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DOCUMENT RESUME

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[Agreement between the Departments of the Navy and Interior for the Use of Land at Sachuest Point, Rhode Island]. LCD-77-344; B-101646. May 6, 1977. 1 pp. + 1 enclosure (10 pp.).

Report to Rep. Fernand J. St. Germain; by Elmer B. Staats, Comptroller General.

Issue Area: Facilities and Material Management (700).

Contact: Logistics and Communications Div.

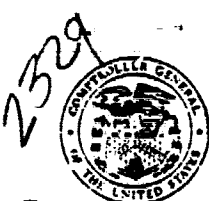
Budget Function: General Government: General Property and Records Management (804); Natural Resources, Environment, and Energy: Conservation and Land Management (302).

Organization Concerned: Department of the Navy; Department of Defense; General Services Administration; Department of the Interior.

Congressional Relevance: Rep. Fernand J. St. Germain.

Authority: National Wildlife Refuge System Administration Act of 1976, as amended (P.L. 94-223; 90 Stat. 199). Federal Property and Administrative Services Act of 1949, as amended.

The Departments of the Navy and Interior have an agreement for the use of land at Sachuest Point, Rhode Island. Procedures for use and disposal of real property are specified under the Federal Property and Administrative Services Act of 1949. Findings/Conclusions: None of the agencies involved in the transactions concerning the use of the 102-acre parcel of land under dispute appears to have observed a principal objective of the Property Act, which is to promote the maximum use of Federal property and the orderly disposition of excess property under the centralized direction of the General Services Administration (GSA). Recommendations: The Secretary of the Interior should direct the Fish and Wildlife Service to meet with the Department of the Navy to discuss the recreational needs in the area and to permit the Navy's continued use of the beach club property, if that is the most efficient and economical solution. The Secretary of the Navy should direct the Naval Facilities Engineering Command to complete the screening of the 102-acre parcel for Department of Defense requirements and, if not needed, to report it to GSA as excess. The Administrator of the GSA should direct the regional administrator to withdraw a 1975 environmental impact assessment; officially notify the town of Middletown, Rhode Island, that disposition of the land to other parties cannot be considered at this time; and follow normal procedures for screening the property if it is declared excess by the Department of Defense. (SC)



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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

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MAY 6 1977

B-101646

The Honorable Fernand J. St Germain  
House of Representatives

*Released 6/21/77*

Dear Mr. St Germain:

On September 21, 1976, you asked us to review the agreement between the Departments of the Navy and Interior for the use of land at Sachuest Point, Rhode Island. You also asked for a report on the procedures for use and disposal of real property under the Federal Property and Administrative Services Act of 1949. These points are discussed in detail in enclosure I.

We reviewed pertinent files and interviewed officials concerned with the case.

In accordance with your instruction, we did not obtain comments on this report from the agencies involved. Our recommendations to the Secretaries of the Navy and Interior and to the Administrator of the General Services Administration are set forth on pages 9 and 10. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We will be in touch with your office in the near future to arrange for release of the report so that the requirements of section 236 can be set in motion.

Sincerely yours,

Comptroller General  
of the United States

Enclosure

LCD-77-344

DISPOSITION OF NAVY PROPERTYLOCATED AT SACHUEST POINTINTRODUCTION

On September 21, 1976, Congressman Fernand J. St. Germain requested us to review the background, circumstances, and current status of a use agreement between the Departments of the Navy and the Interior concerning land located at Sachuest Point, Rhode Island.

BACKGROUND

The Federal Property and Administrative Services Act of 1949, as amended, charges the General Services Administration with responsibility for promoting maximum use of excess federally owned property by executive agencies. The act requires the Administrator of the General Services Administration to prescribe policies and methods to promote the use of excess property by all executive agencies. This guidance is included in the Federal Property Management Regulations.

The regulations require executive agencies to report to the General Services Administration any property excess to their needs for screening against other Federal agencies' needs. If excess property is needed by another Federal agency, General Services Administration can transfer it to that agency. However, the General Services Administration can deny an agency's request for excess property if the General Services Administration determines that (1) the agency's stated requirement is not valid, (2) the Government does not receive an economic advantage by its further use, and (3) the requesting agency will not otherwise be required to purchase similar property at a greater cost.

If there is no Federal need for the excess property, or if the Administrator determines that the property should not be transferred to an agency requesting it, the property is determined to be surplus and is made available for disposal outside of the Government. Surplus property may be donated to public agencies and/or nonprofit institutions for public programs or sold to those agencies. Surplus property may be sold to private parties by advertised bid or, in certain unusual circumstances, by negotiation.

The Navy originally owned about 184 acres of land at Sachuest Point, using it for a communication station. Next

to the Navy property is a wildlife refuge which the Audubon Society donated in October 1970 to the Bureau of Sports Fisheries and Wildlife, a division of the Fish and Wildlife Service. The Audubon Society donated the property to prevent the town of Middletown from condemning it for future marina development. The donated property included 1.94 acres which the Audubon Society leased to the Navy for use as a beach club. The Navy had leased this property and operated it since 1947, and continued to use it after it was donated to the Fish and Wildlife Service.

In 1973 the Navy began to close stations and consolidate activities in the Newport, Rhode Island, area. As each parcel of land became excess to the Navy, the 184 acres of property were subdivided into parcels of 32, 50, and 102 acres. (See the map on p. 3.)

The General Services Administration disposed of two parcels: the 32-acre parcel which was transferred to the town of Middletown through the Bureau of Outdoor Recreation on July 1, 1976, for park and recreation use, and the 50-acre parcel which was transferred to the Fish and Wildlife Service on August 20, 1976, for the Sachuest Point National Wildlife Refuge.

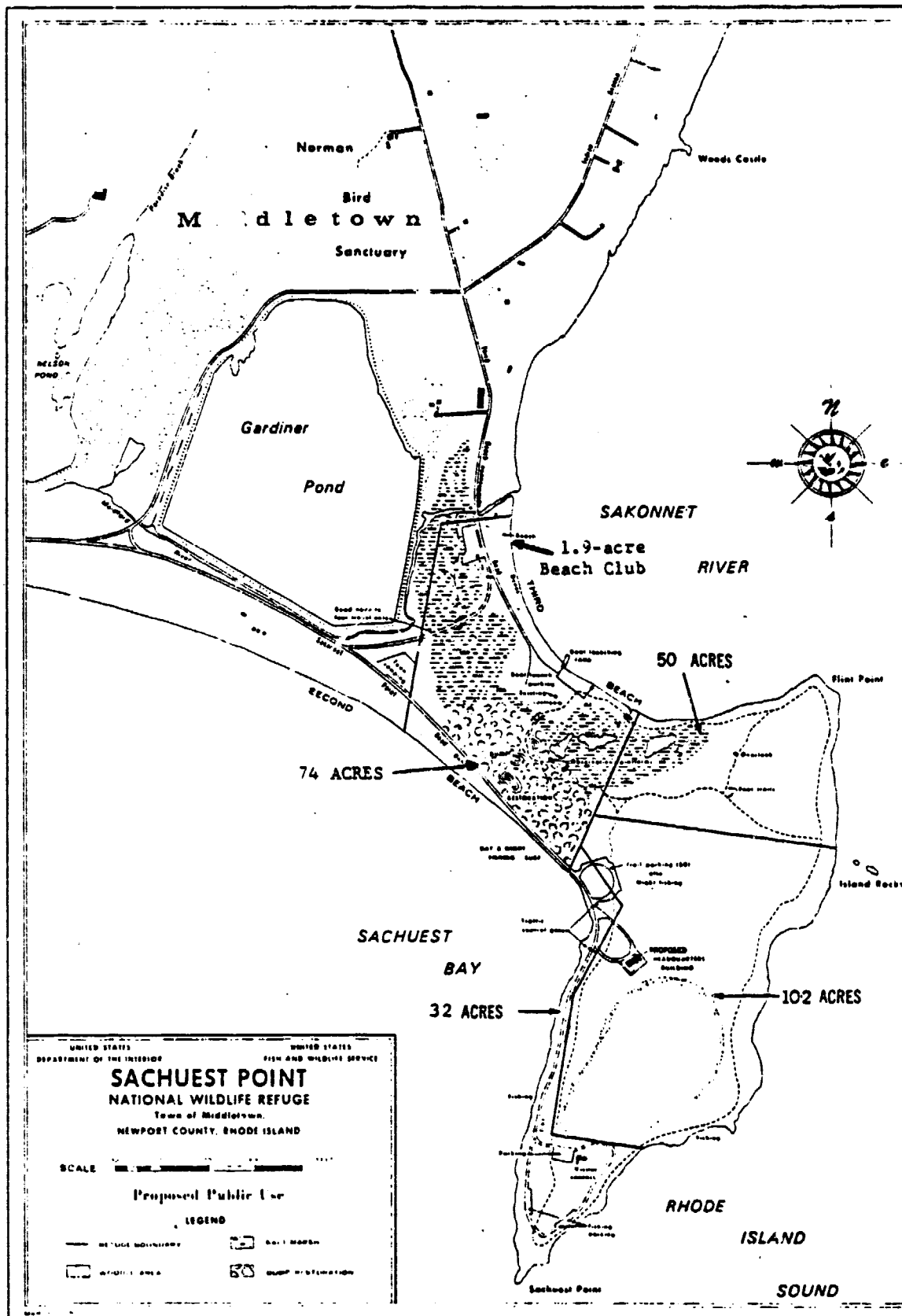
The 102-acre parcel is still being held by the Navy and is being used by the Fish and Wildlife Service under a use agreement with the Navy.

The details discussing the disposals and existing use agreement of the property at Sachuest Point are presented below.

#### DISPOSAL OF THE 32-ACRE PARCEL

In August 1973 the Navy submitted a disposal report to the congressional Armed Services Committees for 658 acres of land in the Newport Naval Station area. The report clearly identified that part of the excess property was located at Sachuest Point. The General Services Administration used the Navy report to screen the property through Federal agencies, but did not include the description of the property at Sachuest Point. There was no Federal request for the land and it was determined surplus.

When the Fish and Wildlife Service became aware that 32 acres of the surplus property was located at Sachuest Point, it notified the General Services Administration that it required that parcel for inclusion in its Sachuest Point National Wildlife Refuge. The General Services Administration informed the Fish and Wildlife Service that it was



UNITED STATES DEPARTMENT OF THE INTERIOR  
 UNITED STATES FISH AND WILDLIFE SERVICE

**SACHUEST POINT NATIONAL WILDLIFE REFUGE**  
 Town of Middletown, NEWPORT COUNTY, RHODE ISLAND

SCALE: 1" = 100'

Proposed Public Use

LEGEND

- REFUGE BOUNDARY
- WILDLIFE AREA
- SALT MARSH
- DUNE STABILIZATION

reluctant to transfer the property to it because of possible political considerations, since the town of Middletown had expressed interest in obtaining it.

In July 1975 the General Services Administration held a meeting with Federal, State, and local officials to reach a compromise on the disposition of the 184 acres of Sachuest Point property. During the meeting, the Administrator for the General Services Administration's region I proposed to give the town of Middletown the 32-acre parcel plus 25 to 30 acres of the 102-acre parcel when it became excess and to transfer the 50-acre parcel and the remainder of the 102-acre parcel to the Fish and Wildlife Service. The Fish and Wildlife Service officials objected and advised the General Services Administration that it needed all of the 184 acres.

However, they did agree to further consider the proposal and inform the General Services Administration of its official position.

After the meeting, the General Services Administration filed a negative environmental impact assessment, i.e., one stating that the contemplated action will have no major impact on the environment, proposing to distribute the 184 acres in the manner set forth by the Regional Administrator at the meeting. The Fish and Wildlife Service later informed General Services Administration that its position was as follows:

- The transfer of the 32-acre parcel to Middletown must restrict the use of the property to passive recreation.
- The General Services Administration should transfer to the Fish and Wildlife Service the 50-acre parcel of excess property now.
- The remaining 102 acres should be transferred to the Fish and Wildlife Service when it becomes excess.

The town of Middletown agreed to having the Fish and Wildlife Service restriction placed in the deed of conveyance for the 32-acre parcel. The property was transferred to the town on July 1, 1976, for passive park and recreation purposes.

DISPOSAL OF THE  
50-ACRE PARCEL

When the Navy's lease with the Audubon Society for use of the beach club expired, the Fish and Wildlife Service issued special use permits for the Navy. After a 6-month permit was issued in June 1974, the Fish and Wildlife Service offered to exchange with the Navy the 1.94 acres of refuge property where the beach club is located for 30 acres of the 50-acre parcel. The Navy informed the Fish and Wildlife Service that it did not have authority to make such an exchange and that it was reporting the 50-acre parcel to the General Services Administration as excess. The Navy stated that it would notify the General Services Administration of the Fish and Wildlife Service's interest in the property. The Navy requested the Fish and Wildlife Service to make the 1.94 acres of beach club property available for transfer to it through the General Services Administration.

On November 18, 1974, the Navy reported to the General Services Administration that the 50-acre parcel was excess to its needs. The Fish and Wildlife Service then requested information on the progress of the General Services Administration's disposal of the 50-acre parcel. General Services Administration officials informed the Fish and Wildlife Service at that time that they never agreed that the Fish and Wildlife Service would receive the 50-acre parcel and that it was considering transferring the property to Middletown.

The Fish and Wildlife Service then notified the Navy that it intended to terminate the Navy's use of the beach club property on September 30, 1975. In January 1975 the Fish and Wildlife Service issued to the Navy a final special use permit covering the remaining 9-month period.

On April 3, 1975, officials of the Fish and Wildlife Service, the General Services Administration, the Department of Defense, and the Navy discussed the Navy's continued use of the beach club facility. During the meeting the Fish and Wildlife Service advised the Navy that it could not extend the beach club permit past September 30, 1975, and could not transfer the property to the Navy because the Audubon Society and prior owner, St. George's School, have a reversionary interest in the property. A General Services Administration representative suggested that the Navy ask the Audubon Society and St. George's School if they would allow a transfer of the property from the Fish and Wildlife Service to the Navy. The General Services Administration representative advised that,

if these parties would waive their reversionary interests, the General Services Administration would arrange an exchange of the beach club property and the 50-acre parcel between the two agencies. The General Services Administration representative also recommended that the Fish and Wildlife Service and the Navy exchange use permits on these properties when the Navy's permit expired in September, because the General Services Administration would probably not complete the transactions by that date.

Before that meeting, the Navy had started action to report the 102-acre parcel excess. Due to the uncertainty of its continued use of the beach club property, Navy officials stopped the property from becoming excess. They informed the Fish and Wildlife Service that they would give up claim to the 102-acre parcel in return for a long-term lease on the 1.94 acres of beach club property. Fish and Wildlife Service officials advised the Navy that the action they would take concerning the Navy's use of the beach property depended on the disposition of the 102-acre parcel.

On August 20, 1976, the General Services Administration authorized the Navy to transfer the 50-acre parcel to the Fish and Wildlife Service for inclusion into the Sachuest Point National Wildlife Refuge.

#### 102-ACRE PARCEL

Concerning the General Services Administration's plan for the other acreage, Fish and Wildlife Service officials opposed transferring a portion of the 102-acre parcel to Middletown. The 102-acre parcel had not been reported as excess and, therefore, had not been screened through all the Federal agencies to determine if there was a continued Federal requirement for the property. The General Services Administration advised the Fish and Wildlife Service that the environmental assessment was merely an assessment of potential actions and not accomplished facts. An official in the General Services Administration's region I stated that the environmental assessment was filed early to save time.

In November 1975 the Fish and Wildlife Service and Navy began to work out the terms of the agreements for using the beach club and the remaining 102-acre parcel of Navy property. At that time, the Fish and Wildlife Service notified the Navy that it might request the Navy to issue a cooperative agreement. Both agencies agreed that the two properties could not be transferred under the property management regulations.



On December 19, 1975, the Navy informed members of the Rhode Island congressional delegation, the Governor of Rhode Island, and officials of Middletown that it was considering the exchange of use agreements with the Fish and Wildlife Service to authorize the Fish and Wildlife Service use of the 102-acre parcel in return for the Fish and Wildlife Service authorizing the Navy's continued use of the 1.94 acre beach club property. The Navy stated the use agreements were in accordance with existing regulations. The Navy further advised them that both parties clearly understood that the use agreements did not precommit the final disposition of the property, nor would they in any way delay the excessing of the 102-acre parcel when the Navy's recreational needs are fulfilled.

On April 22, 1976, the Navy signed a use agreement authorizing the Fish and Wildlife Service exclusive use of the 102-acre parcel for 20 years beginning January 1, 1976. On the next day, the Fish and Wildlife Service issued a special use permit authorizing the Navy to use approximately 1.94 acres of beach club property for the same period. Before issuing the use agreement, the Navy did not formally notify the General Services Administration nor obtain its approval for the Fish and Wildlife Service's use of the 102-acre parcel as required by the Federal Property Management Regulations, nor have it approved by the Assistant Secretary of Defense (Installation and Logistics), as required by Navy regulations. Navy officials stated that both the use agreement and the special use permit are terminable only by the mutual consent of both agencies.

A Navy official stated that the Navy did not seek approval of the Assistant Secretary of Defense because the use agreement does not affect the Navy's designated mission at the Newport Naval Complex.

Land in the National Wildlife Refuge System is specifically exempted from the Federal Property Management Regulations. Therefore, the Fish and Wildlife Service did not need the General Services Administration's approval before issuing to the Navy a special use permit for the 1.94 acres of refuge property.

On September 22, 1976, the Navy informed the Fish and Wildlife Service that it was excessing the 102-acre parcel and that the agreement authorizing the Fish and Wildlife Service exclusive use of that property might not remain valid. The Fish and Wildlife Service replied that, if the use agreement for the 102-acre parcel did not remain in effect, the Navy's permit for the beach club property might

be jeopardized. According to the Fish and Wildlife Service, the two agreements went together and the consideration, in effect, was the mutually beneficial transfer of use rights.

The same day, the General Services Administration notified the Fish and Wildlife Service and the Navy that it had received a resolution adopted by the Middletown Town Council, taking exception to the use agreement for the 102-acre parcel.

On October 19, 1976, the General Services Administration informed the Navy and the Fish and Wildlife Service that it considered the use agreement for the 102-acre parcel to be illegal because the General Services Administration had not approved it. The General Services Administration also alleged that it was issued to prevent the town of Middletown from obtaining all or part of the 102-acre parcel. The General Services Administration stated that it would declare the use agreement illegal when the property is reported to it as excess.

Also on October 19, 1976, the administrator of the General Services Administration's region I advised the president of the Middletown Town Council that the General Services Administration concluded that the long-term use agreement had no legal standing and that it would be no impediment to the General Services Administration's properly disposing of the 102-acre parcel when it is reported excess.

The Navy activity that used the property has reported it to the Naval Facilities Engineering Command as being excess to its requirements. Command officials stated that, when they determine that no other Navy activities need it, the property will be screened through the Department of Defense in accordance with existing regulations. If the property is not required by elements within Defense, it will be reported excess to the General Services Administration.

#### CURRENT STATUS

Under Public Law No. 94-223, Act of February 27, 1976, 90 Stat. 199, which amended the National Wildlife Refuge System Administration Act of 1976, the Fish and Wildlife Service may include in the System, property it uses under a cooperative agreement. The act provides that such property can only be removed from the System by (1) the terms of the agreement, (2) specified action of the Secretary of the Interior, or (3) act of Congress. The Fish and Wildlife Service regional officials stated that the 102-acre parcel is

being administered by the Fish and Wildlife Service as if it were part of the National Wildlife Refuge System, but cannot be included in the System because the Fish and Wildlife Service does not own it or have a cooperative agreement to use it.

An official in the General Services Administration's region I stated that the agreement authorizing the Fish and Wildlife Service exclusive use of the 102-acre parcel is not a cooperative agreement, because the Navy does not have a continuing requirement for retaining the property. He noted that, if the property is not reported excess, the General Services Administration has the authority to survey the property and to determine if the Navy has a valid need for it.

On March 1, 1977, a Naval Facilities Engineering Command official stated that the 102-acre parcel will not be reported excess to the General Services Administration until the Navy is assured of continued use of the existing beach club property. She stated that another area will have to be developed to provide recreation for personnel of the Newport Naval Complex if the beach club is lost. Command officials determined that the naval complex needs a quiet recreation area, and that part of the 102-acre parcel of property could be used to meet that need.

Navy regulations authorize a beach house or a swimming pool at locations having a requirement for this type of facility. In accordance with Navy regulations, officials at the Newport Naval Complex published a requirement for a beach house at the complex. A Command official estimates that construction of a swimming pool and bath house would cost about \$750,000 as an alternative to the present beach club.

#### CONCLUSIONS AND RECOMMENDATIONS

None of the agencies in these transactions appears to have observed a principal objective of the Federal Property and Administrative Services Act of 1949, which is to promote maximum use of Federal property and the orderly disposition of excess property under centralized direction of the General Services Administration. By holding out the beach club property as a pawn to be traded for the Navy's 102-acre parcel, the Fish and Wildlife Service apparently gave no consideration to the most economical way to meet the Navy's recreational needs in the area and participated in bypassing the General Services Administration's regulations. The Navy's attempt to hold its 102-acre parcel until assured of the beach property prevented prompt consideration of other Federal

requirements for it and its disposition under the General Services Administration control. By prematurely negotiating disposition of the Navy property with those two agencies and town officials, and filing an environmental impact assessment, the General Services Administration acted before the property was declared excess, added to the confusion, and contributed to the delay.

To restore order to the disposition of the Federal property at Sachuest Point, we recommend that:

- The Secretary of the Interior direct the Fish and Wildlife Service to meet with the Department of the Navy to discuss the recreational needs in that area, and to permit the Navy's continued use of the beach club property if that is the most efficient and economical solution.
- The Secretary of the Navy direct the Naval Facilities Engineering Command to complete, as promptly as possible, the screening of the 102-acre parcel for Department of Defense requirements, and if not needed, to report it excess to the General Services Administration.
- The Administrator of the General Services Administration direct the administrator of region I to (1) withdraw the July 31, 1975, environmental impact assessment, (2) officially notify the town of Middletown that disposition to other parties cannot be considered unless and until a determination is made that there is no Federal need for all or any part of the 102-acre parcel, and (3) follow the General Services Administration's normal procedures for screening the property through the executive agencies, if it is declared excess by the Department of Defense.