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REPORT TO THE CONGRESS

FILE

Review Of Policies And Practices For Acquiring Land For Reservoir Projects J - 118634

**Corps of Engineers (Civil Functions)
Department of the Army**

***BY THE COMPTROLLER GENERAL
OF THE UNITED STATES***

FEB. 3, 1969



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

This report presents the results of our review of the policies and practices of the Corps of Engineers (Civil Functions), Department of the Army, for acquiring land for reservoir projects.

Copies of this report are being sent to the Director, Bureau of the Budget; the Secretary of Defense; the Secretary of the Army; and the Secretary of the Interior.

Comptroller General
of the United States

D I G E S T

WHY THE REVIEW WAS MADE

In February 1962, the Departments of the Army and Interior adopted a new joint policy governing reservoir land acquisition.

The General Accounting Office (GAO) has reviewed the policies, procedures, and practices of the Corps of Engineers (Civil Functions) for acquiring land and interests therein for reservoir projects, to examine into whether the Corps was responsive to congressional intent pertaining to recreation and fish and wildlife enhancement at reservoir projects.

FINDINGS AND CONCLUSIONS

GAO found that, under the 1962 policy, the Corps had acquired, in fee title, thousands of acres of land within reservoir boundaries that were flooded infrequently. In GAO's opinion, less costly flowage easements would have sufficed or no interest was required for water control purposes.

For example, GAO's examination of 388 selected tract acquisitions at seven reservoir sites showed that additional costs of about \$2.7 million had been incurred for land that was not essential for successful operation of projects for water control purposes. (See p. 8.)

GAO believes that the costs of acquiring greater interests in land than are needed for water control purposes should be identified separately by recognized project purposes, mainly recreation and fish and wildlife.

Although not taking exception to the acquisition of land in fee, GAO pointed out that, under the new policy, the Corps was not providing to the Congress information as to the cost of land being acquired for recreation and fish and wildlife purposes.

GAO believes that the Congress desires this information and that additional financing, under the cost-sharing provision of the Federal Water Project Recreation Act, may be available for reservoir project land designated for recreation and fish and wildlife purposes.

Tear Sheet

FEB. 3, 1965

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GAO believes that the Congress desires this information and that additional financing, under the cost-sharing provision of the Federal Water Project Recreation Act, may be available for reservoir project land designated for recreation and fish and wildlife purposes.

RECOMMENDATIONS OR SUGGESTIONS

GAO proposed that the Secretary of the Army consider revising Corps policies and procedures to provide for identifying the additional costs incurred in acquiring, in fee, reservoir project land designated for recreational uses and for obtaining from other agencies definitive planning as to the use of the land.

GAO proposed also that such costs, related acreages, and plans be included in project documents for evaluation by top agency officials, the Bureau of the Budget, and the Congress.

AGENCY ACTIONS

The Department of the Army stated that information on acreages and approximate costs to be incurred for such purposes as recreation and fish and wildlife could be furnished to the Congress, if it was desired.

Department of the Army and Corps of Engineers comments are discussed on pages 19 to 25.

ISSUES FOR FURTHER CONSIDERATION

GAO believes that justification for the additional cost incurred in acquiring reservoir project land for purposes other than water control should be presented to the Congress for its consideration in authorizing the projects, because:

- The Fish and Wildlife Coordination Act, as amended, indicates that the Congress desires information that would enable it to control the cost incurred for fish and wildlife enhancement. (See p. 14.)
- Identification of the additional cost, and its classification as a separable cost, should enable additional financing of reservoir land designated for recreation and fish and wildlife purposes through cost-sharing arrangements with non-Federal sources under the provisions of the Federal Water Project Recreation Act. (See p. 17.)

LEGISLATIVE PROPOSALS

The Congress, in prescribing the nature and extent of reservoir project purposes, may wish to require that the Corps identify, for congressional consideration, the costs incurred in acquiring greater interests in land than are needed for water control purposes, the purposes for which such interests are acquired, the related acreages, and the benefits to be derived from such interests.

Also, the Congress may wish to express its intent as to whether the additional costs incurred for recreation and fish and wildlife purposes shall be treated as separable costs and be subject to cost sharing under the Federal Water Project Recreation Act.

INTRODUCTION

The General Accounting Office has made a review of the policies and practices of the Corps of Engineers (Civil Functions), Department of the Army, for acquiring land and interests therein for reservoir projects. This area was selected for review for the purpose of examining into whether the land acquisition policy adopted by the Corps in 1962 was appropriately responsive to congressional intent. Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67). The scope of our review is set forth on page 28.

BACKGROUND

Corps of Engineers reservoir projects, which are financed under public works appropriation acts, generally serve several purposes, such as flood control, navigation, hydroelectric power, recreation, fish and wildlife enhancement, and irrigation. For reservoir projects, the Corps acquires the necessary land or interests in the land so as to realize benefits from all project purposes, including the present and future outdoor recreational and fish and wildlife enhancement potentials of each reservoir.

Corps' division and district offices have the responsibility for acquiring the land needed for constructing reservoirs within their territorial boundaries. Prior to appraising needed land and negotiating for its acquisition, the responsible district submits, through its division office, a Real Estate Design Memorandum requesting approval of the acquisition by the Office of the Chief of Engineers (OCE). The Real Estate Design Memorandum sets forth the district's proposal for acquiring land and shows the acreages recommended for purchase in fee and for acquisition of easements. The memorandum includes area maps showing the tentative boundaries of the land which will be needed for the project.

Upon approval of the Real Estate Design Memorandum, OCE authorizes the Division Engineer to proceed with the acquisition of fee title to the land or of easements therein. After this authority has been granted, the District Engineer

submits to the Division Engineer for his approval a map showing the proposed final boundaries of the land to be acquired in fee, as well as the boundaries of the land for which easements are to be acquired. The Division or District Engineer then appraises the land and negotiates for the acquisition of the required interest therein.

The Corps estimates that the seven reservoirs covered by our review will cost about \$236 million, including \$55 million for about 192,000 acres of land. Additional data on these projects are shown in appendix IV. Although recreation and fish and wildlife enhancement were not always described as specific purposes in the legislation which authorized these projects, the Flood Control Act of 1944 (16 U.S.C. 460d) authorized the Corps to construct, maintain, and operate public park and recreational facilities in reservoir areas.

The principal officials of the Department of Defense, Department of the Army, and Department of the Interior responsible for the administration of activities discussed in this report are listed in appendix I.

LAND ACQUISITION POLICIES

Prior to 1953, the Corps followed a policy of acquiring fee title to most reservoir land up to the top of the flood control pool¹ and to additional land needed to block out property lines in accordance with sound real estate practices. In October 1953, the Departments of the Army and Interior announced the adoption of a joint policy for land acquisition for reservoir projects under their jurisdictions. The 1953 policy discontinued fee acquisition for certain land.

Under the 1953 policy, the Corps acquired in fee land up to the 5-year flood frequency elevation, as well as any additional land needed to provide for limited public use of and reasonable access to the project or for operation and maintenance of the project. Land was acquired in fee also for blocking out property lines. The policy provided that flowage easements be acquired for land between the 5-year flood level and the top of the flood control pool because such land was subject to only occasional flooding.

In August 1959, the Departments of the Army and Interior agreed to supplement the 1953 land acquisition policy. The supplemental policy provided that, when justified by the recreation and fish and wildlife benefits which would be received by the public, the acquisition of shoreline land be recommended to the Congress. The supplemental policy specifically provided that the shoreline land be shown separately in reports of project plans, to ensure that the Congress had full information upon which to base decisions regarding the inclusion of such land in project authorizations.

The 1953 policy was applied by the Corps in acquiring land for 52 reservoir projects during the period October 1953 to February 1962, when the land acquisition policy presently being followed was adopted.

The Corps' current policy, adopted jointly by the Departments of the Army and Interior, substituted fee acquisition for certain land for which, under the 1953 policy,

¹Highest level that could be flooded as a result of the project as designed.

easements would have been acquired. Under the current policy, the Corps is acquiring fee title to most of the land located within the flood control pool and to additional land which may be required to provide a freeboard of 1 to 3 feet above the top of the flood control pool. Land also is being acquired in fee to ensure Government ownership of all land within 300 feet horizontally from the top of the flood control pool when not included in the freeboard. Additional land is being acquired to block out property lines.

Under the current policy, the Corps may acquire easements for land which meets all the following conditions.

1. Land lies above the normal pool.¹
2. Land is in remote portions of the project area.
3. Land is determined to be of no substantial value for protection or enhancement of fish and wildlife resources or for public outdoor recreation purposes.
4. It is to the financial advantage of the Government to take easements in lieu of fee title to the land.

A comparison of the principal features of the 1962 and 1953 policies is included as appendix V, and a summary of legislation considered during our review is included as appendix VI.

¹Level at which water is normally maintained for navigation, power, irrigation, and other conservation purposes but not including the area for storage of floodwaters.

FINDINGS AND MATTERS FOR CONSIDERATION

BY THE CONGRESS

NEED FOR INFORMATION ON LAND COSTS INCURRED FOR RECREATION AND FISH AND WILDLIFE

In accordance with its land acquisition policy, the Corps of Engineers acquires fee title to certain land within reservoir project boundaries that is infrequently flooded. In our opinion, less costly flowage easements would have sufficed or no interest therein was required for water control purposes.¹

The total estimated cost of the seven reservoir projects covered by our review is about \$236 million which includes about \$55 million for land costs. At the seven projects reviewed, fee title was being acquired to about 178,000 acres and flowage easements were being acquired over approximately 14,000 acres. For the purpose of identifying the additional cost being incurred in acquiring in fee land for which easements would have sufficed or for which no interest was required, for water control purposes, we examined 388 selected tracts consisting of about 40,000 acres which were being acquired in fee. These tracts had an aggregate appraised fee value of about \$8 million. We estimate that the additional cost of acquiring these lands in fee for water control purposes amounted to about \$2.7 million.

We recognize that fee acquisition may be desirable to satisfy purposes other than water control. Therefore we are not questioning the desirability of acquiring land in fee around Federal reservoir projects, where appropriate, to meet recreational and other needs.

¹Includes the following project purposes: water supply, irrigation, water quality control, navigation, power, flood control, land and beach stabilization, drainage, and salinity control.

It appears, however, that the Corps' present land acquisition policy may not be appropriately responsive to congressional intent as expressed in major legislation and as indicated by the related legislative history pertaining to recreation and fish and wildlife enhancement at reservoir projects. One of the objectives of the Fish and Wildlife Coordination Act, as amended on August 12, 1958 (16 U.S.C. 661), was that the Congress was to retain full control, through its consideration of project-authorizing legislation, of costs incurred for fish and wildlife conservation purposes. The Corps, however, interprets this act as being applicable to lands acquired outside reservoir boundaries and does not report to the Congress the acreages and costs associated with fish and wildlife purposes within reservoir boundaries.

In addition, the Federal Water Project Recreation Act of July 1965 (16 U.S.C. 4601-12 et seq.) encourages the development of recreation and fish and wildlife areas under cost-sharing arrangements with non-Federal public bodies and provides that not less than one half of the separable costs allocated to recreation and fish and wildlife purposes be borne by non-Federal interests. Joint participation in the cost incurred for land located within the project boundaries and designated for recreation and fish and wildlife purposes, however, is not being accomplished because the Corps does not identify the cost of such land with those purposes.

The above matters are discussed in detail in the following sections of this report.

Acquisition of land not necessary for water control purposes

On the basis of our analysis at seven reservoirs of 388 tracts consisting of about 40,000 acres, we estimate that about \$2.7 million of the aggregate appraised fee value of about \$8 million was incurred as a result of acquiring land in fee when, in our opinion, for successful operation of the reservoirs for water control purposes, less costly flowage easements would have sufficed or no interest therein was needed. The additional cost,

however, of acquiring the land in fee may be justified for recreation and fish and wildlife purposes.

At the seven reservoir projects, the Corps, in accordance with its 1962 land acquisition policy, generally acquired fee title to land lying (1) within the freeboard of 1 to 3 feet above the top of the flood control pools or (2) at least 300 feet horizontally from the top of the flood control pools, whichever was greater. Additional land is being acquired in fee by the Corps as necessary to block out property lines. Flowage easements are generally being acquired in land in remote areas of the projects and in land lying above the normal pools. At these reservoirs, the Corps has determined that the expected frequency of flooding to the top of the flood control pools will vary considerably--from once in 25 years at the Milford Reservoir to once in 450 years at the Shelbyville Reservoir.

Our analysis of the 388 tracts was based on a criterion similar to that used by the Corps under its 1953 policy, except that our criterion provided for acquiring fee title to land up to the 5-year flood level or located at least 300 feet horizontally from the top of the normal pool, whichever was greater, whereas the criterion used by the Corps under its 1953 policy provided for acquiring in fee only that land up to the 5-year flood level.

Under our criterion, we identified about 21,100 acres of land which, we agreed, had been properly acquired in fee for water control purposes. These 21,100 acres (1) lie below the elevations to which flooding is expected by the Corps once in 5 years, on the average, (2) are at least 300 feet horizontally from the normal pools, and (3) include land which is necessary for blocking out property lines, consistent with prevailing real estate practices.

We identified also about 11,500 acres of land for which, in our opinion, easements would have sufficed and 7,400 acres of land which, in our opinion, were not needed, for water control purposes. We believe that, for water control purposes, the acquisition of easements would have been sufficient for that land located between either the 5-year flood level or at least 300 feet horizontally from the top of the normal pool, whichever was greater, and the

top of the flood control pool, including freeboard, and that no land was needed beyond the top of the flood control pool. To illustrate graphically the acreages identified, selected maps for the Milford Reservoir are included as exhibits I to IVa, inclusive.

The following table summarizes the results of our analysis of the 388 tracts of land and shows our estimate of the additional cost that resulted from acquiring approximately 18,900 acres in fee when, in our opinion, either less costly flowage easements would have sufficed or no interest therein was required for water control purposes.

<u>Reservoir</u>	<u>Analyzed</u>	<u>Fee acquisition required</u>	<u>Easements would have sufficed</u>	<u>No interest required</u>	<u>Estimated additional cost</u>
	(acres)				
DeGray	9,300	8,500	100	700	\$ 90,000
Elk City	7,200	2,000	4,200	1,000	620,000
Milford	9,400	3,800	2,700	2,900	720,000
Shelbyville	5,400	2,800	900	1,700	630,000
Shenango River	2,400	400	1,500	500	160,000
Somerville	5,700	3,400	1,900	400	340,000
West Thompson	<u>600</u>	<u>200</u>	<u>200</u>	<u>200</u>	<u>140,000</u>
Total	<u>40,000</u>	<u>21,100</u>	<u>11,500</u>	<u>7,400</u>	<u>\$2,700,000</u>

Our estimate of the \$2.7 million additional cost represents (1) the difference between the fee value which had been established by the Corps for 32,600 acres of land and our estimate of the fee value for 21,100 acres for which, in our opinion, acquisition in fee was required and the easement value for 11,500 acres for which, in our opinion, flowage easements would have sufficed for water control purposes and (2) the entire cost of the acquisition in fee of the 7,400 acres of land which, we believe, were not required for water control purposes. At the Corps districts involved, the real estate personnel agreed that, in general, our estimates were reasonable.

We included in our analysis 132 tracts which lie completely above the 5-year flood level and at least 300 feet horizontally from the top of the normal pools. Of the 5,593 acres in these tracts, about 63 percent, or 3,577 acres constituting 42 tracts, are 1 or more miles from the normal pools. The following table shows the distances of

these 132 tracts from the normal pools and the acreage contained therein.

Reservoir	Number		Distance from normal pools							
			300 feet to 1/2 mile		1/2 to 1 mile		1 to 3 miles		3 to 5 miles	
	Tracts	Acrea	Tracts	Acrea	Tracts	Acrea	Tracts	Acrea	Tracts	Acrea
DeGray	6	91	6	91	-	-	-	-	-	-
Elk City	19	2,087	2	103	-	-	17	1,984	-	-
Milford	19	1,558	10	693	5	432	4	433	-	-
Shelbyville	60	522	52	478	8	44	-	-	-	-
Shenango River	19	1,129	1	2	-	-	9	593	9	534
Somerville	3	171	1	31	2	140	-	-	-	-
West Thompson	6	35	3	2	-	-	3	33	-	-
Total	132	3,593	75	1,400	15	616	33	3,043	9	534

We interviewed Corps district officials and reviewed the available records in examining into the operating problems encountered when flowage easements were acquired. District officials experienced in the operation and maintenance of reservoirs where flowage easements were acquired for land above the 5-year flood levels said that they had encountered some encroachment problems but none that they had been unable to cope with. The problems cited, such as unauthorized structures within the reservoir areas, were similar to those occurring for land acquired in fee. We found no indication that the acquisition of flowage easements had caused any problems which could not be handled through normal management processes.

Also, OCE officials and district operating and engineering personnel agreed that the acquisition of easements over the 388 selected tracts included in our review would not have precluded effective operation and maintenance of the reservoirs for flood control purposes.

In view of the fact that the Corps is successfully operating 52 reservoirs where flowage easements had been acquired to a far greater degree than they are being acquired under the present land acquisition policy and the fact that the Corps has not identified any significant problems resulting from the acquisition of flowage easements, we believe that, if fee title is necessary for land beyond the 5-year flood level or beyond 300 feet horizontally from the top of the normal pool, whichever is greater, it must be necessary for purposes other than water control.

Since sound project formulation, as outlined in Senate Document 97, Eighty-seventh Congress, second session, requires that each project purpose provide benefits at least equal to its cost, we believe that the additional cost should be separately identified with purposes other than water control, justified by their respective benefits, and presented to the Congress for its consideration in prescribing the nature and extent of reservoir project purposes.

Acreege designated for recreation and fish and wildlife purposes

The Corps' detailed plans for the seven reservoir projects, completed after approval of the projects by the Congress, showed that, of about 113,600 acres of land acquired in fee above the normal pools, the Corps had designated about 88,800 acres for use for recreation and fish and wildlife purposes. The acreages designated for these uses are shown in the following table.

<u>Reservoir</u>	<u>Acreege above normal pool</u>	<u>Acreege designated for</u>	
		<u>Fish and wildlife use</u>	<u>Recreation use</u>
DeGray	18,400	12,148	6,252
Elk City	14,025	11,680	2,246
Milford	28,922	11,760	15,020 ^a
Shelbyville	22,987	6,100	7,950
Shenango River	10,249	8,856	1,393
Somerville	17,133	none	3,491
West Thompson	<u>1,900</u>	<u>1,300</u>	<u>600</u>
	<u>113,616</u>	<u>51,844</u>	<u>36,952</u>

^aIncludes 4,040 acres reserved for nonprofit organizations with functions in the public interest.

The above table includes land lying between the top of the normal pool and the 5-year flood level. Under our criterion, the land lying between the top of the normal pool and the 5-year flood level or at least 300 feet horizontally from the top of the normal pool, whichever is greater, would have been needed for water control purposes and therefore should have been acquired in fee. It was not practicable, however, for us to determine what portion of the entire 88,800 acres designated for recreation and fish and wildlife purposes should have been acquired in fee, what portion easements should have been acquired for, and what portion was not needed for water control purposes.

Our analysis of the 388 tracts consisting of about 40,000 acres showed that about 16,000 acres were within areas designated for fish and wildlife purposes. It is our

opinion that, for water control purposes, acquisition in fee was required for 6,200 of these 16,000 acres, easements would have sufficed for 6,500 acres, and 3,300 acres were not required. We estimate that the acquisition in fee of 9,800 acres for which flowage easements would have sufficed or for which no interest was required for water control purposes resulted in additional costs of about \$1.4 million.

Although we believe that the additional cost of acquiring lands in fee may be justified for purposes other than water control, mainly recreation and fish and wildlife purposes, we believe also that the Congress desires at the time of project authorization information on acreages and costs incurred for such purposes, as an aid in deciding what conservation measures should be incorporated in a project. This matter is discussed in more detail in the following section.

Acreage and additional cost of land
designated for fish and wildlife purposes
not reported to the Congress

We have found that the Corps relies on the Bureau of Sport Fisheries and Wildlife, Department of the Interior, for advice as to which lands should be designated as land for fish and wildlife purposes. The Bureau's regulations provide that (1) since acquisition of land in fee is the general policy of the Departments of the Army and Interior, the basin survey reports prepared for the Congress should contain simple statements that the acquisition of land in fee is fully justified and (2) no separate analyses are required. The Bureau's regulations, however, provide that basin survey reports are to contain statements of the fish and wildlife benefits of the overall projects attributable to the reservoir project land as well as of the fish and wildlife benefits attributable to the land acquired outside the reservoir boundaries specifically for these purposes.

The Fish and Wildlife Coordination Act provides that wildlife conservation receive equal consideration, and be on an equal basis, with flood control, navigation, and hydroelectric power purposes.

The objectives of the 1958 amendments are shown by the following excerpts from Senate Report 1981, Eighty-fifth Congress, second session, on the proposed amendment of the Fish and Wildlife Coordination Act.

"*** existing law contains no reference to the authority of the water-project construction agencies to acquire land around water-use projects for fish and wildlife conservation purposes. In very many cases, the availability of lands to the Fish and Wildlife Service or the State fish and game departments for these purposes is the key to adequate and satisfactory project measures to compensate for losses and to provide for the enhancement and improvement of fish and wildlife. The conservation agencies are restricted and hampered by this lack of authority, particularly where the land acquisition necessary for flood control and other so-called primary purposes of projects results in little or no land being available for conservation purposes."

* * * * *

"The amendments proposed by this bill would remedy these deficiencies and have several other important advantages. The amendments, would provide that wildlife conservation shall receive equal consideration with other features in the planning of Federal water resource development programs. This would have the effect of putting fish and wildlife on the basis of equality with flood control, irrigation, navigation, and hydroelectric power in our water resource program, which is highly desirable and proper, and represents an objective long sought by conservationists of the Nation."

* * * * *

"Unquestionably, the bill, if enacted, would result in the Congress having better information on the effects of water projects on fish and wildlife resources while considering

project-authorizing legislation. It will then, of course, be for the Congress to decide what conservation measures should be incorporated in any project.

"The Congress, moreover, would retain full control, through its consideration of project-authorizing legislation, and the review of supplemental reports, in the case of projects already authorized, of any costs incurred for fish and wildlife conservation purposes." (Under-scoring supplied.)

The Corps, under its current land acquisition policy, interprets the provisions of the Fish and Wildlife Coordination Act as being applicable only to land acquired outside reservoir boundaries and therefore does not report to the Congress the acreages designated for fish and wildlife use within reservoir boundaries nor the additional cost required to obtain fee title to such land. Thus the cost of land acquired in fee for fish and wildlife purposes is, in effect, hidden within other reservoir project costs.

We believe that the provisions of the Fish and Wildlife Coordination Act indicate that the Congress desires information relating to land acreages acquired for fish and wildlife purposes and costs incurred for such purposes. We believe further that the Corps' nondisclosure to the Congress of the additional cost incurred for fish and wildlife purposes within reservoir boundaries is nonresponsive to congressional intent as expressed in the Fish and Wildlife Coordination Act.

Assignment of separable cost for
cost sharing by non-Federal interests
as a source of financing

The Corps' current land acquisition policy results in the financing of reservoir projects, including land within reservoir project boundaries designated for recreation and fish and wildlife purposes, from general public works appropriation funds, whereas it appears that the provisions

of the Federal Water Project Recreation Act contemplate additional sources for financing land acquired for recreation and fish and wildlife purposes.

The Federal Water Project Recreation Act, which encourages the development of recreation and fish and wildlife areas under cost-sharing arrangements with non-Federal interests, provides, in part, that non-Federal public bodies bear not less than one half the separable costs allocated to recreation and fish and wildlife purposes. The Corps, however, has interpreted the act as not being applicable to land acquired within reservoir boundaries and designated for recreation or fish and wildlife purposes. The Corps considers such lands as joint-use lands for water control purposes, as well as for recreation and fish and wildlife purposes, and treats the additional cost incurred as a joint cost which is not subject to cost sharing by non-Federal interests rather than as a separable cost which is subject to cost sharing by non-Federal interests.

During the 1965 hearings on Senate bill 1229 before the Committee on Interior and Insular Affairs, United States Senate, on the proposed Federal Water Project Recreation Act, the Deputy Director of the Bureau of the Budget stated:

"The bill provides that the Federal Government will bear all joint costs of a project allocated to recreation and fish and wildlife enhancement. Joint costs include the cost of the dam; for example, to the extent it is common to all project purposes. The Federal Government will also bear up to one-half of the separable costs of these purposes. Non-Federal public interests would pay or reimburse the Federal Government for the remaining separable costs. Separable costs include, for example, the costs of picnic tables, boat-launching ramps, land, roads, and other specific items for recreation and fish and wildlife enhancement. Separable costs also include project modifications; such as, increasing the height of the dam or providing a subimpoundment specifically for those purposes." (Underscoring supplied.)

* * * * *

"We firmly believe it is appropriate to obtain cost sharing on project features provided expressly for recreation and fish and wildlife enhancement. Under this approach, the extent to which non-Federal interests are willing to participate will be an important factor in developing an appropriate recreation and fish and wildlife plan for each project. S. 1229 would require some cost sharing at all projects where recreation and fish and wildlife are specifically included as project purposes." (Underscoring supplied.)

Although the Corps' current land acquisition policy was in effect at the time the hearings were held on the proposed Federal Water Project Recreation Act, we believe that, when fee acquisition to reservoir project lands is needed to provide for recreation and fish and wildlife but easements would have sufficed or no interest was needed for water control purposes, then the additional cost of fee acquisition is an identifiable and separable cost that should be subject to cost sharing.

Agency comments and our evaluation

In a draft report submitted to the Departments of the Army and Interior, we proposed that the Secretary of the Army consider revising the Corps' policies and procedures, to provide for identifying the additional costs incurred in acquiring fee title to reservoir lands designated for such uses as recreation and fish and wildlife and in obtaining definitive planning as to the use of the land from the Bureau of Outdoor Recreation and the Bureau of Sport Fisheries and Wildlife, Department of the Interior. We proposed also that such costs, related acreages, and plans be included in project documents for evaluation by top agency officials, the Bureau of the Budget, and the Congress.

The Department of the Army, in commenting on our draft report in a letter dated July 19, 1967 (see app. II), stated that the lands between the 5-year flood frequency elevation and the top of the flood control pool plus freeboard were considered as joint-use lands and that the additional costs were not presented separately in its survey reports. The Army stated also that a presentation of reliable estimates of the additional cost, as proposed in our draft report, would require a detailed analysis of each tract during the preparation of the survey report, which it considered impracticable. The Army stated, however, that information on areas and approximate costs to be incurred for such purposes as recreation and fish and wildlife, as proposed in our draft report, could be furnished to the Congress if it was desired.

Although lands acquired under the 1962 policy are considered joint-use lands, we believe that there is a separable and identifiable element of cost that is being incurred for purposes other than water control. We recognize that, in the early planning stages of a project, the Corps may find it impracticable to make a detailed analysis of each tract for the purpose of its survey report. We believe, however, that the Corps has sufficient data on prior land acquisitions to enable it to make a reasonable approximation of the cost applicable to recreation and fish and wildlife purposes, which could be refined in later stages of the project.

In this respect, we noted that the Corps, prior to adoption of the current policy in 1962 and subsequent to amendment of the 1953 policy in 1959, had included in its survey report for the Kaysinger Bluff Reservoir, Missouri (H. Doc. 45, 85th Cong. 2d sess.), information on acreage being acquired for a national wildlife refuge area and a State wildlife management area. The Corps had included also an estimate of the cost that was to be incurred in acquiring in fee an additional 12,150 acres of land outside reservoir boundaries and an estimate of the additional cost that was to be incurred in acquiring in fee, in lieu of acquiring easements over, 31,470 acres of land within reservoir boundaries.

The Army stated also that the only views expressed specifically by the Congress concerning the 1953 policy were contained in House Report 1185, Eighty-fifth Congress, first session, in which the Committee on Government Operations had clearly stated that the 1953 policy was adverse to the Government's interest.

Our proposals were not directed toward reestablishment of the 1953 policy. Rather, although not taking exception to the acquisition of land in fee, our intent was to point out that the Corps was not providing to the Congress information relating to the acreage and cost of land being acquired for recreation and fish and wildlife purposes. We believe that the Congress desires such information.

The Army concluded that its 1962 land acquisition policy should be continued and that its allocation procedures were consistent with the stated purposes of the various public laws covering project authorization, fish and wildlife, and recreation.

The Army included, as part of its reply detailed comments from the Corps of Engineers. (See attachment to app. II.) Following is our analysis of pertinent Corps' comments not included in the Army's reply.

Analysis of Corps comments

The Corps stated that the operational advantages to its projects would justify acquisition of land in fee to the top of the flood control pool plus freeboard even if fish and wildlife and recreation purposes were not applicable in the land between the normal pool and the top of the flood control pool.

We were advised by Corps field personnel and OCE officials that the reservoirs included in our review could be operated effectively under the criterion we applied. In addition, the Corps is successfully operating 52 reservoirs under a land acquisition policy where flowage easements had been acquired to a far greater degree than they are being acquired under the present policy.

The Corps stated that our estimate of \$2.7 million of additional cost would indicate that easements cost, on the average, about 66.5 percent of the fee value whereas estimates contained in House Report 1185 indicated that easements cost, on the average, about 80 percent of fee value. The Corps stated that the difficulty with this type of analysis was that it was not really based on comparable land and the cost involved therewith. The Corps stated also that our analysis apparently omitted the additional administrative and appraisal costs which would be incurred for easement acquisitions.

The Corps' statement that our estimate of \$2.7 million of additional cost would indicate that easements cost, on the average, about 66.5 percent of the fee value does not follow from the matters presented in our report, because:

1. The \$2.7 million (see p. 10) represents not only the difference between fee value and easement costs for 11,500 acres but also the total cost of 7,400 acres acquired in fee for which, in our opinion, no interest was required for water control.
2. The \$8 million appraised fee value of the 40,000 acres included in our review, which apparently was used by the Corps in computing its easement to fee

cost percentage of 66.5 percent, included the entire fee cost of 21,100 acres which, under our criterion, we agree should have been acquired in fee. Any average should, in our opinion, have been computed only on the cost difference between fee and easement for the 11,500 acres which were acquired in fee and for which, we believe, easements would have sufficed for water control purposes.

Our review at the Shelbyville Reservoir showed that the Corps' appraisals for land for which easements were to be acquired ranged from 5 to 85 percent of the fee value, depending on the expected frequency of flooding.

Furthermore we did not mean to imply that the estimated \$2.7 million was a precise figure. Although we do not have sufficient information relative to how the 80 percent was computed to make a comparison with information developed in our review, the real estate personnel at the Corps' districts included in our review generally agreed that our estimates of the fee and easement interest costs were reasonable.

Although our estimate of \$2.7 million additional cost does not include administrative and appraisal costs, we believe that such costs would not be significantly higher if the Corps was to utilize easements to a greater extent. To the contrary, we noted that Real Estate Design Memorandums prepared by the Corps for the Milford Dam and Reservoir had estimated that land and damage costs had been increased by about \$3.8 million as a result of the adoption of the 1962 policy. The design memorandums had estimated also that administrative costs were about \$385,000 more under the 1962 policy than under the prior policy when easements had been utilized to a far greater degree.

The Corps stated that reliable estimates of the additional costs which might be incurred in acquiring fee title in lieu of easements in land above the 5-year flood frequency level would, of necessity, be an approximation based on a percentage of the estimated cost of the land above the 5-year flood frequency level. The Corps stated further that such estimates might be objectionable from the

standpoint of possible recreation sponsorship and certainly should not serve as a final basis for cost allocation. (The Department of the Army, in its comments, stated that the "Assignment of costs for lands within the reservoir area to the recreation purpose of the project would tend to decrease recreational development by local interests ***,")

Although the additional costs assigned would be an estimate and might be objectionable to local interests, such an estimate would not be without a factual basis. As previously stated, we believe that the Corps has sufficient data on prior land acquisitions to use as a reasonable basis for making an estimate which could be refined in later stages of the project on the basis of actual experience. We noted that the Corps' current procedures for allocating cost to other reimbursable functions, such as power, also included the use of estimates that were based on reasonable factual data. If local interests are not willing to contribute 50 percent of the total separable cost allocated for recreational purposes, we believe that this is all the more reason for complete disclosure of the facts to the Congress for its consideration.

The Corps stated also that the application of the 1962 policy involved judgment determinations as to whether some of the lands in a project should be acquired in fee or whether easements should be obtained. The Corps stated further that such determinations were based on all the possible uses of the lands, the costs involved, the desires of the people, and the adverse effects of easement acquisition on operation of the project. The Corps pointed out that, even though a tract of land was estimated to be subject to inundation only once in 25 years, on the average, this did not necessarily mean that the tract might not be subject to flooding more frequently. The Corps stated further that this fact was well known by attorneys representing landowners, that it resulted generally in higher prices for easements, and that it could lead to claims if repetitious flooding should occur.

The judgment determinations mentioned by the Corps are limited by the 1962 policy. That policy does permit obtaining easements, and they were being acquired, to some

extent, at the reservoirs which we visited. The 1962 policy allows easements to be acquired only if the four conditions cited on page 6 of this report exist. These conditions restrict the use of easements to remote areas of the reservoir when the lands are determined to have no substantial value for recreation or fish and wildlife purposes.

The Corps stated that the projects included in our review had been placed under construction prior to the passage of the Federal Water Project Recreation Act and that some of these projects had been authorized prior to the 1958 amendment of the Fish and Wildlife Coordination Act. The Corps stated also that the reports to the Congress for these projects therefore reflected policies in effect at the time that the reports had been prepared. The Corps pointed out that the current practice in the preparation of survey reports, such as the current Wabash River Basin report which at that time was under review for submission to the Bureau of the Budget and to the Congress, fully covered the requirements for recreation and fish and wildlife purposes.

Prior to adoption of the current land acquisition policy, it was planned that lands at the seven projects we reviewed would be acquired by the Corps under its 1953 policy. The current policy, when adopted, however, was made applicable to land acquisitions at these projects. We recognize, therefore, that the survey reports on these projects prepared for submission to the Congress for project authorization reflected different policies. Accordingly, we did not attempt to determine whether these reports, prepared for authorization of the seven projects we reviewed, were responsive to congressional intent.

Under its current land acquisition policy, however, the Corps has not been identifying or justifying the additional cost resulting from acquiring greater interests in land than we believe are needed for water control purposes. In our opinion, this practice is contrary to sound project formulation and, in the case of reservoir project land designated for fish and wildlife purposes, nonresponsive to congressional intent as expressed in the 1958 amendments to the Fish and Wildlife Coordination Act.

The Corps subsequently furnished us with a copy of its Wabash River Basin report. Although it contains much information relative to the planning for recreation and fish and wildlife purposes, it does not fully identify the acreages within reservoir project boundaries that are to be used for recreation and fish and wildlife purposes. Furthermore, the report considers all lands within the reservoir project boundaries as joint-use lands and does not disclose the additional cost incurred in acquiring greater interests in the land than are needed for water control purposes or the benefits to be derived from the lands for which the additional costs were incurred.

The Department of the Interior also commented on our draft report in a letter dated June 26, 1967. (See app. III.) The Department of the Interior's reply was coordinated with the Department of the Army, and our above comments are considered equally applicable to the Department of the Interior's comments.

Conclusions

The Corps, under its current land acquisition policy, has acquired land in fee within reservoir project boundaries that is infrequently flooded when, in our opinion, flowage easements would have sufficed or no interest therein was needed for water control purposes. We have noted that the Corps is successfully operating 52 reservoirs under a land acquisition policy where flowage easements had been acquired to a far greater degree than they are being acquired under the present policy.

Although it may be desirable to buy land in fee for project purposes other than water control, we believe that the additional cost should be identified with and allocated to the purposes other than water control--mainly recreation and fish and wildlife--and presented to the Congress for its consideration.

We believe also that the provisions of the Fish and Wildlife Coordination Act indicate that the Congress desires information which would permit it to consider and evaluate the Government's cost of land--inside, as well as outside, reservoir boundaries--designated for fish and wildlife purposes. In our opinion, the Corps should identify for the Congress at the time of project authorization the acreage and the additional cost of land which is designated for fish and wildlife purposes.

In addition, identification of the additional cost and classification of the cost as a separable cost could result in additional financing for reservoir land designated for recreation and fish and wildlife purposes through cost-sharing arrangements with non-Federal sources under the provisions of the Federal Water Project Recreation Act.

Matters for consideration by the Congress

The Corps has interpreted the provisions of the Fish and Wildlife Coordination Act as applicable only to land acquired outside reservoir boundaries. We believe, however, that the Congress desires information relating to the Government's cost of land acquired--inside as well as outside project boundaries--for fish and wildlife purposes.

The Department of the Army has indicated that it can furnish, on an approximate basis, the necessary information on land areas and costs to be incurred for fish and wildlife purposes within reservoir boundaries but that such information will not be developed unless the Congress desires it.

Accordingly, the Congress may wish to strengthen its control over expenditures for fish and wildlife purposes by requiring that all Federal agencies that construct water resource projects identify, for congressional consideration, the purpose for which land is to be acquired in fee, the benefits to be derived, the related acreage, and the additional cost being incurred.

Also, the Congress may wish to clarify its intent as to whether the additional cost of acquiring in fee land designated for recreation and fish and wildlife purposes shall be treated as separable costs and subject to cost sharing under the Federal Water Project Recreation Act.

SCOPE OF REVIEW

We reviewed selected hearings, committee reports, and pertinent legislation relating to the acquisition of land at reservoir projects. We reviewed also the Corps' policies and practices for determining land requirements and for allocating land costs, and examined acquisition files, project maps, reservoir master plans, design memoranda, appraisal reports for selected tracts, and other related data. We examined also Corps inspection reports and other documentation relative to the utilization of land at previously established reservoirs. In addition, we held discussions with Corps officials at the Office of the Chief of Engineers in Washington, D.C., and at division and district offices.

Our review was conducted at the Office of the Division Engineer, Waltham, Massachusetts and at the Offices of the district engineers located at Fort Worth, Texas; Kansas, City, Missouri; Pittsburgh, Pennsylvania; St. Louis, Missouri; Tulsa, Oklahoma; Vicksburg, Mississippi; and Little Rock Arkansas. Our review included the following reservoir projects: DeGray Reservoir, Arkansas; Elk City Reservoir, Kansas; Milford Reservoir, Kansas; Shelbyville Reservoir, Illinois; Shenango River Reservoir, Pennsylvania and Ohio; Somerville Reservoir, Texas; and West Thompson Reservoir, Connecticut.

APPENDIXES

PRINCIPAL OFFICIALS OF THE DEPARTMENT OF DEFENSE,
 DEPARTMENT OF THE ARMY,
 AND DEPARTMENT OF THE INTERIOR
 RESPONSIBLE FOR THE
 ADMINISTRATION OF ACTIVITIES
 DISCUSSED IN THIS REPORT

Tenure of office
From To

DEPARTMENT OF DEFENSE

SECRETARY OF DEFENSE:

Clark Clifford	Mar. 1968	Jan. 1969
Robert S. McNamara	Jan. 1961	Feb. 1968

DEPARTMENT OF THE ARMY

SECRETARY OF THE ARMY:

Stanley R. Resor	July 1965	Jan. 1969
Stephen Ailes	Jan. 1964	July 1965
Cyrus R. Vance	July 1962	Jan. 1964
Elvis J. Stahr, Jr.	Jan. 1961	June 1962

CHIEF OF ENGINEERS:

Lt. Gen. William F. Cassidy	July 1965	Present
Lt. Gen. Walter K. Wilson, Jr.	May 1961	June 1965

DEPARTMENT OF THE INTERIOR

SECRETARY OF THE INTERIOR:

Stewart L. Udall	Jan. 1961	Jan. 1969
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ASSISTANT SECRETARY, WATER AND
 POWER DEVELOPMENT:

Kenneth Holum	Jan. 1961	Jan. 1969
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DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20310

19 JUL 1967

Mr. J. T. Hall, Jr.
Associate Director
United States General Accounting Office
Washington, D. C. 20548

Dear Mr. Hall:

This is in further reference to your 28 March 1967 draft report to the Congress, entitled "Review of Reservoir Land Acquisition Policies and Practices" (OSD Case #2581) and my 24 May 1967 letter on this matter.

The Corps of Engineers and General Accounting Office representatives met on 6 June 1967 to discuss the differences as to interpretations of the items reported. The attachment contains detailed comments of the Corps of Engineers personnel on matters discussed at the meeting and on conclusions and recommendations contained in the draft report.

Current practices with regard to survey reports do consider in depth the fish and wildlife and recreation aspects of our projects. The lands between the five-year frequency flood elevation and the top of the flood control pool plus freeboard are considered as joint-use lands and costs for the increment between easement and fee for such lands are not determined and presented separately in the reports. Presentation of reliable estimates of cost of fee versus easement for these lands would require a detailed analysis of each tract during the preparation of the survey report. This procedure is considered to be impracticable for such a stage of planning, and any estimates presented in the survey reports would be approximations based on percentages of estimated fee value of these lands, together with consideration of relocation or land costs that would be necessary in easement acquisition because of access problems. Road networks generally follow the valleys which would be inundated by permanent reservoir pools resulting in the need for special access treatment for lands on which only easements are required. Details of this nature are often changed in the interim between project authorization and construction, thus reducing further the reliability of such an estimate in the survey report.

The draft report recommends returning to the 1953 land acquisition policy as a basic policy with additions to conform generally with the 1962 policy assigned specifically to recreation and fish and wildlife uses.

Mr. J. T. Hall, Jr.

The only views expressed specifically by the Congress concerning the 1953 policy are contained in the House Report No. 1185, 85th Congress, 1st Session. In that report, the Committee on Government Operations clearly states that the 1953 policy is adverse to the Government's interest. The 1962 policy substantially follows the recommendations contained in House Report No. 1185. Thus, the only expression received from the Congress on this subject would seem to approve the 1962 policy rather than suggest returning to the 1953 policy. Nevertheless, the information recommended in the draft report could be furnished to the Congress on an approximate basis, if it is desired.

Assignment of costs for lands within the reservoir area to the recreation purpose of the project would tend to decrease recreational development by local interests, and at some future date could cause substantial administrative problems. It is our view that the fee purchase of the lands is needed to provide for optimum requirements of our reservoirs, even when recreation and fish and wildlife aspects are omitted.

Therefore, we feel that the 1962 policy should be continued and that allocation procedures now in use are consistent with the stated purposes in the various Public Laws covering project authorization, fish and wildlife and recreation.

The copies of the draft report are returned as requested.

I appreciate your courtesy in providing the opportunity to comment on the draft report.

Sincerely yours,



Alfred E. Fitt
Special Assistant (Civil Functions)

- 2 Incls
1. Statement
2. Cys of Draft Report

Comments of the Department of the Army on
Proposed Report of the General Accounting Office to the Congress Entitled:

"REPORT ON REVIEW OF
RESERVOIR LAND ACQUISITION
POLICIES AND PRACTICES
CORPS OF ENGINEERS (CIVIL FUNCTIONS)
DEPARTMENT OF THE ARMY"
dated March 28, 1967

This draft report recommends that the Secretary of the Army consider revising the policies and procedures followed by the Corps to provide (1) for identification of additional costs incurred in acquiring fee title to lands designated for such uses as recreation and fish and wildlife, (2) for obtaining definite planning from the Bureau of Outdoor Recreation, and the Bureau of Sport Fisheries and Wildlife, Department of Interior, as to the planned uses of the land. This report also recommends that costs, related acreages and plans be included in project documents for evaluation by top agency officials, the Bureau of the Budget, and the Congress in authorizing the additional costs.

In accordance with the Department of the Army preliminary letter of 24 May to the Associate Director, United States General Accounting Office, an informal discussion was held with representatives of the General Accounting Office on 6 June 1967. Representatives present at the meeting are shown on Tab A.1

[See GAO note 2.]

In addition, fee title was acquired to construction and administration areas and to public access areas located above the five-year frequency elevation. House Report No. 1105, 85th Congress, 1st Session, is critical of this type of acquisition because it represents only that absolute minimum which would provide for operation and administration of the reservoir in compliance with the laws enacted by Congress covering these activities. That report clearly shows that the Corps of Engineers considered the 1953 policy to provide less than the optimum acquisition needed to carry out its functions.

[See GAO note 2.]

GAO notes:

1. Tab A not included.
2. The deleted comments relate to matters which were discussed in the draft report but omitted from this final report.

The basic purpose of such fee acquisition is to reserve to the public the full benefits of projects built with public funds and to avoid, within reason, the bestowing of windfall benefits to owners of lands on the borders of such projects.

We consider the 1962 policy to be in accordance with the conclusions and recommendations contained in House Report No. 1185, 85th Congress, 1st Session. The purposes stated in those conclusions and recommendations are believed to be consistent with the purposes of Public Law 88-578 as stated in Section 1b of the act, i.e., "To assist in preserving, developing and assuring access to all citizens of the United States of America in present and future generations and visitors who are legally present within the boundaries of the United States, such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation in such recreation and to strengthen the health and vitality of the citizens of the United States."

We also regard the 1962 joint policy as being consistent with the Fish and Wildlife Coordination Act and the Federal Water Project Recreation Act. The paragraphs quoted from the committee report on the Fish and Wildlife Coordination Act refer to refuge lands outside the limits of the lands required to be purchased for other project purposes. The only lands purchased for recreation and fish and wildlife under the 1962 policy are those lands contained within selected public use areas located at elevations above the full flood control pool, and the lands for wildlife refuges which have been specifically authorized by the Congress.

We consider that the operational advantages to our projects would justify acquisition in fee to the top of the flood control pool plus freeboard even if fish and wildlife and recreation purposes were not applicable in the lands between the conservation pool and the top of the flood control pool. Therefore, we believe that the costs of these lands are properly classified as joint use costs rather than as separable costs. The public access areas located above the necessary freeboard allowance for the flood control pool are reported as separable costs and are subject to the requirements of Public Law 89-72.

[See GAO note 2, p. 33.]

The draft report does not cover a full analysis of all the lands in the reservoirs listed therein. Complete review of the draft report cannot be

made without maps showing exact areas considered.

The draft report states that easements over the lands analyzed could have been acquired for \$2,700,000 less than the cost of fee title. This analysis would indicate that easements cost about 66.5 percent of the fee value on the average, whereas estimates contained in House Report No. 1185 state that easement cost on the average is about 80 percent of fee value. Difficulty with this type of analysis is that it is not really based on comparable lands and costs involved therewith. In other words, without depreciating the factual basis of the report, it assumes the acquisition of flowage easements over the identical fee lands which would not generally be the case. The estimated savings also does not account for other items of cost which must be accepted in connection with acquisition of easements in lieu of fee. These include relocation costs necessary to provide access to the easement lands. If such access is not available, the cost of the easement would probably be much greater. In some cases, the additional relocation costs to provide access would exceed prospective savings resulting in spotty acquisition of fee and easement. This would increase administrative problems. The analysis also apparently omits additional administrative and appraisal costs in connection with easement acquisition which are discussed in House Report No. 1185.

With reference to the last paragraph on page 13 of the draft report, generally speaking, the 300-foot strip around the top of the flood control pool and the freeboard allowance of one to five feet above the top of the flood control pool constitute a considerable duplication of areas. The 300-foot strip exceeds the freeboard area only in those locations where steep slopes are encountered. In these steep areas, it is frequently necessary to extend acquisition beyond the 300-foot strip as protection against sloughing.

In the last paragraph on page 13, the draft report states that acreage being acquired to block out property lines was identified as land in which no interest was needed for flood control. The blocking out process takes into consideration reasonable property boundaries and the economics of purchase versus payment of severance damages. It also takes into consideration the economics of provision of access to remainders versus purchase. While we agree that these lands might not be acquired for operation of the flood control project, we consider that our practices do take into consideration a need for acquisition of such lands from an economic standpoint. The report should also have taken into consideration the application of legal principles attendant to the conveyancing instruments and the susceptibility of recording on land records legal descriptions required by recording statutes of the various states.

The 1962 policy results in a somewhat smaller acquisition in fee than the practice of many projects prior to 1953. Application of the 1962 policy involves judgment determinations as to whether fee or easement should be

purchased on some of the lands in the project. These judgment determinations take into consideration all of the possible uses for lands upstream from the conservation pools, the costs involved, the desires of the people living in the areas, and the possible adverse effects of easement acquisition on operation of the projects for their authorized purposes. The fact that a tract of land is estimated to be subject to inundation costs once in 25 years on the average does not mean that this tract of land might not be subject to flooding twice, or even three times in the same year. This is well-known by attorneys representing land owners and results generally in higher prices for easements than that indicated by economic analyses based on available frequency of floods. It can also lead to claims if repetitious flooding should occur.

[See GAO note 2 on p. 33.]

The projects mentioned in the draft report were placed under construction prior to the passage of Public Laws 88-578 and 89-72. Some of these projects were authorized prior to the last amendment of the Fish and Wildlife Coordination Act. The reports to the Congress for these projects, therefore, reflect policies in use at the time that the reports were prepared. However, current practice of the Corps of Engineers in preparation of survey reports fully covers the requirements for recreation and fish and wildlife. The current Wabash River Basin report now under review for submission to the Bureau of the Budget and the Congress is a good example.

Reliable estimates of the additional costs which might be incurred in acquiring fee title in lieu of easement in lands above the five-year frequency would require detailed analysis almost on a tract by tract basis to consider all of the factors pertinent to the problem discussed in previous paragraphs. Analysis in such detail would be impracticable for studies of survey report scope. Any estimate of such costs which might be included in a survey report would of necessity be an approximation based on a percentage of the estimated cost of the lands above the five-year flood frequency. Such an estimate might be objectionable from the standpoint of possible recreation sponsorship and certainly should not serve as a final basis for cost allocation. We believe that our current practice provides information and cost allocation consistent with the desires of the Congress, as expressed in House Report 1105, 85th Congress. However, we are always willing to supply any information which the Congress desires.

We have discussed the report and these comments with personnel of the Department of Interior and consider that the views of the two departments are consistent. The planning of projects is fully coordinated with the Bureau of Outdoor Recreation and the Bureau of Sports Fisheries as to planned uses for the land.



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

JUN 26 1967

Dear Mr. Hall:

The Department has studied the GAO draft report: "Review of Reservoir Land Acquisition Policies and Practices, Corps of Engineers (Civil Functions), Department of the Army." The report is critical of the "Joint Policies of the Departments of the Interior and Army Relative to Reservoir Project Lands" (FR 1734 February 22, 1962) and the acquisition by the Corps of fee title to reservoir lands under this policy.

The report implies that the Congress should require the Corps and the Bureau of Outdoor Recreation and Sport Fisheries and Wildlife to revert to a 1953 policy under which the Corps acquired flowage easements instead of fee titles to certain reservoir lands, so that such lands could be used for recreational or fish and wildlife purposes only if the Bureau of the Budget recommended and Congress specifically authorized such joint use of the land. This would require the bureaus to arrange for paying the difference between easement and fee title costs and, in some instances, would necessitate State concurrence and a contribution of State funds.

The 1953 policy was the subject of extensive Congressional hearings in June and July 1957 (see House Report 1185, 85th Congress) by which it was determined that this policy "... has a detrimental effect upon conservation and public recreation and so markedly reduces the ability of the Corps of Engineers to make fully available to the public the conservation and recreation values of the project area as to constitute an evasion of the mandates of Congress expressed in Section 4 of the Flood Control Act of 1944, as amended, and Section 3 of the Coordination Act of August 14, 1946."

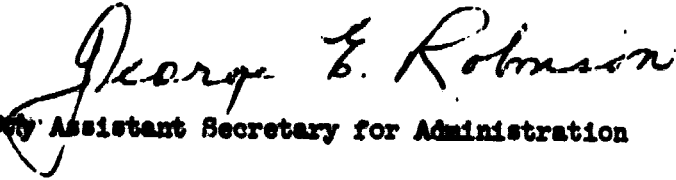
The Committee report stated under the heading "Principal Recommendations", "1. The joint policy of October 12, 1953 should be revoked. The former policy should be reinstated to provide for general fee taking to the flood line, and acquisition of lands above the flood control pool should be restricted to the minimum consistent with sound real estate practice and authorized public purposes...."

"2. In planning reservoir land acquisition, the Corps of Engineers and the Bureau of Reclamation should seek to make fully available the maximum conservational and recreational values inherent in their reservoir projects.... The Corps of Engineers in particular should, while considering the immediate financial aspects give increased recognition to the long-range needs of the Nation for the Conservation and full development of natural resources and the recreation potentialities of the proposed project...."

The "Joint Policies of the Department of the Interior and the Army Relative to Reservoir Project Lands" is responsive to the wishes of the Congress. In the Department's opinion, in actual application, they serve the best financial as well as other interests of the United States. The Department opposes the recommended return to the 1953 policies that were tried and found wanting.

We appreciate the opportunity to furnish our views concerning the draft report.

Sincerely yours,


Deputy Assistant Secretary for Administration

Mr. James T. Hall, Jr.
Associate Director, Civil Division
General Accounting Office
Washington, D. C.

SCHEDULE OF DATA ON SELECTED RESERVOIRS BEING CONSTRUCTED
UNDER 1962 LAND ACQUISITION POLICY

<u>Reservoir</u>	<u>Authorized project purposes</u>	<u>Operational date or estimated completion date</u>	<u>Estimated total cost</u>	<u>Estimated real estate cost</u>	<u>Estimated total acreage</u>	<u>Acreage within normal pool</u>
DeGray	Flood control, power, recreation, and water supply	1972	\$ 59,600,000	\$ 4,500,000	31,313	13,400
Elk City	Flood control and water supply	Mar. 1966	18,700,000	4,600,000	20,000	3,550
Milford	Flood control and water supply	Jan. 1967	45,900,000	15,700,000	49,555	15,600
Shelbyville	Flood control; water supply; recreation, fish and wildlife; and general land enhancement	1971	48,900,000	12,000,000	41,000	11,100
Shanango River	Flood control, recreation, and low-flow augmentation	Feb. 1967	32,700,000	8,100,000	14,871	3,560
Somerville	Flood control, water conservation, and other beneficial uses	Jan. 1967	23,700,000	8,200,000	32,972	11,460
West Thompson	Flood control	Oct. 1965	<u>6,500,000</u>	<u>1,800,000</u>	<u>2,234</u>	<u>200</u>
			<u>\$236,000,000</u>	<u>\$54,900,000</u>	<u>191,945^a</u>	<u>58,870</u>

^aIncludes 177,943 acres for which fee title is being acquired and 14,002 acres for which flowage easements are being acquired.

COMPARISON OF 1962 AND 1953 RESERVOIR LAND

ACQUISITION POLICIES

	1962 policy (<u>note a</u>)	1953 <u>policy</u>
Lands necessary for permanent structures	Fee	Fee
Lands within the flood control pool:		
Up to 5-year flood frequency line	Fee	Fee ^b
Between 5-year flood frequency line and top of flood control pool	Fee	Flowage easements
Freeboard above top of flood control pool	Fee	Flowage easements
Minimum of 300 feet horizontally above top of flood control pool when not included in freeboard	Fee ^c	No interest

^a Flowage easements are acquired only when all the conditions listed on page 6 are met.

^b Plus additional land needed to provide for limited public use, reasonable access, operation and maintenance, and blocking out of property lines.

^c Plus additional land required for adequate public access, operation and maintenance, and blocking out of property lines.

SUMMARY OF LEGISLATION CONSIDERED DURING OUR REVIEW

Fish and Wildlife Coordination Act

The Fish and Wildlife Coordination Act provides that wildlife conservation receive equal consideration and be coordinated with other features of water resource development programs. The act authorizes the Secretary of the Interior to assist and cooperate with the States and other Federal agencies in carrying out necessary measures to effectuate the purposes of the act. The act provides that Federal agencies authorized to construct water control projects are authorized to acquire land for conservation of wildlife resources as an integral part of the projects.

Although the Department of the Army has interpreted the Fish and Wildlife Coordination Act as not being applicable to land within Corps reservoir boundaries it does consider the act to be applicable to land acquired outside the reservoir boundaries solely for fish and wildlife purposes.

Federal Water Project Recreation Act

The Federal Water Project Recreation Act states that it is the policy of the Congress that full consideration be given to opportunities for outdoor recreation and fish and wildlife enhancement in planning Federal water resource projects.

The act provides that, if non-Federal public bodies indicate their intent, in writing, to administer project land and water areas for recreation or fish and wildlife enhancement and to bear not less than one half the separable costs allocated to either or both of said purposes and all costs of operation, maintenance, and replacement incurred, then:

- "(1) the benefits of the project to said purpose or purposes shall be taken into account in determining the economic benefits of the project;
- "(2) costs shall be allocated to said purpose or purposes and to other purposes in a manner

which will insure that all project purposes share equitably in the advantages of multiple-purpose construction: ***

"(3) not more than one-half the separable costs and all the joint costs of the project allocated to recreation and fish and wildlife enhancement shall be borne by the United States and be nonreimbursable."

The act provides further that no facilities or project modifications which will furnish recreation or fish and wildlife enhancement benefits be provided in the absence of an indication of intent with respect thereto by local interests unless such facilities or modifications (1) serve other project purposes and are justified thereby, without regard to such incidental recreation or fish and wildlife enhancement benefits as they may have, or (2) are minimum facilities which are required for the public health and safety.

The act provides also that land may be acquired to preserve the future recreation and fish and wildlife potentials of water resource projects even if local cooperation is not obtained. The act provides further that if, within 10 years after the initial operation of the project, such cooperation is not obtained, such lands may be either disposed of or retained for other authorized purposes.

Department of the Army regulations state that the Federal Water Project Recreation Act does not impose a requirement for local participation in all public access and fish and wildlife areas and specify that the provisions of the act relate to areas other than those which are considered as essentially the responsibility of the Federal Government under the provisions of the Flood Control Act of 1944, as amended.

The Corps has informed us that it (1) does not consider the costs of lands acquired in fee within reservoir boundaries and used for recreation or fish and wildlife purposes to be subject to cost sharing by a non-Federal public body, (2) considers such lands as joint-use lands for water control and for recreation and fish and wildlife purposes, and (3) treats the acquisition costs as joint costs rather than as separable costs.

ILLUSTRATIVE MAPS

MILFORD RESERVOIR

The maps included as Exhibits I to IVa are in reference to the Milford Reservoir located near Junction City, Kansas. The Corps' criterion for acquiring lands, including the Milford Reservoir, is generally fee acquisition to lands lying within a freeboard of 1 to 3 feet above the top of the flood control pool and at least 300 feet horizontally from the top of the flood control pool. Additional fee title to land is being acquired by the Corps as necessary to block out property lines. Easements are generally being acquired only in areas remote from the main body of the normal pool.

The total real estate cost for the Milford Reservoir will be over \$15 million, including the cost of ownership in fee simple of 44,553 acres and easements over 5,002 acres.

In our review of the Milford Reservoir, we examined 59 fee tracts involving 9,406 acres which had been appraised by the Corps at \$1,937,240. In making our analyses, we identified as acreage which should be acquired in fee for water control purposes the acreage below the elevations expected by the Corps to be flooded once in 5 years on the average or land lying at least 300 feet horizontally from the normal pool, whichever was greater. Additional acreage was included as necessary to block out property lines. Under our criterion, only 3,794 of the 9,406 acres would have been required in fee, flowage easements would have been required for 2,734 acres, and 2,878 acres were not needed for water control purposes. We estimated that the additional cost to the Corps of taking fee title to the 9,406 acres acquired in fee amounted to about \$720,000.

EXHIBIT I

This map shows the major portion of the Milford Reservoir and the location of individual land segments included in exhibit maps II, III, and IV.

EXHIBITS II, III, and IV

The maps included as Exhibits II, III, and IV consist of three large-scale maps of individual land segments within the Milford Reservoir. All the shaded areas on these maps represent land that is being acquired in fee by the Corps. Using our criterion, we have identified the land for which, in our opinion, fee title would have been required, the land for which flowage easements would have sufficed, and the land which was not needed for water control purposes.

EXHIBITS IIa, b, and c; IIIa; and IVa

These maps illustrate five individual tracts located within the segment maps in exhibits II, III, and IV. The shaded areas represent land acquired in fee by the Corps. Under our criterion, only the lightest shaded area would require fee acquisition for water control purposes. This area represents land lying below the 5-year flood frequency level and lying at least 300 feet horizontally from the normal pool. Additional acreage was included as necessary for blocking out property lines.

The darkest shaded area represents the land for which, under our criterion, flowage easements would have sufficed for water control purposes. The darkest shaded area represents the land lying below elevation 1182 and includes freeboard above the top of the flood control pool (elevation 1176.2).

The medium-shaded area represents the land for which no interest was required for water control purposes but which was acquired by the Corps to ensure Government ownership of the land lying within 300 feet of the top of the flood control pool and related acreage acquired to block out property lines.

Comparative acreages and costs have been included with each tract map.

- - - -

Our taking and boundary lines, as illustrated in the exhibit maps are approximations.

EXHIBITS I THROUGH IVa

TO

APPENDIX VII

EXHIBIT 1 - MILFORD RESERVOIR - KANSAS CITY ENGINEER DISTRICT

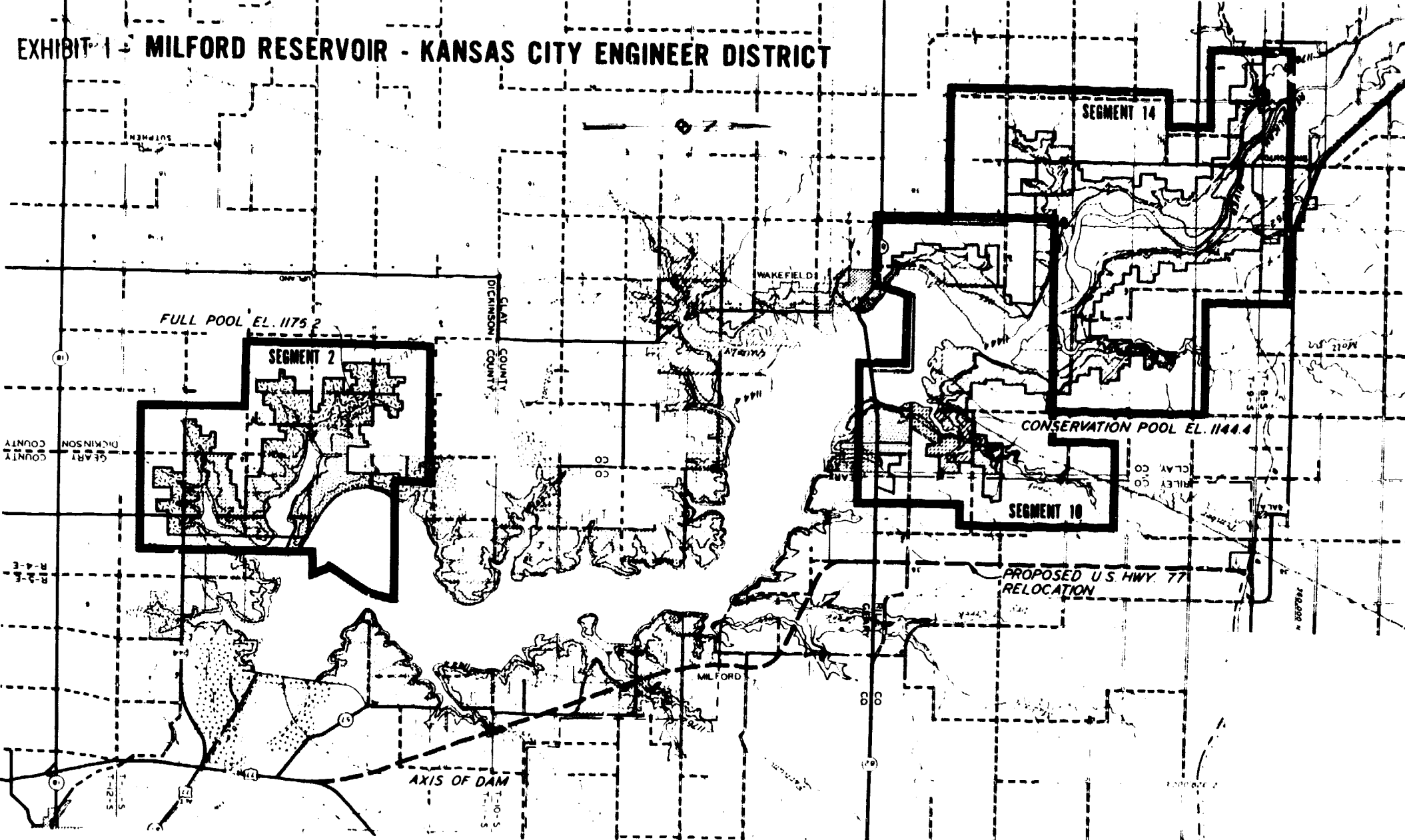



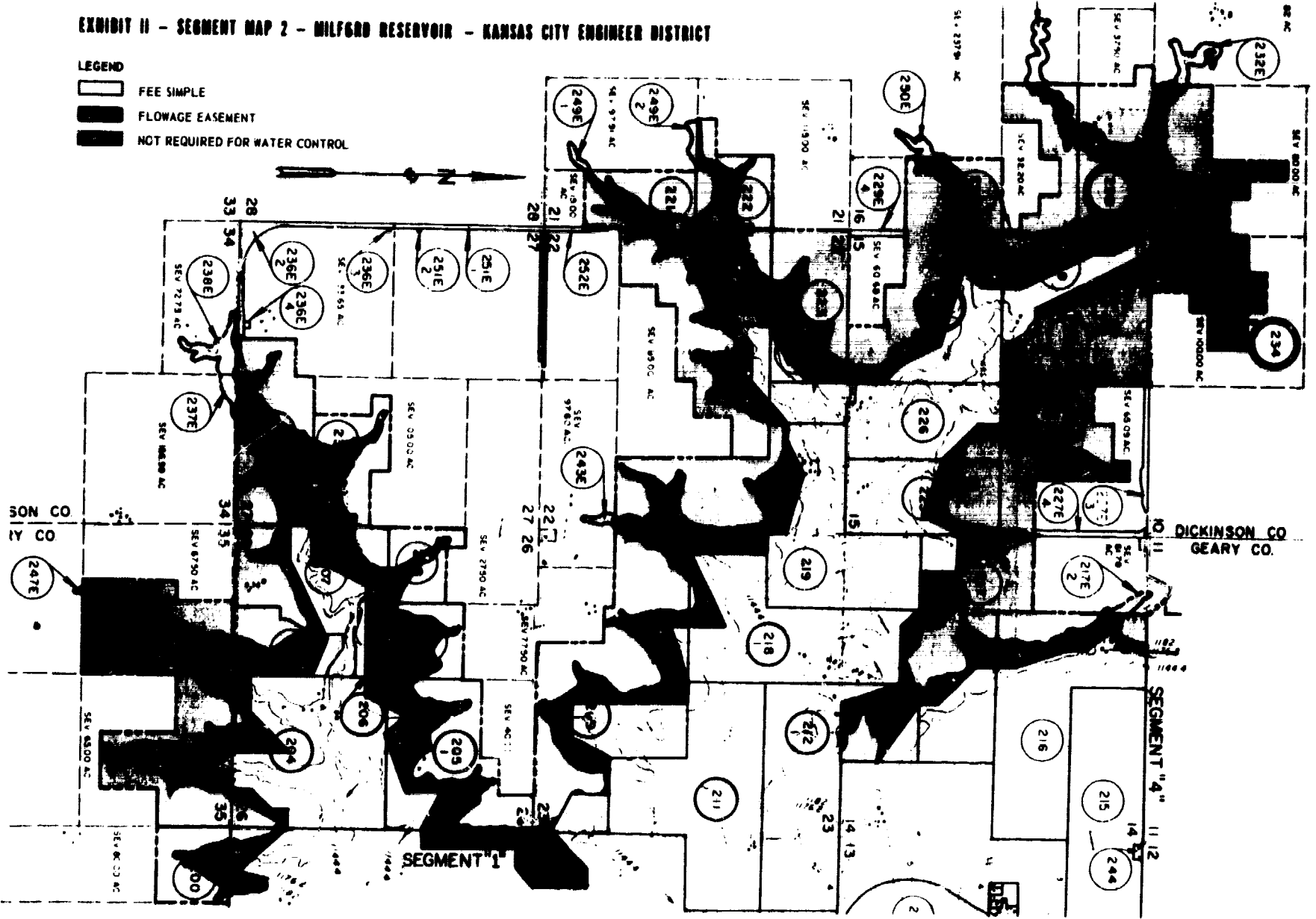


EXHIBIT II - SEGMENT MAP 2 - MILFORD RESERVOIR - KANSAS CITY ENGINEER DISTRICT

LEGEND

-  FEE SIMPLE
-  FLOWAGE EASEMENT
-  NOT REQUIRED FOR WATER CONTROL



SEGMENT 2 - MILFORD TRACT NO. 279





(1) Acreage in the Ownership	320.00
(2) Acreage in the tract	225.00
(3) Anticipated use	Priority 2 and 3*
(4) GAO analysis of acreage in tract	
(5) Acreage required in fee simple	50.52
(6) Acreage required in flowage easements	57.77
(7) Acreage of which no interest is required for water control purposes	116.71
(8) Corps' appraisal of the tract	\$34,500.00
(9) GAO estimated cost for interests substituted for the total fee taking	\$11,340.00
(10) Additional cost of taking fee	\$23,160.00
(11) Distance from normal pool	zero feet

*Non-profit organizations with functions in the public interest.

SIGNIFICANT ELEVATIONS

- 1156 FT. 5 YEAR FLOOD FREQUENCY
- 1176.2 FT. TOP OF FLOOD CONTROL POOL
- 1182 FT. GUIDE TAKING LINE

LEGEND

-  FEE SIMPLE
-  FLOWAGE EASEMENT
-  NOT REQUIRED FOR WATER CONTROL
-  REMAINDER OF OWNERSHIP NOT ACQUIRED BY THE CORPS

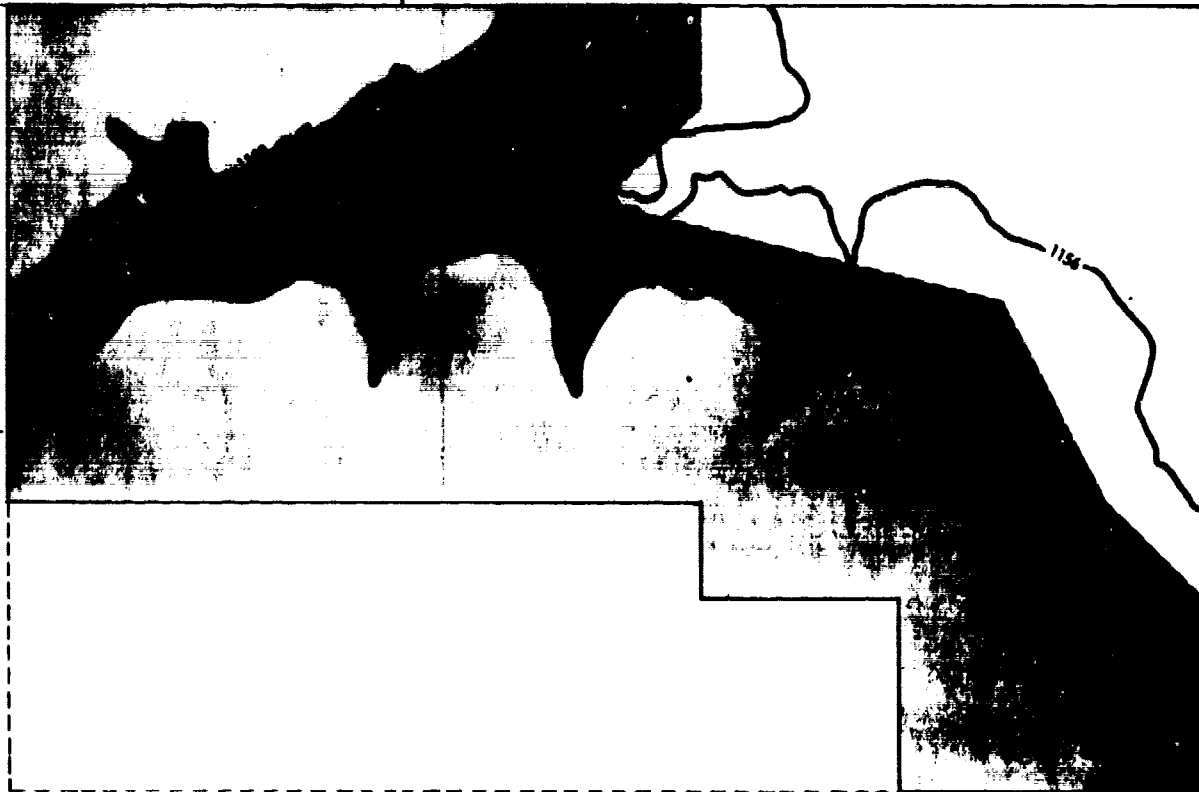
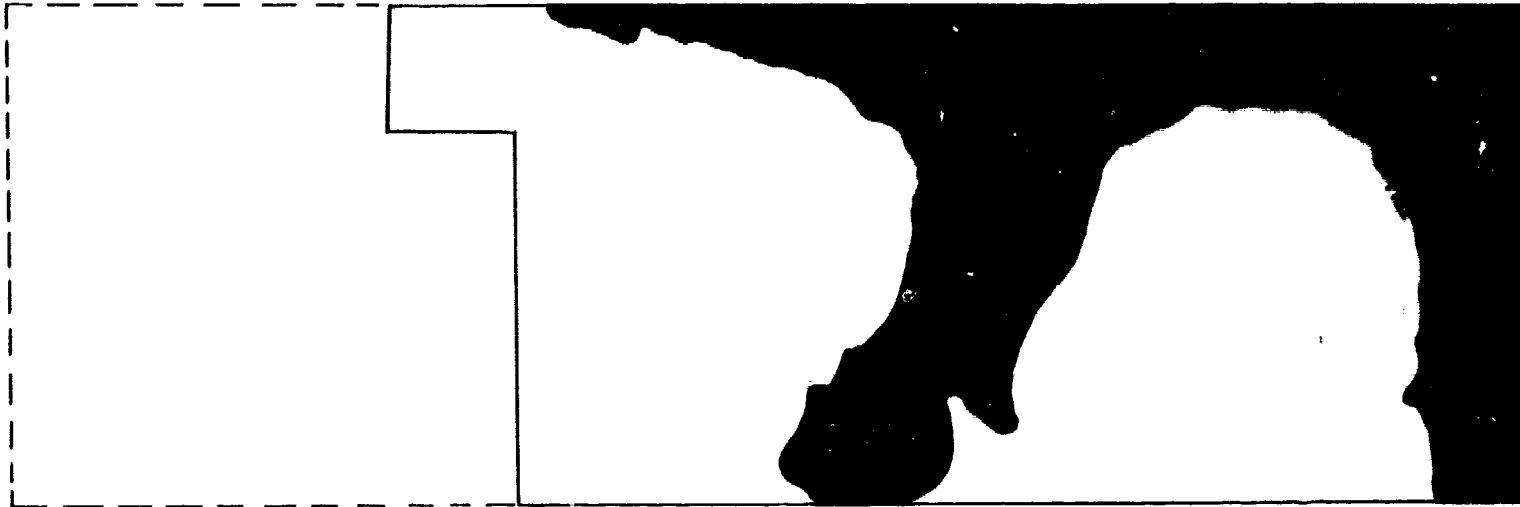


EXHIBIT IIb - TRACT MAP NO. 230 - MILFORD RESERVOIR - KANSAS CITY ENGINEER DISTRICT



SIGNIFICANT ELEVATIONS

1176.2 FT. TOP OF FLOOD CONTROL POOL

1182 FT. GUIDE TAKING LINE

LEGEND

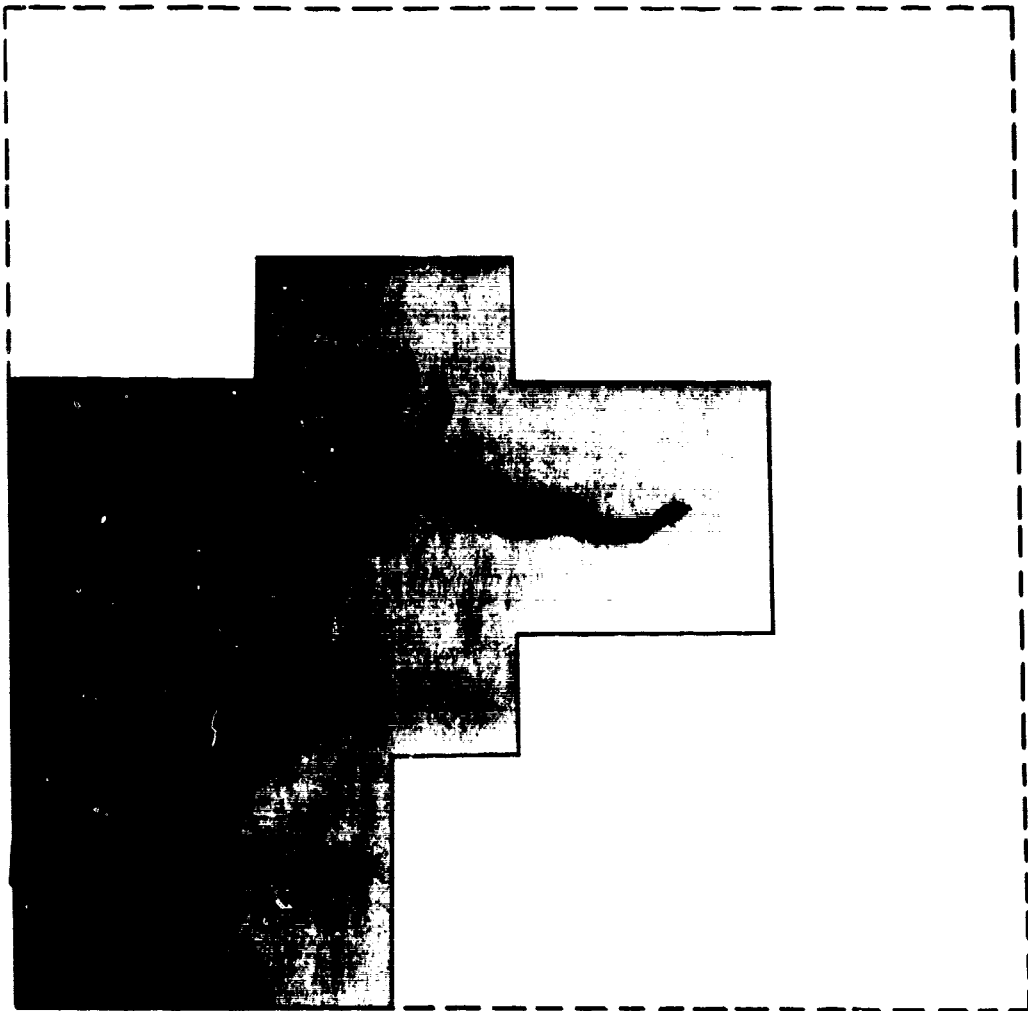
- FLOWAGE EASEMENT
- NOT REQUIRED FOR WATER CONTROL
- REMAINDER OF OWNERSHIP NOT ACQUIRED BY THE CORPS

SEGMENT 2 MILFORD TRACT NO. 230

- (1) Acreage in the Ownership 120.00
- (2) Acreage in the tract 82.50
- (3) Anticipated use Priority 2 and 3*
- (4) GAO analysis of acreage in tract
- (5) Acreage required in fee simple none
- (6) Acreage required in flowage easements 31.52
- (7) Acreage of which no interest is required for water control purposes 50.98
- (8) Corps' appraisal of the tract \$19,500.00
- (9) GAO estimated cost for interests substituted for the total fee taking \$ 2,575.00
- (10) Additional cost of taking fee \$16,925.00
- (11) Distance from normal pool 3,600 feet

* Non-profit organizations with functions in the public interest.

EXHIBIT IIc - TRACT MAP NO. 234 - MILFORD RESERVOIR - KANSAS CITY ENGINEER DISTRICT






SIGNIFICANT ELEVATIONS

1176.2 FT. TOP OF FLOOD CONTROL POOL

1182 FT. GUIDE TAKING LINE

LEGEND

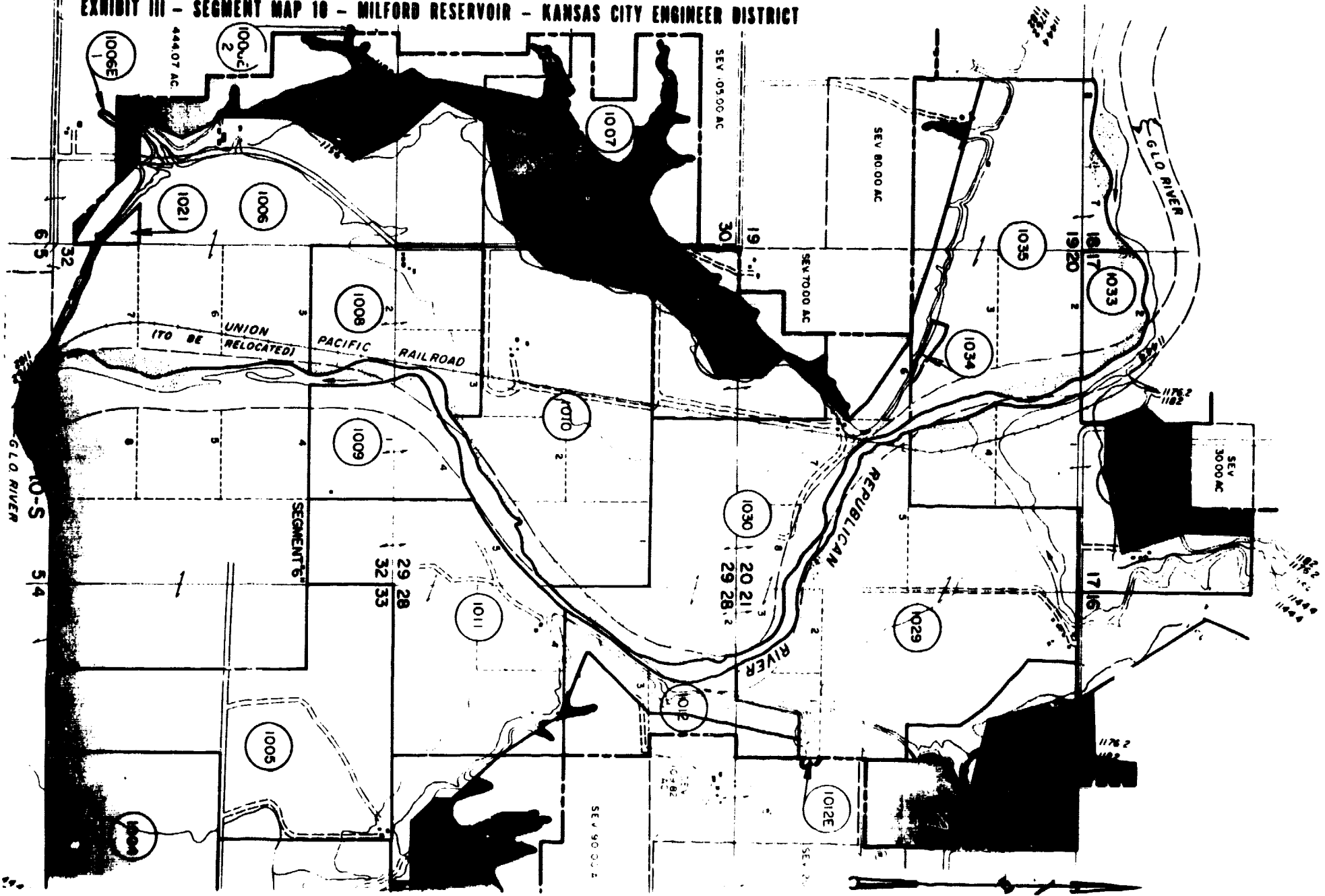
-  FLOWAGE EASEMENT
-  NOT REQUIRED FOR WATER CONTROL
-  REMAINDER OF OWNERSHIP NOT ACQUIRED BY THE CORPS

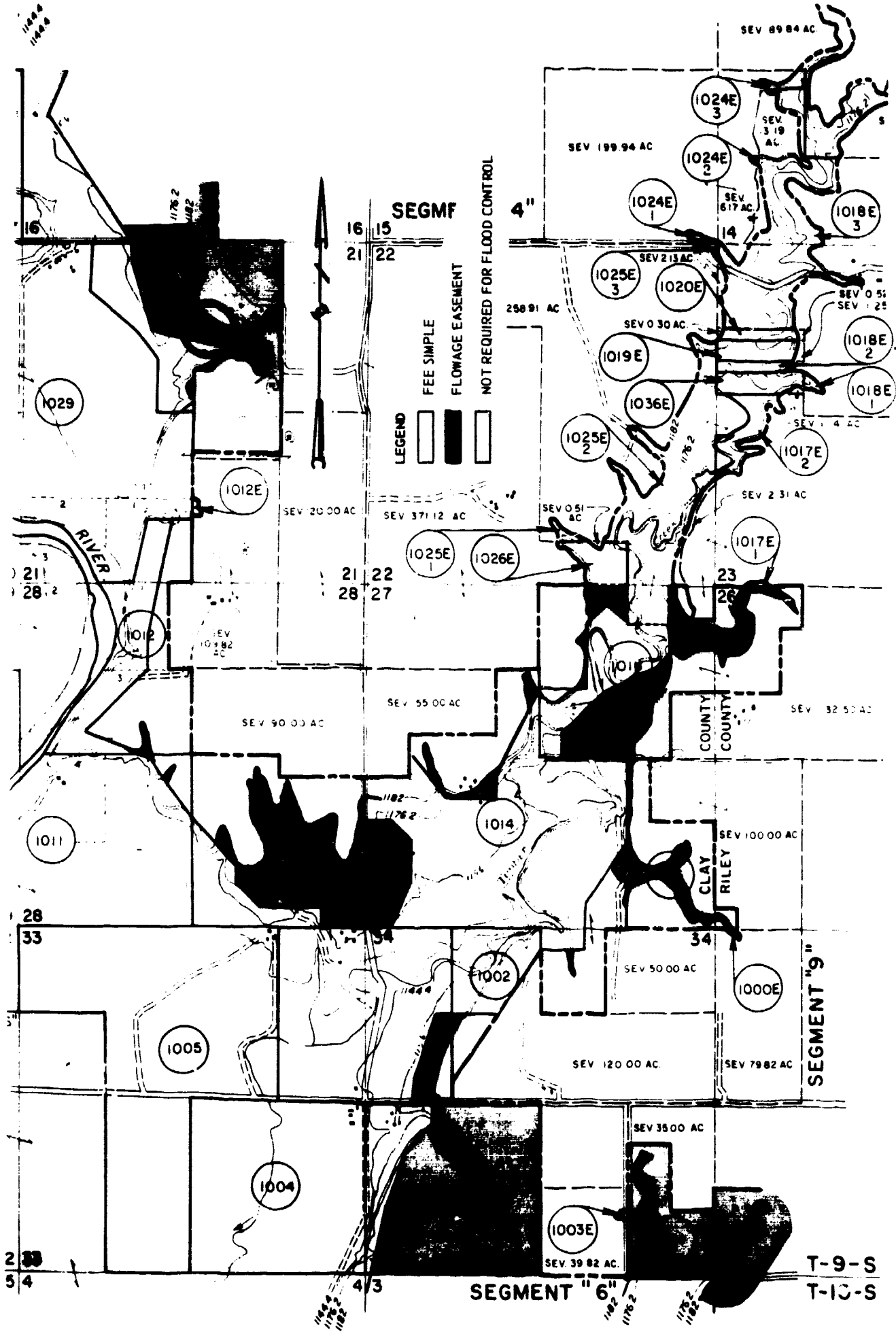
SEGMENT 2 MILFORD TRACT NO. 234

(1) Acreage in the Ownership	160.00
(2) Acreage in the tract	60.00
(3) Anticipated use	Priority 2 and 3*
(4) GAO analysis of acreage in tract	
(5) Acreage required in fee simple	none
(6) Acreage required in flowage easements	18.21
(7) Acreage of which no interest is required for water control purposes	41.79
(8) Corps' appraisal of the tract	\$13,150.00
(9) GAO estimated cost for interests substituted for the total fee taking	\$ 1,050.00
(10) Additional cost of taking fee	\$12,100.00
(11) Distance from normal pool	3,960 feet

*Non-profit organizations with functions in the public interest.

EXHIBIT III - SEGMENT MAP 10 - MILFORD RESERVOIR - KANSAS CITY ENGINEER DISTRICT





SEGMF

4"

LEGEND

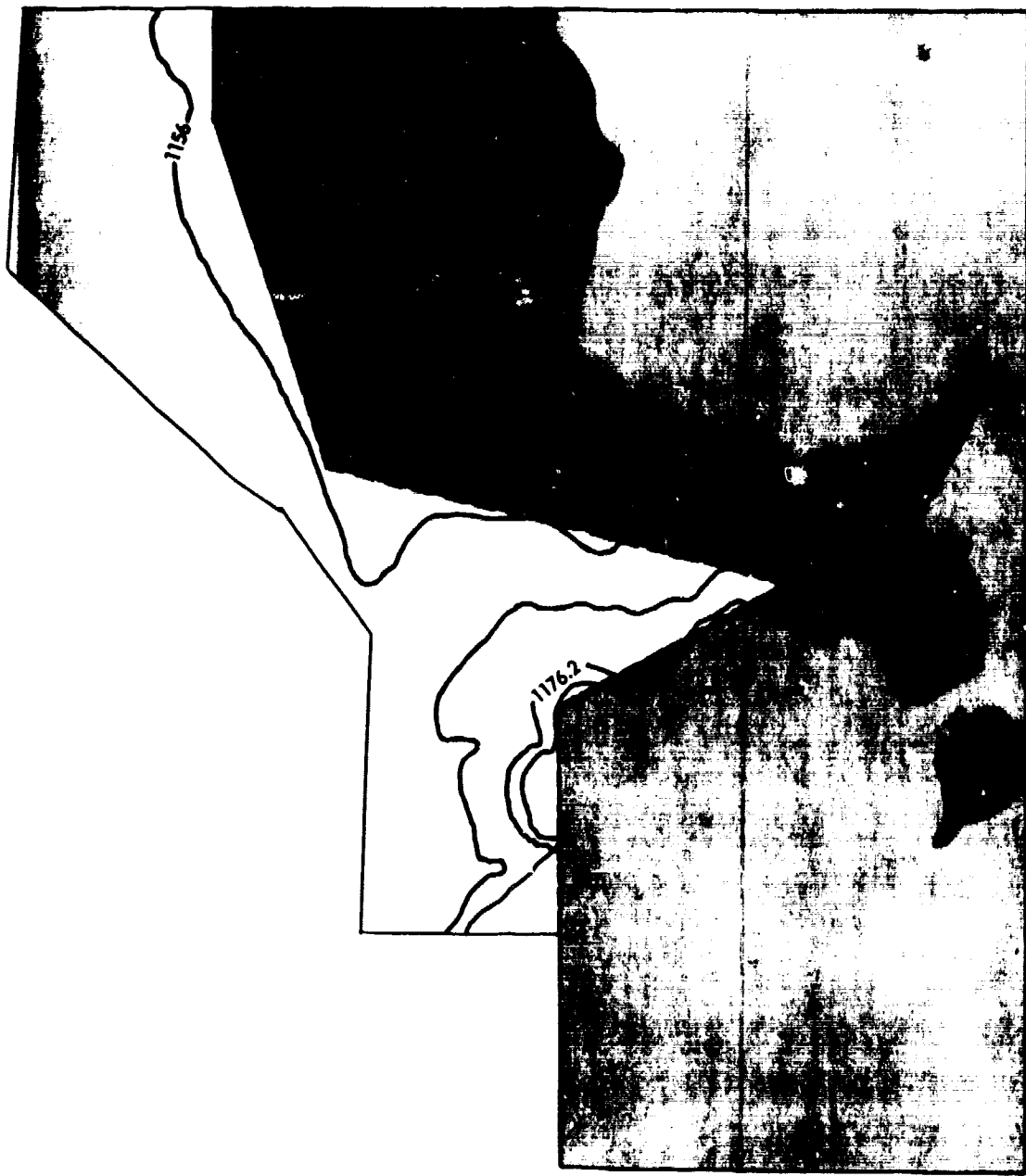
- FEE SIMPLE
- FLOWAGE EASEMENT
- NOT REQUIRED FOR FLOOD CONTROL

SEGMENT "9"

SEGMENT "6"

T-9-S
T-10-S




EXHIBIT IIIa - TRACT MAP NO. 1028 - MILFORD RESERVOIR - KANSAS CITY ENGINEER DISTRICT



SIGNIFICANT ELEVATIONS

- 1156 FT. 5 YEAR FLOOD FREQUENCY
- 1176.2 FT. TOP OF FLOOD CONTROL POOL
- 1182 FT. GUIDE TAKING LINE

LEGEND




-  FEE SIMPLE
-  FLOWAGE EASEMENTS
-  NOT REQUIRED FOR WATER CONTROL
- W** WATER

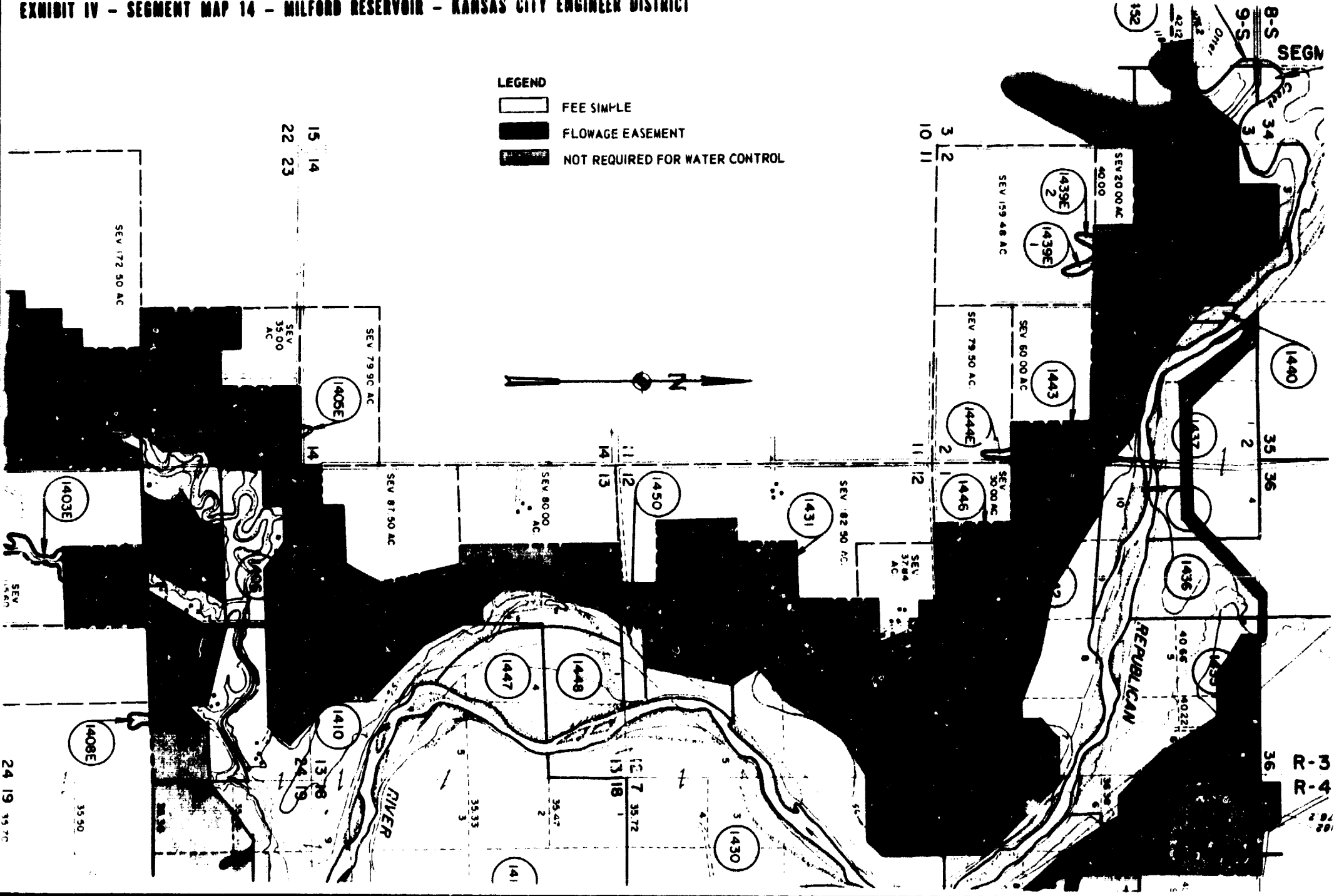
SEGMENT 10 MILFORD TRACT NO. 1028

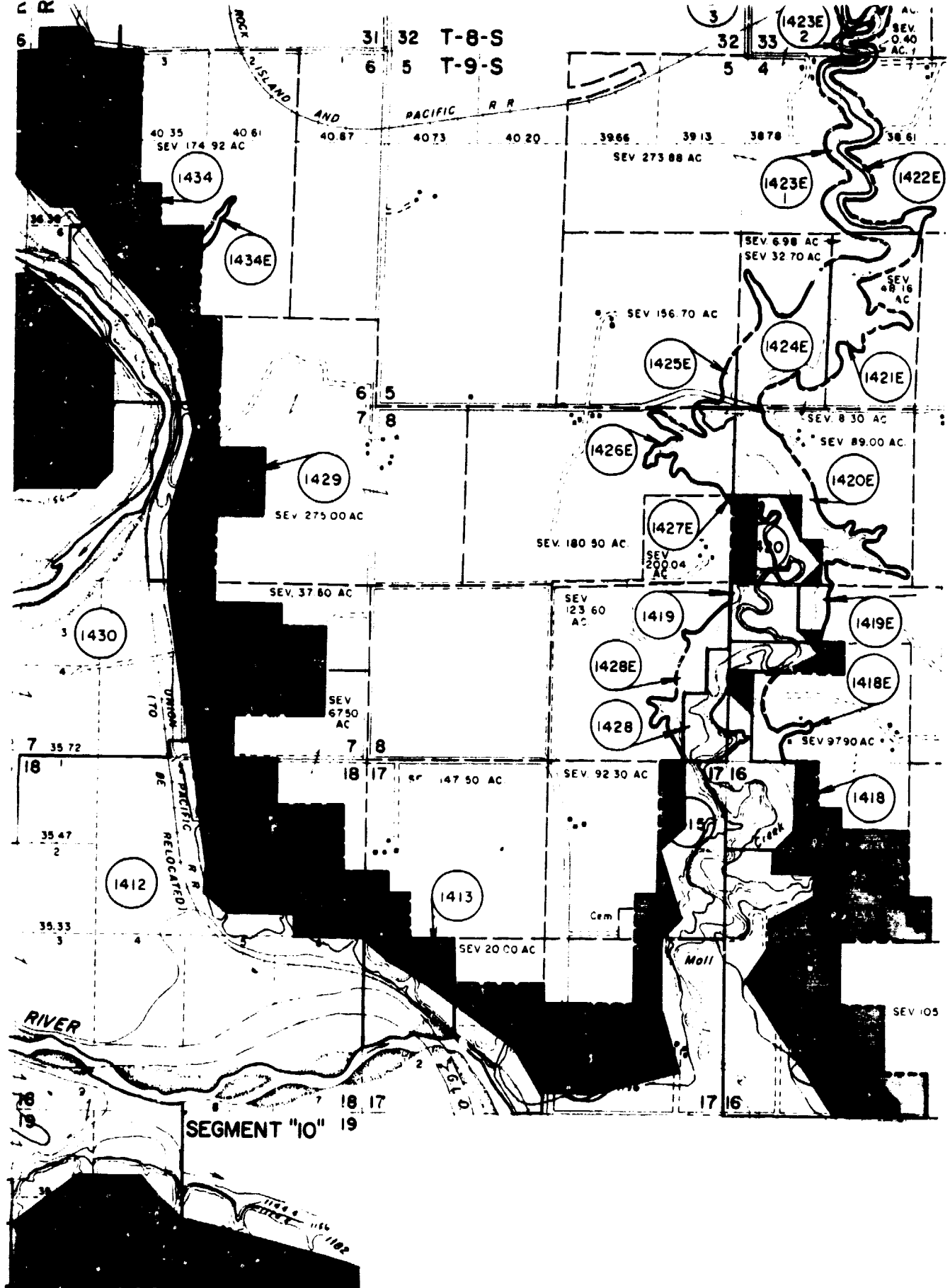
(1) Acreage in the Ownership	161.95
(2) Acreage in the tract	161.95
(3) Anticipated use	Fish and Wildlife
(4) GAO analysis of acreage in tract	
(5) Acreage required in fee simple	37.15
(6) Acreage required in flowage easements	45.14
(7) Acreage of which no interest is required for water control purposes	79.66
(8) Corps' appraisal of the tract	\$33,000.00
(9) GAO estimated cost for interests substituted for the total fee taking	\$11,675.00
(10) Additional cost of taking fee	\$21,325.00
(11) Distance from normal pool	365 feet

EXHIBIT IV - SEGMENT MAP 14 - MILFORD RESERVOIR - KANSAS CITY ENGINEER DISTRICT

LEGEND

-  FEE SIMPLE
-  FLOWAGE EASEMENT
-  NOT REQUIRED FOR WATER CONTROL





SEGMENT "10" 19

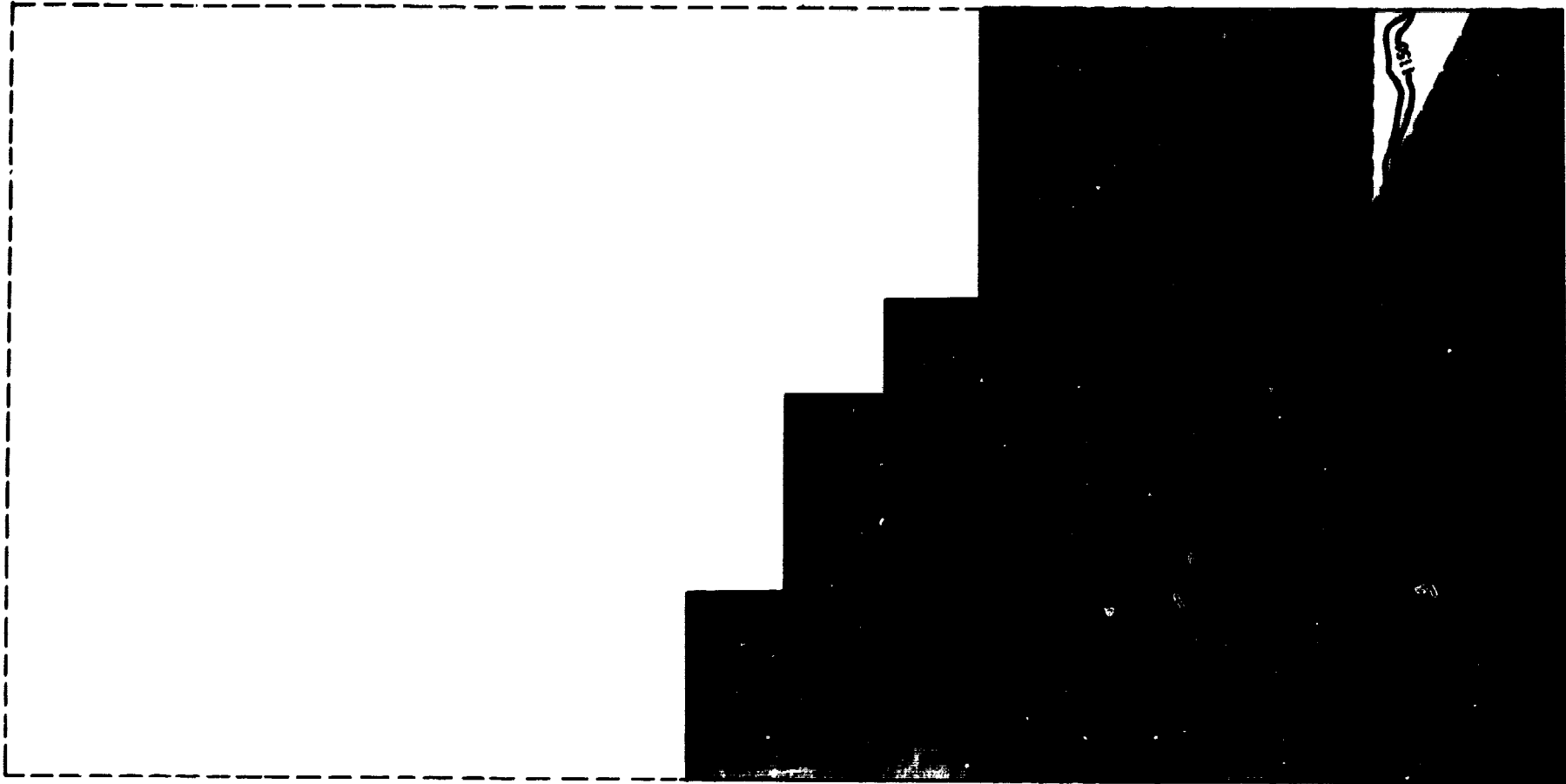
SEV
230.55
AC

35.50

19 35.70
30

19
30





EXHIBIT IVe - TRACT MAP NO. 1402 - MILFORD RESERVOIR - KANSAS CITY ENGINEER DISTRICT



SIGNIFICANT ELEVATIONS

- 1156 FT. 5 YEAR FLOOD FREQUENCY
- 1176.2 FT. TOP OF FLOOD CONTROL POOL
- 1182 FT. GUIDE TAKING LINE

LEGEND

-  FEE SIMPLE
-  FLOWAGE EASEMENT
-  NOT REQUIRED FOR WATER CONTROL
-  REMAINDER OF OWNERSHIP NOT ACQUIRED BY THE CORPS

SEGMENT 14 MILFORD TRACT NO. 1402

(1) Acreage in the Ownership	480.00
(2) Acreage in the tract	147.50
(3) Anticipated use	Fish and Wildlife
(4) GAO analysis of acreage in tract	
(5) Acreage required in fee simple	3.92
(6) Acreage required in flowage easements	49.30
(7) Acreage of which no interest is required for water control purposes	94.28
(8) Corps' appraisal of the tract	\$24,400.00
(9) GAO estimated cost for interests substituted for the total fee taking	\$ 4,680.00
(10) Additional cost of taking fee	\$19,720.00
(11) Distance from normal pool	2,920 feet