

REFERENCES IN TEXT

Act of October 21, 1976 (90 Stat. 2743), referred to in subsec. (c), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976, which is classified principally to chapter 35 (§1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-131 designated existing provisions of first sentence as par. (1), in par. (1) substituted “The Redwood National Park consists of the land generally depicted on the map entitled ‘Redwood National Park, Revised Boundary’, numbered 167/60502, and dated February, 2003.” for “The area to be included within the Redwood National Park is that generally depicted on the maps entitled ‘Redwood National Park,’ numbered NPS-RED-7114-A and NPS-RED-7114-B, and dated September 1968, and the area indicated as ‘Proposed Additions’ on the map entitled ‘Additional Lands, Redwood National Park, California,’ numbered 167-80005-D and dated March 1978, copies of which maps shall be kept available for public inspection in the offices of the National Park Service, Department of the Interior, and shall be filed with appropriate officers of Del Norte and Humboldt Counties.”, added par. (2), designated existing provisions of second sentence as par. (3), and in par. (3) substituted “The Secretary;” for “The Secretary” and “133,000 acres” for “one hundred and six thousand acres”.

1994—Subsec. (c). Pub. L. 103-437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

1978—Subsec. (a). Pub. L. 95-250, §101(a)(1), (2), inserted “and the area indicated as ‘Proposed Additions’ on the map entitled ‘Additional Lands, Redwood National Park, California’, numbered 167-80005-D and dated March 1978,” after “and dated September 1968,” and substituted “one hundred and six thousand acres, exclusive of submerged lands and publicly owned highways and roads” for “fifty-eight thousand acres, exclusive of submerged lands”.

Subsec. (b). Pub. L. 95-250, §101(a)(2), struck out “by donation only” after “The Secretary is authorized to acquire”.

Subsec. (c). Pub. L. 95-250, §101(a)(2), added subsec. (c).

§ 79c. Acquisition of land**(a) Authority of Secretary; administrative sites; manner and place; donation of State lands; reverters and other conditions**

The Secretary is authorized to acquire lands and interests in land within the boundaries of the Redwood National Park and, in addition thereto, not more than ten acres outside of those boundaries for an administrative site or sites. Such acquisition may be by donation, purchase with appropriated or donated funds, exchange, or otherwise, but lands and interests in land owned by the State of California may be acquired only by donation which donation of lands or interest in lands may be accepted in the discretion of the Secretary subject to such pre-existing reverters and other conditions as may appear in the title to these lands held by the State of California, and such other reverters and conditions as may be consistent with the use and management of the donated lands as a portion of Redwood National Park. Notwithstanding any other provision of law, the Secretary may expend appropriated funds for the management of and for the construction, design, and

maintenance of permanent improvements on such lands and interests in land as are donated by the State of California in a manner not inconsistent with such reverters and other conditions.

(b) Vested and possessory rights in certain real property; termination of operations; removal of equipment, facilities, and personal property; down tree personal property; acquired roads; just compensation; payment; jurisdiction; acreage limitation; notice

(1) Effective on October 2, 1968, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property within the park boundaries designated in maps NPS-RED-7114-A and NPS-RED-7114-B and effective on March 27, 1978, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property within the area indicated as “Proposed Additions” on the map entitled “Additional Lands, Redwood National Park, California,” numbered 167-80005-D and dated March 1978, and all right, title, and interest in, and the right to immediate possession of the down tree personal property (trees severed from the ground by man) severed prior to January 1, 1975, or subsequent to January 31, 1978, within the area indicated as “Proposed Additions” on the map entitled “Additional Lands, Redwood National Park, California,” numbered 167-80005-D and dated March 1978, except real property owned by the State of California or a political subdivision thereof and except as provided in paragraph (3) of this subsection. The Secretary shall allow for the orderly termination of all operations on real property acquired by the United States under this subsection, and for the removal of equipment, facilities, and personal property therefrom.

Down tree personal property severed subsequent to December 31, 1974, and prior to February 1, 1978 may be removed in accordance with applicable State and Federal law, or other applicable licenses, permits, and existing agreements, unless the Secretary determines that the removal of such down timber would damage second growth resources or result in excessive sedimentation in Redwood Creek: *Provided, however*, That down timber lying in stream beds may not be removed without permission of the Secretary: *Provided*, That such removal shall also be subject to such reasonable conditions as may be required by the Secretary to insure the continued availability of raw materials to Redwoods United, Incorporated, a nonprofit corporation located in Manila, California.

The Secretary shall permit, at existing levels and extent of access and use, continued access and use of each acquired segment of the B line, L line, M line, and K and K roads by each current affected woods employer or its successor in title and interest: *Provided*, That such use is limited to forest and land management and protection purposes, including timber harvesting and road maintenance. The Secretary shall permit, at existing levels and extent of access and use, continued access and use of acquired portions of the Bald Hills road by each current affected woods employer or its successor in title

and interest: *Provided further*, That nothing in this sentence shall diminish the authority of the Secretary to otherwise regulate the use of the Bald Hills road.

(2) The United States will pay just compensation to the owner of any real property taken by paragraph (1) of this subsection. Such compensation shall be paid either: (A) by the Secretary of the Treasury from money appropriated from the Land and Water Conservation Fund, including money appropriated to the Fund pursuant to section 4(b) of the Land and Water Conservation Fund Act of 1965, as amended [16 U.S.C. 4601-7(b)] subject to the appropriation limitation in section 79j of this title, upon certification to him by the Secretary of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of 6 per centum per annum from the date of taking the property to the date of payment therefor; or (B) by the Secretary, if the owner of the land concurs, with any federally owned property available to him for purposes of exchange pursuant to the provisions of section 79e of this title; or (C) by the Secretary using any combination of such money or federally owned property. Any action against the United States with regard to the provisions of this subchapter and for the recovery of just compensation for the lands and interests therein taken by the United States, and for the down tree personal property taken, shall be brought in the United States district court for the district where the land is located without regard to the amount claimed. The United States may initiate proceedings at any time seeking a determination of just compensation in the district court in the manner provided by sections 1358 and 1403 of title 28 and may deposit in the registry of the court the estimated just compensation, or a part thereof, in accordance with the procedure generally described by section 3114(a)-(d) of title 40. Interest shall not be allowed on such amounts as shall have been paid into the court. In the event that the Secretary determines that the fee simple title to any property (real or personal) taken under this section is not necessary for the purposes of this subchapter, he may, with particular attention to minimizing the payment of severance damages and to allow for the orderly removal of down timber, revert title to such property subject to such reservations, terms, and conditions, if any, as he deems appropriate to carry out the purposes of this subchapter, and may compensate the former owner for no more than the fair market value of the rights so reserved, except that the Secretary may not revert title to any property for which just compensation has been paid; or, the Secretary may sell at fair market value without regard to the requirements of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 such down timber as in his judgment may be removed without damage to the park, the proceeds from such sales being credited to the Treasury of the United States. If the State of California designates a right-of-way for a bypass highway around the eastern boundary of Prairie Creek Redwood State Park prior to October 1, 1984, the Secretary is authorized and directed to acquire

such lands or interests in lands as may be necessary for such a highway and, subject to such conditions as the Secretary may determine are necessary to assure the adequate protection of Redwood National Park, shall thereupon donate the designated right-of-way to the State of California for a new bypass highway from a point south of Prairie Creek Redwood State Park through the drainage of May Creek and Boyes Creek to extend along the eastern boundary of Prairie Creek Redwood State Park within Humboldt County. Such acreage as may be necessary in the judgment of the Secretary for this conveyance, and for a buffer thereof, shall be deemed to be a publicly owned highway for purposes of section 79b(a) of this title effective on March 27, 1978.

(3) This subsection shall apply to ownerships of fifty acres or less only if such ownerships are held or occupied primarily for nonresidential or nonagricultural purposes, and if the Secretary gives notice to the owner within sixty days after October 2, 1968, of the application of this subsection. Notice by the Secretary shall be deemed to have been made as of October 2, 1968. The district court of the United States for that district in which such ownerships are located shall have jurisdiction to hear and determine any action brought by any person having an interest therein for damages occurring by reason of the temporary application of this paragraph, between October 2, 1968, and the date upon which the Secretary gives such notice. Nothing in this paragraph shall be construed as affecting the authority of the Secretary under subsections (a) and (c) of this section to acquire such areas for the purposes of this subchapter.

(c) Minimization of severance damages; costs not chargeable against appropriations authorization

If any individual tract or parcel of land acquired is partly inside and partly outside the boundaries of the park or the administrative site the Secretary may, in order to minimize the payment of severance damages, acquire the whole of the tract or parcel and exchange that part of it which is outside the boundaries for land or interests in land inside the boundaries or for other land or interests in land acquired pursuant to this subchapter, and dispose of so much thereof as is not so utilized in accordance with the provisions of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41. The cost of any land so acquired and disposed of shall not be charged against the limitation on authorized appropriations contained in section 79j of this title.

(d) Lands for screen of trees along certain highway

The Secretary is further authorized to acquire, as provided in subsection (a) of this section, lands and interests in land bordering both sides of the highway between the present southern boundary of Prairie Creek Redwood State Park and a point on Redwood Creek near the town of Orick to a depth sufficient to maintain or to restore a screen of trees between the highway and the land behind the screen and the activities conducted thereon.

(e) Timber, soil, and stream protection; “interests in land” defined; notice to Congress of intended action, costs, and benefits requisite for acquisitions, contracts, or cooperative agreements; availability of funds; authorization of appropriations; rehabilitative activities

In order to afford as full protection as is reasonably possible to the timber, soil, and streams within the boundaries of the park, the Secretary is authorized, by any of the means set out in subsections (a) and (c) of this section, to acquire interests in land from, and to enter into contracts and cooperative agreements with, the owners of land on the periphery of the park and on watersheds tributary to streams within the park designed to assure that the consequences of forestry management, timbering, land use, and soil conservation practices conducted thereon, or of the lack of such practices, will not adversely affect the timber, soil, and streams within the park as aforesaid. As used in this subsection, the term “interests in land” does not include fee title unless the Secretary finds that the cost of a necessary less-than-fee interest would be disproportionately high as compared with the estimated cost of the fee. No acquisition other than by donation shall be effectuated and no contract or cooperative agreement shall be executed by the Secretary pursuant to the provisions of this subsection until after he has notified the President of the Senate and the Speaker of the House of Representatives of his intended action and of the costs and benefits to the United States involved therein. Effective on March 27, 1978, there are made available from the amounts provided in section 79j of this title or as may be hereafter provided such sums as may be necessary for the acquisition of interests in land. Effective on October 1, 1978, there are authorized to be appropriated such sums as may be necessary for the implementation of contracts and cooperative agreements pursuant to this subsection: *Provided*, That it is the express intent of Congress that the Secretary shall to the greatest degree possible insure that such contracts and cooperative agreements provide for the maximum retention of senior employees by such owners and for their utilization in rehabilitation and other efforts. The Secretary, in consultation with the Secretary of Agriculture, is further authorized, pursuant to contract or cooperative agreement with agencies of the Federal Executive, the State of California, any political or governmental subdivision thereof, any corporation, not-for-profit corporation, private entity or person, to initiate, provide funds, equipment, and personnel for the development and implementation of a program for the rehabilitation of areas within and upstream from the park contributing significant sedimentation because of past logging disturbances and road conditions, and, to the extent feasible, to reduce risk of damage to streamside areas adjacent to Redwood Creek and for other reasons: *Provided further*, That authority to make payments under this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. Such contracts or cooperative agreements shall be subject to such other conditions as the Secretary may deter-

mine necessary to assure the adequate protection of Redwood National Park generally, and to provide employment opportunities to those individuals affected by this taking and to contribute to the economic revival of Del Norte and Humboldt Counties in northern California. The Secretary shall undertake and publish studies on erosion and sedimentation originating within the hydrographic basin of Redwood Creek with particular effort to identify sources and causes, including differentiation between natural and man-aggravated conditions, and shall adapt his general management plan to benefit from the results of such studies. The Secretary, or the Secretary of Agriculture, where appropriate, shall also manage any additional Federal lands under his jurisdiction that are within the hydrographic basin of Redwood Creek in a manner which will minimize sedimentation which could affect the park, and in coordination with plans for sediment management within the basin. To effectuate the provisions of this subsection, and to further develop scientific and professional information and data concerning the Redwood Forest ecosystem, and the various factors that may affect it, the Secretary may authorize access to the area subject to this subsection by designated representatives of the United States.

(Pub. L. 90-545, §3, Oct. 2, 1968, 82 Stat. 931; Pub. L. 95-250, title I, §101(a)(3)-(6), Mar. 27, 1978, 92 Stat. 163-165.)

REFERENCES IN TEXT

Section 79b(a) of this title, referred to in subsec. (b)(2), was in the original “section 101(a)(2) of this amendment”, meaning section 101(a)(2) of Pub. L. 95-250, which amended section 79b(a) of this title.

CODIFICATION

“Section 3114(a)-(d) of title 40” substituted in subsec. (b)(2) for “section 258a of title 40, United States Code” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

In subsec. (b)(2), “chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” substituted for “the Federal Property and Administrative Services Act of 1949, as amended,” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (c), “chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” substituted for “the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended (40 U.S.C. 471 et seq.)” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-250, §101(a)(3), inserted provisions authorizing the Secretary to accept donations of lands owned by the State of California subject to such preexisting reverters and other conditions as may appear in the title to those lands and such other reverters and conditions as may be consistent with the use and management of the donated lands as a portion of the Redwood National Park and further authorizing the Secretary to expend appropriated funds for permanent improvements on the donated lands in a manner

not inconsistent with the reverters and other conditions.

Subsec. (b)(1). Pub. L. 95-250, §101(a)(4), expanded existing provisions, effective Mar. 27, 1978, by inserting references to the vesting in the United States of all right, title, and interest in, and right to immediate possession of, all real property, and to immediate possession of down tree personal property, within the area indicated as "Proposed Additions" on the map entitled "Additional Lands, Redwood National Park, California", numbered 167-80005-D and dated March 1978, and inserted two unlettered paragraphs relating, respectively, to the removal of down tree personal property and to the continued access and use of acquired roads.

Subsec. (b)(2). Pub. L. 95-250, §101(a)(5), struck out provision for the bringing of actions in the Court of Claims, as provided in section 1491 of title 28, against the United States for the recovery of just compensation for the land and interests therein taken by the United States and inserted provisions directing that such actions, as well as actions for down tree personal property taken, be brought in the United States district court for the district where the land is located without regard to the amount claimed, authorizing the United States to initiate proceedings to determine just compensation and to deposit the estimated just compensation in the registry of the court, making provision for the revestment of title in cases where the Secretary determines that fee simple title is not necessary, and otherwise relating to the right-of-way for a new bypass highway.

Subsec. (e). Pub. L. 95-250, §101(a)(6), substituted "until after he has notified the President of the Senate" for "until sixty days after he has notified the President of the Senate" in existing provisions and inserted provisions relating to the availability of funds for the acquisition of interests in land, the implementation of contracts and cooperative agreements pursuant to this subsection, and rehabilitative activities generally designed to minimize erosion and sedimentation in ways designed to assure adequate protection for Redwood National Park, contribute to the economic revival of Del Norte and Humboldt Counties in northern California, and provide employment opportunities to individuals affected by taking of land and interests in land.

§ 79c-1. Vesting in United States of all right, title, etc., in real property and down tree personal property in additional lands; effective date; authorization of appropriations

Notwithstanding any provision of this subchapter the vesting in the United States of all right, title, and interest in, and the right to immediate possession of, all real property and all down tree personal property within the area indicated as "Proposed Additions" on the map entitled "Additional Lands, Redwood National Park, California," numbered 167-80005-D and dated March 1978, as established by section 79c(b)(1) of this title, shall be effective on March 27, 1978. The provisions of section 79c(b)(3) of this title shall also relate to the effective date of this section. From the appropriations authorized for fiscal year 1978 and succeeding fiscal years such sums as may be necessary may be expended for the acquisition of lands and interests in lands, and down tree personal property, authorized to be acquired, or acquired, pursuant to the provisions of this Act.

(Pub. L. 95-250, title I, §101(c), Mar. 27, 1978, 92 Stat. 166.)

REFERENCES IN TEXT

Section 79c(b)(1) of this title, referred to in text, was in the original "subsection (a)(4) of the first section of

this Act", meaning section 101(a)(4) of Pub. L. 95-250, which amended section 79c(b)(1) of this title.

This Act, referred to in text, means Pub. L. 95-250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79c-1 and 79k to 79q of this title, amended sections 1a-1, 79b, and 79c of this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

The effective date of this section, referred to in text, probably means the date of enactment of section 101 of Pub. L. 95-250, which was approved Mar. 27, 1978.

CODIFICATION

Section was not enacted as part of Pub. L. 90-545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

§ 79d. Acquisition of lands

(a) Owner's retention of right of use and occupancy for noncommercial residential purposes for fixed term of years or for life; election of term; fair market value; termination of use and occupancy inconsistent with stated purpose and upon payment of sum for unexpired right

The owner of improved property on the date of its acquisition by the Secretary under this subchapter may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes 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 to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained 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 purpose of this subchapter, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(b) "Improved property" defined

The term "improved property", as used in this section, means a detached, noncommercial residential dwelling, the construction of which was begun before October 9, 1967, 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 accessory to the dwelling which are situated on the land so designated.

(c) Sale or lease of certain realty to former owner; conditions and restrictions

The Secretary shall have, with respect to any real property acquired by him in sections 5 and 8, township 13 north, range 1 east, Humboldt meridian, authority to sell or lease the same to the former owner under such conditions and restrictions as will assure that it is not utilized in a