land Trust, the Lincoln (Massachusetts) Land Trust, and the Connecticut River Watershed Council. The ORLT began its activities slowly and with relatively modest initial objectives. Carbin talked with local landowners about the possibility of their donating development rights and conservation easements to the Trust, explaining to them the financial and tax advantages of such donations. It was necessary for ORLT to begin by focusing on donations because of its initial lack of financial resources.

The Trust's first major success was the purchase of the development rights of a farm which was for sale on the open market. The ORLT's purchase of these rights allowed a working farmer to buy the property for farming purposes, which he would not have been able to afford if he had had to pay the full market value. At the same time, this transaction allowed the seller to receive full value for the property. This is especially important to farmers because their land usually represents almost all their total assets. A farmer whose land constitutes his pension fund, hospitalization plan, children's education, and life insurance generally is not in a position to sell his land for less than the market will bear. Thus land trusts like the Ottauquechee have a vital role to play in conserving farmland.

Involvement with the Appalachian Trail

It was during the first year of the ORLT's activities, in 1977, that the Trust first became involved with the Appalachian Trail. Carbin attended the Park Service's first public meeting in the area, in his capacity as director of the Regional Planning Commission. This first meeting was boisterous, with many local residents unhappy about the prospect of the Park Service acquiring land for a Trail corridor. At this initial meeting Carbin suggested holding a second meeting, to be attended only by affected landowners. At this second meeting Carbin realized that the landowners were not opposed to the Trail or its protection, but rather wanted some voice in the location of the Trail on their property. At this meeting Carbin introduced the possibility of the Park Service purchasing easements rather than full fee.

As a result of this second meeting, Carbin set up a steering committee represented both by landowners and the Park Service, under the supervision of the ORLT. One of the committee's actions was to hire a staff person from Vermont to coordinate Trail protection activities with the landowners. Preston Bristow from the Green Mountain Club was hired. Since this initial involvement with the Appalachian Trail, the ORLT has conducted a number of property appraisals, and has helped greatly with pre-acquisition activities, working with landowners to make them more amenable to dealing with the Park Service. The ORLT has also begun working with landowners along the Long Trail in northern Vermont.

ORLT Methods

Because land trusts appear to have so much potential for conserving natural resources, it may be instructive to look in some detail at how the Ottauquechee Trust is structured and how it functions.

The ORLT began as a purely local effort in the Woodstock area. Its top priority is to keep working farms and timberland in productive use. In the course of its work the Trust has developed criteria to use in deciding which properties to protect. The land must be important in some way, either as active farmland or as timberland in a sufficiently large parcel to be commercial. Under Vermont law, managed timberland qualifies for preferential tax assessment with a minimum lot size of 25 acres.

When it first began, the ORLT had to rely on donations to acquire interests in land because it had very few assets. Donations naturally are a preferred way for land trusts to acquire property because it costs them nothing. The usefulness of donations is generally limited, however, because relatively few landowners are in a position to take advantage of the tax benefits that can accrue from donation of property to a tax-exempt organization. Unless there are changes in the tax laws, this is likely to be increasingly true in the future because the Economic Recovery Act has reduced the highest marginal tax bracket from 70% to 50%. The Internal Revenue Service is also in the process of re-writing regulations concerning gifts for conservation purposes. The uncertainty surrounding these new regulations has held up Trust activities and could eliminate some opportunities. If the new regulations are much stricter, this could further limit the attractiveness to landowners of donations from a purely financial point of view.

The ORLT has therefore had to resort to conservation techniques that generate income or at least pay their own way. Sometimes the Trust will buy a property and then resell it, while retaining a scenic easement or conservation restriction on the property. Or the Trust might buy a property and sell it to a buyer who is willing to donate a scenic easement to the Trust, take a tax write-off on the donation, and then make a cash contribution to the Trust. Either case requires that the Trust obtain sufficient credit to make the purchase. The Trust does this by relying on the credit of its members and supporters. This technique thus requires that the Trust's backers have substantial assets, although these need not be in cash or other liquid forms. The Woodstock area is one of the more wealthy areas in Vermont, and real estate prices have been rising at a fairly steady rate of 15% per year for the past ten years. Many of the ORLT's supporters have large landholdings that they purchased 30 or 40 years ago, so these landowners have substantial net worth that the Trust can draw against. As the Trust resells the properties it acquires, encumbered with scenic easements or conservation restrictions, it pays off the loans. In effect, then, its supporters' landholdings function almost as a revolving fund. Using this technique, the Trust was able to pay more than one million dollars for 330 acres of land in South Woodstock. It appears that a substantial line of credit may be a fundamental prerequisite for the successful establishment of a land trust. Holding easements is made easier for the Trust by the fact that such easements are not taxed in Vermont. In some other States easements are considered a form of property and are taxed as such.

Another technique that Carbin foresees the ORLT using extensively in the future, although the Trust has not used it much to date, is a process sometimes known as creative land development. In this process, the Trust would acquire a property, such as a farm or parcel of timberland. The most appropriate portion for development would be subdivided and sold for development purposes. The remainder would either remain the property of the Trust or would be resold with easements or restrictions. The proceeds from the sale of the portion to be developed would finance most or all of the transaction. The advantages to a land trust of this type of transaction are several. It ties up credit

for a relatively short time, it generates income, and perhaps most importantly in the long run, it removes from the Trust the suspicion in the community that the Trust is hampering growth, holding down local property tax revenues, or generally being exclusionary. This is a perception that land trusts sometimes encounter, particularly in less wealthy communities.

Generating income and accumulating assets are continuing challenges for most land trusts. The ORLT is doing quite well, going from no assets in 1977 to an operating budget of \$150,000 in 1980. This money came from contributions and income from transactions, and went to pay staff salaries and fees for legal, planning, and engineering services. The Trust's endowment is now around \$30,000. The role of contributions in the financing of the ORLT remains important. Whenever the Trust arranges a transaction that confers tax benefits on a landowner, it asks the landowner for a cash contribution, in effect, to share the benefit. Because many interested landowners in the Woodstock area are retired, estate planning is also an important part of the Trust's activities.

While the ORLT began in the Woodstock area, it has recently enlarged its area of interest to include the entire State. Carbin is considering launching a large, statewide fundraising drive to increase the Trust's endowment. It will be interesting to see how the Trust succeeds in other parts of Vermont. The Woodstock area is somewhat unrepresentative of the State as a whole, being wealthier than average and having a high proportion of landowners with a strong interest in conservation. These appear to be two necessary pre-conditions for a successful land trust. But having become established, it may be possible for the ORLT to expand into less congenial parts of the State. For example, in the Northeast Kingdom, in the extreme northern end of the State, there is a good deal of foreign investment coming from Switzerland. The pattern is that the foreign investors buy a farm and then lease it back to the farmer for a five-year period. It may be difficult for the ORLT to compete in this type of real estate market. In other parts of Vermont, however, with a steady source of income from contributions, endowment, and creative land development, the Trust may well be able to pay full market value for properties, as is generally necessary in communities of working farmers.

Lessons of the ORLT

In addition to requiring a fairly wealthy community and landowners with a strong interest in conservation, Carbin identifies three elements that a land trust must have in order to succeed. The first is a strong leader, someone who is willing to play a leadership role not only within the land trust but within the community as well. Furthermore, this leader must be widely perceived as being businesslike and competent. Secondly, the trust must have at its disposal a substantial amount of impeccable technical ability. The ORLT has two attorneys on its staff and sometimes draws on the planning expertise of the Ottauquechee Regional Planning Commission. Knowledge and ability regarding taxes,

finance, real estate, land use planning, and mapping are required, and the staff must be capable of working out the details of each individual case, which can vary widely. Thirdly, the structure of the land trust is important. It must have a solid board of directors who understand and are committed to the processes involved. The ORLT has an 11-member board, all of whom are full-time residents of the Woodstock area. As the Trust expands its activities to cover the entire State, the composition of the board will gradually extend to the whole State as well.

Conclusion

The Ottauquechee Regional Land Trust is playing a highly useful role in protecting the Appalachian Trail corridor in Vermont, in assisting with pre-acquisition work and in accepting donations and passing them through to the Park Service. In general, land trusts have the potential to help a great deal, not only in pre-acquisition work and accepting donations, but also in holding properties and interests in properties themselves, in three-party exchanges, and perhaps in working out land management plans with Trail corridor landowners.

E. Task Directive
Appalachian Trail Case Study

Background

Recent reports by the General Accounting Office have criticized the heavy reliance on fee simple purchase to protect land in the National Park System. Although current policies require consideration of alternatives, in many areas the full range of creative protection strategies has not been thoroughly explored. Practical funding constraints, rapid expansion of the National Park System, increasing pressures on natural resources, and landowner and citizen concerns about past Federal acquisition practices are some of the forces which require new approaches to meeting the intent of Congress in currently authorized units of the National Park System.

This study of the Appalachian Trail project is one of several efforts to determine what lands or interests need to be in Federal ownership to protect park resources, what alternative protection tools are available, and what implementation strategies are most cost effective. The basic objective of the case studies is to find how to provide the highest quality of resource protection and visitor use at lowest cost. Findings will be presented to the Director for his consideration and approval before any changes in current policy will be affected. The case study will complement and not interfere with on-going planning, acquisition or protection efforts.

Participants in case study

Appalachian Trail Project Office (ATPO)
Planners from Mid-Atlantic Regional Office (MARO)
U.S. Forest Service (USFS)
State representatives from Maine, Massachusetts, New Jersey, Pennsylvania
and Maryland (States)
Appalachian Trail Conference (ATC)

| | <u>What</u> | <u>Who</u> | <u>When</u> |
|----|---|---------------|-----------------|
| 1. | Prepare a draft of chapters on Legislative History, Resource Description, Current Plans and Status of Program. Circulate draft to participants. | ATPO | Completed |
| 2. | Document protection alternatives used in the project. Review selected cases that illustrate protection strategies. Evaluate potential of protection alternatives for future use in the project. | ATPO- MARO | 10/5-- 10/30 |

To illustrate the diversity of the project, team members will focus attention on a State-led protection effort that is receiving minor support from the NPS (Maine), an exclusively State protection effort (Maryland), a Forest Service protection effort receiving private and state support (Roan Mountain, Tennessee), an NPS-led protection effort where a primary role is played by a

regional land trust (Vermont), and an unsolved problem area (Cumberland Valley, Pennsylvania). In addition, team members will provide an overview of the balance of the NPS involvement in the project highlighting alternative protection strategies in use and identifying opportunities for expanding these alternative strategies.

ATC will also organize a study of concerns, priorities and perspectives of trail managers, with the help of MARO, with the intention of having this information available during the testing period beginning after December 7.

Circulate draft of chapters on Alternative Strategies and Analysis of Alternatives to participants before November 9 meeting.

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|---|---------------|----------------|
| 3. Meeting of participants to review draft materials and to agree on scope of additional study. | All | 11/9 |
| 4. Prepare report on preliminary findings and circulate to participants. | ATPO- MARO | 11/20 |
| 5. Present preliminary findings to case study leaders. | ATPO- MARO | 12/7 |
| 6. Test preliminary findings with ongoing protection program. Monitor, evaluate and circulate findings to participants. | ATPO- MARO | 12/7-- 2/15 |

This testing period is not likely to be long enough to reach definite conclusions about alternative approaches that may be identified by December 7, but it is expected to generate information that will help improve our ability to forecast the probable success of these alternatives. For example, landowner reaction to a modified easement approach could be monitored as a means of estimating savings that a modified approach might yield.

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| 7. Submit final report, reflecting comments of participants. | ATPO- MARO | 3/8 |
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Cost

There should be no additional costs for ATPO in participating in the case study. Outside participants would be expected to absorb their costs as a part of their contribution to the Appalachian Trail partnership. To fund the participation of the MARO planners, \$40,000 for 16 work months and \$7,500 for travel costs, or a total of \$47,500, is required.

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