



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

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RESOURCES, COMMUNITY,
AND ECONOMIC DEVELOPMENT
DIVISION

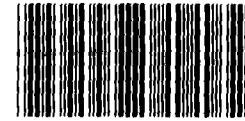
B-216600

MAY 29, 1985

The Honorable Mack Mattingly
United States Senate

The Honorable Sam Nunn
United States Senate

The Honorable Lindsay Thomas
House of Representatives



127366

Subject: The Federal Government's 1943 Acquisition of Land
at Harris Neck, Georgia (GAO/RCED-85-76)

In your July 24, 1984, letter, provided in enclosure I, and in subsequent agreements with your offices, you asked us to review various issues you raised about the federal government's 1943 Harris Neck land acquisition which, in 1962, became the Harris Neck National Wildlife Refuge in McIntosh County, Georgia.

Specifically, you asked us to determine whether (1) the government's acquisition of Harris Neck land was made in accordance with applicable law, (2) the landowners at Harris Neck were fairly compensated in accordance with applicable law, (3) there was evidence that racial discrimination was a factor in determining compensation paid to owners of comparable parcels of land, (4) verbal or written statements were made by agents or officials of the federal government to the effect that the land could be repurchased by the owner(s) at some future date, and if so, would this constitute a legally binding agreement, (5) the federal government acted properly when it redesignated the land from "agricultural" to "airport" at a time when such designation would affect the disposition of questions regarding future ownership, (6) officials of the War Assets Administration (which administered the federal government's domestic surplus property disposal functions from January 1946 until June 1949) acted in accordance with the law when they granted use of the land to McIntosh County rather than permitted the original owners to reacquire it, and (7) the condemnation of Harris Neck differed from the procedures and compensation arrangements that were applied in the acquisition of lands that now comprise the Ft. Stewart Military Reservation and the Hunter Army Airfield complex in Georgia. We are also providing, at your request, a listing of lands originally acquired by the federal government for military purposes and subsequently transferred into the National Wildlife Refuge System.

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We conducted our review at the Interior Department's Fish and Wildlife Service's (FWS) headquarters offices in Washington, D.C., and its Atlanta regional office, where the government's Harris Neck land acquisition records are on permanent loan from the National Archives. In addition, we analyzed pertinent legislative documents and court records at FWS headquarters and Atlanta regional office locations. We also obtained Harris Neck land acquisition information from the U.S. Army Corps of Engineers' real estate office located in Savannah, Georgia, and information on the availability of tax assessment data from the McIntosh County Tax Commissioner's office in McIntosh County, Georgia. Since the government's Harris Neck land acquisition occurred about 42 years ago, we encountered several obstacles during our review, including the following: (1) documentation was destroyed or unsupported, (2) many former landowners are now deceased, and (3) a 1981 fire destroyed Harris Neck 1920 to 1979 land and property tax assessment records. These obstacles limited the availability and verification of information that could be obtained to address your questions on fair compensation and racial discrimination. We performed our review between August 1984 and January 1985 in accordance with generally accepted government auditing standards.

On October 4, 1984, we briefed your offices on the results of our review. This letter summarizes those results and provides the additional information your offices subsequently asked us to obtain.

We found nothing in the government's existing Harris Neck land acquisition records indicating that any irregularity in the land acquisition occurred, or that any repurchase commitments were made by the government to the former landowners. As a result of the absence of complete land acquisition and property assessment records, we were unable to evaluate the acquisition payments to the former Harris Neck landowners for their land, including improvements such as houses, fences, and crops, with land and property tax assessment records.

ACQUISITION HISTORY

In January 1943, pursuant to Public Law 71-736 (40 U.S.C. 258a), which authorized the condemnation of land by the government in advance of a final compensation judgment, the United States condemned 2,687 acres of Harris Neck land for use as a wartime airfield.

After World War II, the federal government conveyed the land to McIntosh County, Georgia, for airport purposes under section 13 of the Surplus Property Act of 1944, as amended (Public Law 78-457). However, title reverted to the federal government in February 1961 through the county's default of this agreement. The land, which contains about 1,100 acres of salt marsh, was subsequently reported as excess federal property and transferred, under provision of the Federal Property and Administrative Services Act

of 1949 (Public Law 81-152),¹ in May 1962 to FWS for operation as the Harris Neck National Wildlife Refuge, a unit of the National Wildlife Refuge System.

Of the total 89 million acres in the National Wildlife Refuge System, about 14,000 acres were originally acquired by the military through land condemnation proceedings and subsequently transferred to FWS after having served their military usefulness. These transferred lands are identified in enclosure II.

Today, Harris Neck is important to the National Wildlife Refuge System because its location provides the potential to encourage reestablishment of the southward migration of Canada geese, according to FWS. This relatively small refuge is one of a string of migratory bird wintering and resting areas along the Atlantic Coast.

A chronology of Harris Neck events from 1943 to 1984 is provided in enclosure III.

PROPRIETY OF ORIGINAL LAND ACQUISITIONS

The federal government's Harris Neck land acquisition records showed that there were 84 owners of 169 Harris Neck tracts (several people owned multiple tracts) acquired by the government. Compensation to the landowners was determined in February 1948 by jury verdicts in nine separate judgments of the U.S. District Court for the Southern District of Georgia. These judgments determined the value of the tracts together with all improvements, claims, and damages of whatever nature arising out of the condemnation action. The final judgment files contained an opinion of the U.S. Attorney General stating that full disbursements of funds had been made and that the condemnation proceedings were conducted in a proper and regular manner. We found no evidence in the government's land acquisition records of any unpaid claims. We also found nothing in the government's land acquisition records indicating that any irregularity in the land condemnation proceedings occurred, or that a commitment was made by the federal government to return title of the Harris Neck land to former owners after the government's use of the land was over.

COMPENSATION TO FORMER LANDOWNERS

The federal government's records indicated that 59 (70 percent) of the 84 former owners were Black, 19 (23 percent) were

¹Under provisions of P.L. 78-457, the preferential opportunity for former landowners to reacquire land was subordinate to municipalities and federal agencies. The former landowners had no preferential opportunity under P.L. 81-152 to reacquire the land before federal, state, and local governments, or the general public.

White, and 6 (7 percent) were not racially identifiable. Compensation paid by the government to the former owners for the Harris Neck tracts is documented in the District Court's condemnation records and is summarized in the following table.

Compensation Paid

<u>Owner's race</u>	<u>Owners</u>	<u>Tracts/Acres</u>	<u>Total payment</u>	<u>\$ Range paid per acre</u>	<u>Average per-acre payment</u>
Black	59	89/1,102	\$29,653	\$ 2.44-5,921	\$26.90
White	19	66/1,532	57,153	2.09-1,260	37.31
Racially unidentifiable	<u>6</u>	<u>14/53</u>	<u>2,743</u>	<u>11.54-325</u>	<u>52.08</u>
Total	<u>84</u>	<u>169/2,687</u>	<u>\$89,549</u>	<u>\$ 2.09-5,921</u>	<u>\$33.32</u>

As shown above, the 84 former Harris Neck landowners received a total payment of \$89,539 for their 169 tracts, comprising 2,687 acres of land, for an average payment of \$33.32 per acre. The average per-acre compensation received by the Black, White, and racially unidentified owners was \$26.90, \$37.30, and \$52.08, respectively.

Existing land acquisition records did not indicate what improvements were on the tracts or provide any other explanation for the per-acre compensation awards. Our attempt to develop an assessment of the area as it existed in 1943 by reconstructing improvements on the tracts through an analysis of the McIntosh County tax assessment records was thwarted by a 1981 fire. The McIntosh County Tax Commissioner said that the fire destroyed all of the county's 1920 to 1979 tax records, which included those for Harris Neck.

As a result of the absence of land and property tax assessment records, we were unable to evaluate (1) the acquisition payments to the former Harris Neck landowners for their land, including improvements, and (2) whether there was racial discrimination in determining the compensation.

COMPARISON OF COMPENSATION

To gauge the fairness of the government's average \$33.32 per acre compensation to the Harris Neck landowners, we obtained information, at your request, regarding the government's compensation to former landowners of the Ft. Stewart Military Reservation, located about 20 miles from the Harris Neck National Wildlife Refuge. As agreed with your offices, we did not review the Hunter Army Airfield land acquisition procedures and compensation

arrangements because of the unavailability of government records. The chief of the U.S. Army Corps of Engineers' Real Estate Office for the Savannah, Georgia, district said that the government acquired the 280,376 acres at Ft. Stewart between 1941 and 1950. He noted that the marsh-type terrain of Ft. Stewart is very similar to that of Harris Neck. He said that the government paid \$2,352,164 for 140,669 acres acquired by condemnation actions, and another \$2,355,195 for 139,707 acres acquired by direct purchase, for an average per-acre payment of \$16.72 and \$16.86, respectively.

The average \$33.32 per-acre compensation received by the former Harris Neck landowners was, therefore, between \$16.46 and \$16.60 an acre greater than the compensation received by former Ft. Stewart landowners.

DISPOSITION OF HARRIS NECK PROPERTY

After the war, the acquired Harris Neck land was declared surplus to the federal government's needs under the Surplus Property Act of 1944 as amended. The act in effect gave higher priority to the rights of municipalities to use surplus land for airport purposes than to the rights of former owners to reacquire their property. Under the act, if the government classified surplus property as suitable for airport use, it could be conveyed to a municipality for that purpose. If the municipality failed to use the land for airport purposes, the act provided that, at the federal government's option, ownership would revert to the United States. Only if surplus land was not classified as suitable for airport purposes and not disposed of to federal, state, or local governments, was the federal government required to notify the person(s) from whom the land was acquired of its availability and offer it in a private sale.

The land acquisition records indicated that the federal government classified 1,716 acres of the Harris Neck land as "agricultural" and classified the remaining 969 acres as "airport property." (These records did not indicate why this acreage totaled 2,685 acres, or 2 acres less than the full 2,687 acres acquired in 1943.) After McIntosh County officials expressed interest in obtaining the entire 2,687 acres for airport purposes, the acreage was reclassified by the federal government as suitable for a public airport, and the acres were conveyed in 1948 to McIntosh County for use as a public airport with a reversionary interest in the United States.

Under the provisions of the act, the federal government had broad discretion to decide whether land was suitable or desirable for an airport. This included authority to classify land for airport purposes, not only for immediate requirements but also for future requirements. In addition, a classification of land for airport purposes could include additional property needed to develop sources of revenue from nonaviation businesses at the airport.

The information now available does not reveal the federal government's rationale for reclassifying the acreage and conveying it to McIntosh County. In view of the broad discretion in the statute to declare land suitable or desirable for airport (or associated) use, and the impossibility now of reviewing the justification for the federal government's decision in 1948, we are unable to conclude that the government's actions were improper.

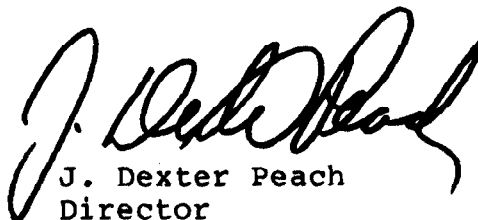
Finally, in 1961, upon the failure of McIntosh County to meet the terms of the conveyance agreement--to use the land for airport purposes--the land reverted to the United States and was subsequently transferred under the Federal Property and Administrative Services Act of 1949 in May 1962 to FWS for use as a wildlife refuge. The 1949 act superseded most of the applicable land disposal provisions of the Surplus Property Act of 1944. The 1949 act provided no preferential opportunity for former Harris Neck landowners to reacquire the land before federal, state, and local governments, or the general public.

AGENCY COMMENTS

After reviewing a draft of this report, the Department of Defense concurred without comment. The Department of the Interior also found the draft report to be a factual presentation of the matters discussed. (See enc. IV and V.)

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As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 10 days from the date of issuance. At that time, we will send copies to the Secretaries of Defense and the Interior, and make copies available to other interested parties upon request.


J. Dexter Peach
Director

Enclosures - 5

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 COMMITTEES
 AGRICULTURE
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 FISHERIES



Congress of the United States
House of Representatives
 Washington, D.C. 20515

July 24, 1984

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Mr. Charles Bowsher
 Comptroller General of the
 United States
 441 G Street, N.W.
 Washington, D.C. 20548

Dear Mr. Bowsher:

This letter is to request that you resume an investigation of the actions of the United States government in its acquisition of some 2,686 acres of real property, which realty now constitutes the Harris Neck National Wildlife Refuge in McIntosh County, Georgia.

All or part of this property was acquired by condemnation in or about 1943 to establish a military aviations training facility. The condemnation action and subsequent decisions involving the property are a matter of substantial and continuing concern. On May 2, 1979, former Congressman Bo Ginn requested the General Accounting Office to review the various issues involved. After initiating the investigation, the GAO withdrew its involvement when the matters at issue became the subject of civil litigation in which the U.S. government was joined as a party.

Because the litigation has subsequently been concluded with a number of fundamental questions left unanswered, we request that the GAO resume its investigation and consider the following:

1. Whether the original land acquisition at Harris Neck was conducted in accordance with applicable law;
2. Whether the landowners at Harris Neck were fairly compensated in accordance with applicable law;
3. Whether there is evidence that racial discrimination was a factor in determining compensation paid to owners of comparable parcels of land;
4. Whether verbal or written statements were made by agents or officials of the federal government to the effect that the land could be repurchased by the owner(s) at some future date, and if so, would this constitute a legally binding agreement;

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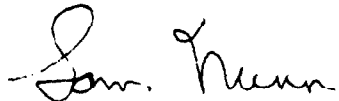
5. Whether the federal government acted properly when it redesignated the property from "agricultural" to "airport" at a time when such designation would affect the disposition of questions regarding future ownership;

6. Whether officials of the War Assets Administration acted in accordance with the law when they granted use of the property to McIntosh County rather than permitting the original owners to reacquire it;

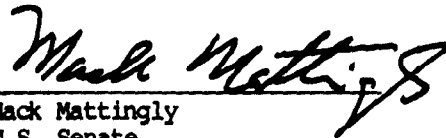
7. Whether the condemnation of Harris Neck differed from the procedures and compensation arrangements which were applied in the acquisition of the lands which now comprise the Ft. Stewart-Hunter Army Airfield, Ga., complex.

We appreciate your assistance in resuming this investigation and trust you will provide us with a complete report of your findings at the earliest possible time. Thank you for your assistance and cooperation.

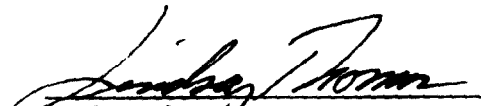
Sincerely,



Sam Nunn
U.S. Senate



Mack Mattingly
U.S. Senate



Lindsay Thomas
U.S. House of Representatives

FWS REFUGE LANDS ORIGINALLY ACQUIRED THROUGH CONDEMNATION BY
THE MILITARY AS OF OCTOBER 1984

Region 1	<u>Acres</u>
California:	
Salinas Wildlife Management Area (Army)	364
San Francisco Bay	
National Wildlife Refuge (Navy)	37
Washington:	
Nisqualle (Army)	468
Region 2	
Texas:	
Matagorda Island (Army Corps of Engineers)	19,000
Region 3	
Illinois:	
Crab Orchard (Army)	17,920
Region 4	
North Carolina:	
Cedar Island (Navy)	31
Puerto Rico:	
Cobo Rojo (CIA)	587
Georgia:	
Harris Neck (Army)	2,687
Region 5	
Maine:	
Seal Island (Navy)	65
Massachusetts:	
Oxbow (Army)	662
New York:	
Lido Beach (Army)	22
Rhode Island:	
Ninigrit (Navy)	28
Sachuest Point (Navy)	50
Virginia:	
Cape Charles (Air Force)	174
Fisherman's Island (Navy)	1,000
Marumsc (Army Corps of Engineers)	63
Plumb Tree Island (Army Corps of Engineers)	195
Nansemond (Navy)	208
Wallops Island (Navy)	373
Total	<u><u>43,934</u></u>

CHRONOLOGY OF HARRIS NECKEVENTS: 1943 - 1984

Jan. 1943	Land condemned by federal government for use as an Army airfield under federal condemnation procedures (40 U.S.C. 258a).
June 1945	Opinion of the U.S. Attorney General that the condemnation proceedings were regularly conducted.
Feb. 1948	Final U.S. District Court judgments compensating former land owners.
June 1948	The Army airfield was closed and the land conveyed under provisions of P.L. 78-457 from the federal government to McIntosh County on condition it be used for airport purposes.
Feb. 1961	Land reverted to federal government, in custody of the Federal Aviation Administration, because McIntosh County was not operating the facility as agreed in the 1948 conveyance.
Sept. 1961	Federal Aviation Administration declared the land as excess to its needs.
May 1962	Land transferred under provisions of Public Law 81-152 to the Interior Department's Fish and Wildlife Service for operation as a unit of the National Wildlife Refuge System.

Feb. 1976 Public Law 94-223 amends the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd) and restricts refuge lands from being transferred out of the refuge system.

Sept. 1976 Legislation (H.R. 15743; 94th Congress) introduced to convey Harris Neck land to former owners. Not reported out of committee.

May 1979 Legislation (H.R. 4018; 96th Congress) introduced to convey Harris Neck land to former owners. Not reported out of committee.

June 1980 U.S. District Court for the Southern District of Georgia rules that the statute of limitations bars claims of former Harris Neck landowners (Edgar Timmons v. United States of America, Civil Action No. 279-50) and the refuge lands are the property of the United States.

July 1980 Legislation (H.R. 7897; 96th Congress) introduced to convey Harris Neck land to former owners. Not reported out of committee.

April 1982 11th U.S. Circuit Court of Appeals upholds the June 1980 U.S. District Court ruling [(672 F.2d 1373 (11th Cir. 1982))].

July 1984 U.S. Senators Mattingly and Nunn, and Representative Thomas, requested a review of the Harris Neck land acquisition by the U.S. General Accounting Office.



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

19 APR 1985

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

Dear Mr. Peach:

The Department of Defense (DOD) acknowledges the receipt of your draft report, "The Federal Government's 1943 Acquisition of Land at Harris Neck, Georgia," GAO/RCED-85-76, dated 14 March 1984, GAO Code 143433 (OSD Case No. 6716), and concurs without comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert K. Dawson".

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



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

APR 15 1985

Mr. J. Dexter Peach
Director, Resources, Community
and Economic Development
General Accounting Office
Washington, D.C. 20548

Dear Mr. Peach:

We have reviewed the proposed GAO report entitled "The Federal Government's 1943 Acquisition of Land at Harris Neck, Georgia," and find it to be a factual presentation that agrees with our own assessment of the matter.

One minor disagreement is the reference on page 5 relating to destruction of land acquisition records after a 10-year storage period, which is attributed to the Fish and Wildlife Service Realty Chief. There is no recollection of such a statement by anyone in the Service; possibly the source is the U.S. Army Corps of Engineers. The Fish and Wildlife Service practice is to keep a permanent record of at least certain papers on individual transactions, however, that is of no effect since no tract file records came to the Fish and Wildlife Service when the property was transferred in 1961.

GAO efforts in establishing the history of the land transactions leading to establishment of the Harris Neck NWR are appreciated.

Sincerely,

Susan Reece
J. Craig Potter
for Acting Assistant Secretary for
Fish and Wildlife and Parks

GAO note: The page reference on page 5 of our draft report has been deleted from this final report.



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