

agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river is established, as determined by the Secretary. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above the Buffalo National River or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on March 1, 1972. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river is established, as determined by the Secretary, nor shall such department or agency request appropriations to begin construction on any such project, whether heretofore or hereafter authorized, without, at least sixty days in advance, (i) advising the Secretary, in writing, of its intention so to do and (ii) reporting to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, respectively, the nature of the project involved and the manner in which such project would conflict with the purposes of this subchapter or would affect the national river and the values to be protected by it under this subchapter.

(Pub. L. 92-237, § 4, Mar. 1, 1972, 86 Stat. 45; Pub. L. 95-91, title IV, § 402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583; Pub. L. 103-437, § 6(n)(1), Nov. 2, 1994, 108 Stat. 4586.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

AMENDMENTS

1994—Pub. L. 103-437 substituted “Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate” for “Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate”.

TRANSFER OF FUNCTIONS

“Federal Energy Regulatory Commission” substituted for “Federal Power Commission” in text pursuant to Pub. L. 95-91, § 402(a)(1)(A), which is classified to section 7172(a)(1)(A) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

§ 460m-12. Administration, protection, and development

The Secretary shall administer, protect, and develop the Buffalo National River in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented; except that any other statutory authority available to the Secretary for the conservation and

management of natural resources may be utilized to the extent he finds such authority will further the purposes of this subchapter.

(Pub. L. 92-237, § 5, Mar. 1, 1972, 86 Stat. 45.)

§ 460m-13. Suitability for preservation as a wilderness; area review and report to President

Within three years from March 1, 1972, the Secretary shall review the area within the boundaries of the national river and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendation as to the suitability or nonsuitability of any area within the national river for preservation as a wilderness, and any designation of any such area as a wilderness, shall be accomplished in accordance with said section 1132(c) and (d) of this title.

(Pub. L. 92-237, § 6, Mar. 1, 1972, 86 Stat. 46.)

§ 460m-14. Authorization of appropriations

For the acquisition of lands and interests in lands, there are authorized to be appropriated not more than \$39,948,000. For development of the national river, there are authorized to be appropriated not to exceed \$9,371,000.

(Pub. L. 92-237, § 7, Mar. 1, 1972, 86 Stat. 46; Pub. L. 94-578, title I, § 101(3), title III, § 310, Oct. 21, 1976, 90 Stat. 2732, 2736; Pub. L. 95-625, title II, § 201(2), Nov. 10, 1978, 92 Stat. 3473.)

AMENDMENTS

1978—Pub. L. 95-625 increased land acquisition appropriations authorization to \$39,948,000 from \$30,071,500.

1976—Pub. L. 94-578 substituted “\$30,071,500” for “\$16,115,000” in provision covering the acquisition of lands and interests in lands and substituted “For development of the national river, there are authorized to be appropriated not to exceed \$9,371,000” for “For development of the national river, there are authorized to be appropriated not more than \$283,000 in fiscal year 1974; \$2,923,000 in fiscal year 1975; \$3,643,000 in fiscal year 1976; \$1,262,000 in fiscal year 1977; and \$1,260,000 in fiscal year 1978. The sums appropriated each year shall remain available until expended”.

SUBCHAPTER LXXI—A—NEW RIVER GORGE NATIONAL RIVER

§ 460m-15. Establishment; administration, protection, and development; utilization of other authorities; boundary description, availability for public inspection

For the purpose of conserving and interpreting outstanding natural, scenic, and historic values and objects in and around the New River Gorge and preserving as a free-flowing stream an important segment of the New River in West Virginia for the benefit and enjoyment of present and future generations, the Secretary of the Interior (hereinafter referred to as the “Secretary”) shall establish and administer the New River Gorge National River. The Secretary shall administer, protect, and develop the national river in accordance with the provisions of sections 1, 2, 3, and 4 of this title, as amended and supplemented; except that any other statutory authority available to the Secretary for the preservation and management of natural resources may be utilized to the extent he finds

such authority will further the purposes of this subchapter. The boundaries of the national river shall be as generally depicted on the drawing entitled "Proposed New River Gorge National River" numbered NERI 80,034, dated May 2001, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(Pub. L. 95-625, title XI, §1101, Nov. 10, 1978, 92 Stat. 3544; Pub. L. 100-534, title I, §101, Oct. 26, 1988, 102 Stat. 2700; Pub. L. 104-333, div. I, title IV, §406(a)(1), Nov. 12, 1996, 110 Stat. 4149; Pub. L. 107-356, §2(a), Dec. 17, 2002, 116 Stat. 3013.)

AMENDMENTS

2002—Pub. L. 107-356 substituted "NERI 80,034, dated May 2001" for "NERI-80,028A, dated March 1996".

1996—Pub. L. 104-333 substituted "NERI-80,028A, dated March 1996" for "NERI-80,023, dated January 1987".

1988—Pub. L. 100-534 substituted "NERI-80,023, dated January 1987" for "NERI-20,002, dated July 1978".

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-356, §1, Dec. 17, 2002, 116 Stat. 3013, provided that: "This Act [amending this section and enacting provisions set out as a note under this section] may be cited as the 'New River Gorge Boundary Act of 2002'."

SHORT TITLE OF 1988 AMENDMENT

Section 1 of Pub. L. 100-534 provided that: "This Act [enacting sections 460m-26 to 460m-29 and 460ww to 460ww-5 of this title, amending this section and section 1274 of this title, and enacting provisions set out as notes under this section and section 1274 of this title] may be cited as the 'West Virginia National Interest River Conservation Act of 1987'."

LAND EXCHANGE

Pub. L. 107-356, §2(b), Dec. 17, 2002, 116 Stat. 3013, provided that:

"(1) IN GENERAL.—The Secretary of the Interior shall complete a fee simple land exchange in the vicinity of Beauty Mountain, Fayette County, West Virginia, to acquire a tract of land identified as NERI Tract Number 150-07 that lies adjacent to the boundary of the New River Gorge National River in exchange for a tract of land identified as NERI Tract Number 150-08 located within such boundary.

"(2) TREATMENT OF EXCHANGED LANDS.—Upon the completion of such land exchange—

"(A) the land acquired by the United States in the exchange shall be included in the boundaries, and administered as part, of the New River Gorge National River; and

"(B) the land conveyed by the United States in the exchange shall be excluded from the boundaries, and shall not be administered as part, of the New River Gorge National River."

NEW, GAULEY, MEADOW, AND BLUESTONE RIVERS; CONGRESSIONAL FINDINGS AND PURPOSE

Section 2 of Pub. L. 100-534 provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) The outstanding natural, scenic, cultural and recreational values of the segment of the New River in West Virginia within the boundaries of the New River Gorge National River have been preserved and enhanced by its inclusion in the National Park System.

"(2) The establishment of the New River Gorge National River has provided the basis for increased recreation and tourism activities in southern West Virginia due to its nationally recognized status and has greatly contributed to the regional economy.

"(3) Certain boundary modifications to the New River Gorge National River are necessary to further protect the scenic resources within the river's visual corridor and to provide for better management of the national park unit.

"(4) Several tributaries of the New River in West Virginia also possess remarkable and outstanding features of national significance. The segment of the Gauley River below Summersville Dam has gained national recognition as a premier whitewater recreation resource. The lower section of the Bluestone River and the lower section of the Meadow River possess remarkable and outstanding natural, scenic, and recreational values due to their predominantly undeveloped condition.

"(5) Portions of several of the New River tributaries, including segments of the Gauley River, the Meadow River, and the Bluestone River are suitable for inclusion in the National Park System or the National Wild and Scenic Rivers System.

"(6) It is in the national interest to preserve the natural condition of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia and to enhance recreational opportunities available on the free-flowing segments.

"(b) PURPOSE.—The purpose of this Act [see Short Title of 1988 Amendment note above] is to provide for the protection and enhancement of the natural, scenic, cultural, and recreational values on certain free-flowing segments of the New, Gauley, Meadow, and Bluestone Rivers in the State of West Virginia for the benefit and enjoyment of present and future generations."

COORDINATION AMONG RECREATIONAL RESOURCES

Section 401 of Pub. L. 100-534 provided that: "Subject to existing authority, the Secretary of the Interior shall cooperate with, and assist, any regional authority comprised of representatives of West Virginia State authorities and local government authorities in or any combination of the foregoing Nicholas, Fayette, Raleigh, Summers, Greenbrier, and Mercer Counties, West Virginia, for the purposes of providing for coordinated development and promotion of recreation resources of regional or national significance which are located in southern West Virginia and management by State or Federal agencies, including State, local and National Park System units, State and National Forest System units, and historic sites."

SPECIAL PROVISIONS

Section 402 of Pub. L. 100-534 provided that: "Subject to his responsibilities to protect the natural resources of the National Park System, the Secretary of the Interior shall enter into a cooperative agreement with the State of West Virginia providing for the State's regulation, in accordance with State law, of persons providing commercial recreational watercraft services on units of the National Park System and components of the National Wild and Scenic Rivers System subject to this Act [see Short Title of 1988 Amendment note above]."

CONSOLIDATED MANAGEMENT

Section 404 of Pub. L. 100-534 provided that: "In order to achieve the maximum economy and efficiency of operations in the administration of the National Park System units established or expanded pursuant to this Act [see Short Title of 1988 Amendment note above], the Secretary shall consolidate offices and personnel administering all such units to the extent practicable and shall utilize the existing facilities of the New River Gorge National River to the extent practicable."

NEW SPENDING AUTHORITY

Section 405 of Pub. L. 100-534 provided that: "Any new spending authority which is provided under this Act [see Short Title of 1988 Amendment note above] shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts."

§ 460m-16. Acquisition of property**(a) Authority of Secretary; manner; donation of State lands; improved and unimproved properties**

Within the boundaries of the New River Gorge National River, the Secretary may acquire lands and waters or interests therein by donation, purchase with donated or appropriated funds, transfer, or exchange. Lands owned by the State of West Virginia or a political subdivision thereof may be acquired by donation only. In addition, the Secretary may acquire by any of the foregoing methods not to exceed ten acres outside the boundaries of the national river for an administrative headquarters site, and funds appropriated for land acquisition shall be available for the acquisition of the administrative headquarters site. The authority of the Secretary to condemn in fee, improved properties as defined in subsection (c) of this section shall not be invoked as long as the owner of such improved property holds and uses it in a manner compatible with the purposes of this subchapter. The Secretary may acquire any such improved property without the consent of the owner whenever he finds that such property has undergone, since January 1, 1978, or is imminently about to undergo, changes in land use which are incompatible with the purposes of the national river. The Secretary may acquire less than fee interest in any improved or unimproved property within the boundaries of the national river.

(b) Non-federally owned lands; cooperative agreements affecting properties of historical significance

On non-federally owned lands within the national river boundaries, the Secretary is authorized to enter into cooperative agreements with organizations or individuals to mark or interpret properties of significance to the history of the Gorge area.

(c) "Improved property" defined

For the purposes of this Act, the term "improved property" means (i) a detached single family dwelling, the construction of which was begun before January 1, 1977 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or (ii) property developed for agricultural uses, together with any structures accessory thereto which were so used on or before January 1, 1977, or (iii) commercial and small business properties which were so used on or before January 1, 1977, the purpose of which is determined by the Secretary to contribute to visitor use and enjoyment of the national river. In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1977, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same

manner and to the same extent as existed prior to such date.

(d) Owner's reservation of right of use and occupancy for fixed term of years or for life; election by owner; fair market value; termination; notification

The owner of an improved property, as defined in this subchapter, on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for non-commercial residential, or agricultural purposes, or the continuation of existing commercial operations, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value of the property on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this subchapter, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(Pub. L. 95-625, title XI, § 1102, Nov. 10, 1978, 92 Stat. 3545; Pub. L. 99-500, § 101(h) [title I, § 116(a)], Oct. 18, 1986, 100 Stat. 1783-242, 1783-266, and Pub. L. 99-591, § 101(h) [title I, § 116(a)], Oct. 30, 1986, 100 Stat. 3341-242, 3341-266; Pub. L. 99-590, title X, § 1001, Oct. 30, 1986, 100 Stat. 3339.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is Pub. L. 95-625, Nov. 10, 1978, 92 Stat. 3467, known as the National Parks and Recreation Act of 1978. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 1 of this title and Tables.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-500, Pub. L. 99-590, Pub. L. 99-591, amended subsec. (a) identically inserting provisions relating to acquisition of an administrative headquarters site.

§ 460m-17. Lands and areas plan; submission to Congressional committees

Within two years from November 10, 1978, the Secretary shall submit, in writing, to the House Committee on Interior and Insular Affairs, the Senate Committee on Energy and Natural Resources and the Committees on Appropriations of the United States Congress, a detailed plan which shall indicate—

(i) the lands and areas which he deems essential to the protection and public enjoyment of the natural, scenic, and historic values and objects of this national river;