

279, which is classified generally to sections 539m to 539m-12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

§ 539m-9. Construction

(a) Strict construction

Sections 539m to 539m-12 of this title recognize only enumerated rights and interests, and no additional rights, interests, obligations, or duties shall be created by implication.

(b) Existing rights

To the extent there exist within the Area as of February 20, 2003, any valid private property rights associated with private land that are not otherwise addressed in sections 539m to 539m-12 of this title, such rights are not modified or otherwise affected by sections 539m to 539m-12 of this title, nor is the exercise of any such right subject to the Pueblo's right to withhold consent to new uses in the Area as set forth in section 539m-3(a)(3)(A) of this title.

(c) Not precedent

The provisions of sections 539m to 539m-12 of this title creating certain rights and interests in the National Forest System are uniquely suited to resolve the Pueblo's claim and the geographic and societal situation involved, and shall not be construed as precedent for any other situation involving management of the National Forest System.

(d) Fish and wildlife

Except as provided in section 539m-6(b)(2)(B) of this title, nothing in sections 539m to 539m-12 of this title shall be construed as affecting the responsibilities of the State of New Mexico with respect to fish and wildlife, including the regulation of hunting, fishing, or trapping within the Area.

(Pub. L. 108-7, div. F, title IV, § 411, Feb. 20, 2003, 117 Stat. 291.)

REFERENCES IN TEXT

Sections 539m to 539m-12 of this title, referred to in text, was in the original "this title", meaning title IV of div. F of Pub. L. 108-7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m-12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

CODIFICATION

Section is comprised of section 411 of div. F of Pub. L. 108-7. Subsec. (e) of section 411 of div. F of Pub. L. 108-7 amended section 1746 of Title 43, Public Lands.

§ 539m-10. Judicial review

(a) Enforcement

A civil action to enforce the provisions of sections 539m to 539m-12 of this title may be brought to the extent permitted under chapter 7 of title 5. Judicial review shall be based on the administrative record and subject to the applicable standard of review set forth in section 706 of title 5.

(b) Waiver

A civil action may be brought against the Pueblo for declaratory judgment or injunctive

relief under sections 539m to 539m-12 of this title, but no money damages, including costs or attorney's fees, may be imposed on the Pueblo as a result of such judicial action.

(c) Venue

Venue for any civil action provided for in this section, as well as any civil action to contest the constitutionality of sections 539m to 539m-12 of this title, shall lie only in the United States District Court for the District of New Mexico.

(Pub. L. 108-7, div. F, title IV, § 412, Feb. 20, 2003, 117 Stat. 291.)

REFERENCES IN TEXT

Sections 539m to 539m-12 of this title, referred to in text, was in the original "this title", meaning title IV of div. F of Pub. L. 108-7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m-12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

§ 539m-11. Provisions relating to contributions and land exchange

(a) Contributions

(1) In general

The Secretary may accept contributions from the Pueblo, or from other persons or governmental entities—

(A) to perform and complete a survey of the Area; or

(B) to carry out any other project or activity for the benefit of the Area in accordance with sections 539m to 539m-12 of this title.

(2) Deadline

Not later than 1 year after February 20, 2003, the Secretary shall complete the survey of the Area under paragraph (1)(A).

(b) Land exchange

(1) In general

Not later than 180 days after February 20, 2003, after consultation with the Pueblo, the Secretary shall, in accordance with applicable laws, prepare and offer a land exchange of National Forest land outside the Area and contiguous to the northern boundary of the Pueblo's Reservation within sections 3, 10, 11, and 14 of T12N, R4E, N.M.P.M., Sandoval County, New Mexico excluding wilderness land, for land owned by the Pueblo in the Evergreen Hills subdivision in Sandoval County contiguous to National Forest land, and the La Luz tract in Bernalillo County.

(2) Acceptance of payment

Notwithstanding section 1716(b) of title 43, the Secretary may either make or accept a cash equalization payment in excess of 25 percent of the total value of the land or interests transferred out of Federal ownership.

(3) Funds received

Any funds received by the Secretary as a result of the exchange shall be deposited in the fund established under section 484a of this title, and shall be available to purchase non-Federal land within or adjacent to the National Forests in the State of New Mexico.

(4) Treatment of land exchanged or conveyed

All land exchanged or conveyed to the Pueblo is declared to be held in trust for the Pueblo

by the United States and added to the Pueblo's Reservation subject to all existing and outstanding rights and shall, as a condition of the conveyance, remain in its natural state and shall not be subject to commercial development of any kind. Land exchanged or conveyed to the Forest Service shall be subject to all limitations on use pertaining to the Area under sections 539m to 539m-12 of this title.

(5) Failure to make offer

If the land exchange offer is not made by the date that is 180 days after February 20, 2003, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives, a report explaining the reasons for the failure to make the offer including an assessment of the need for any additional legislation that may be necessary for the exchange. If additional legislation is not necessary, the Secretary, consistent with this section, should proceed with the exchange pursuant to existing law.

(c) Land acquisition and other compensation

(1) In general

The Secretary may acquire land owned by the Pueblo within the Evergreen Hills Subdivision in Sandoval County or any other privately held land inside of the exterior boundaries of the Area. The boundaries of the Cibola National Forest and the Area shall be adjusted to encompass any land acquired pursuant to this section.

(2) Piedra Lisa tract

Subject to the availability of appropriations, the Secretary shall compensate the Pueblo for the fair market value of—

(A) the right-of-way established pursuant to section 539m-7(h)(3)(C) of this title; and

(B) the conservation easement established by the limitations on use of the Piedra Lisa tract pursuant to section 539m-7(b)(2) of this title.

(d) Reimbursement of certain costs

(1) In general

The Pueblo, the County of Bernalillo, New Mexico, and any person that owns or has owned property inside of the exterior boundaries of the Area as designated on the map, and who has incurred actual and direct costs as a result of participating in the case of Pueblo of Sandia v. Babbitt, Civ. No. 94-2624 HHG (D.D.C.), or other proceedings directly related to resolving the issues litigated in that case, may apply for reimbursement in accordance with this section. Costs directly related to such participation which shall qualify for reimbursement shall be—

(A) dues or payments to a homeowner association for the purpose of legal representation; and

(B) legal fees and related expenses.

(2) Treatment of reimbursement

Any reimbursement provided in this subsection shall be in lieu of that which might

otherwise be available pursuant to the Equal Access to Justice Act (24¹ U.S.C. 2412).

(3) Payments

Subject to the availability of appropriated funds the Secretary of the Treasury shall make reimbursement payments as provided in this section.

(4) Applications

Not later than 180 days after February 20, 2003, applications for reimbursement shall be filed with the Department of the Treasury, Financial Management Service, Washington, D.C.

(5) Maximum reimbursement

No party shall be reimbursed in excess of \$750,000 under this section, and the total amount reimbursed in accordance with this section shall not exceed \$3,000,000.

(Pub. L. 108-7, div. F, title IV, § 413, Feb. 20, 2003, 117 Stat. 292; Pub. L. 111-11, title III, § 3309, Mar. 30, 2009, 123 Stat. 1139.)

REFERENCES IN TEXT

Sections 539m to 539m-12 of this title, referred to in subsecs. (a)(1)(B) and (b)(4), was in the original "this title", meaning title IV of div. F of Pub. L. 108-7, Feb. 20, 2003, 117 Stat. 279, which is classified generally to sections 539m to 539m-12 of this title. For complete classification of title IV to the Code, see Short Title note set out under section 539m of this title and Tables.

Section 1716(b) of title 43, referred to in subsec. (b)(2), was in the original "section 206(b) of the Federal Land Policy and Management Act" and was translated as reading "section 206(b) of the Federal Land Policy and Management Act of 1976" to reflect the probable intent of Congress.

The Equal Access to Justice Act, referred to in subsec. (d)(2), is title II of Pub. L. 96-481, Oct. 21, 1980, 94 Stat. 2325, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 504 of Title 5, Government Organization and Employees, and Tables.

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111-11, § 3309(1), inserted "3," after "sections".

Subsec. (b)(4). Pub. L. 111-11, § 3309(2), inserted " , as a condition of the conveyance," before "remain" in first sentence.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 539m-12. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out sections 539m to 539m-12 of this title, including such sums as are necessary for the Forest Service to carry out responsibilities of the Forest Service in accordance with section 539m-11(c) of this title.

(Pub. L. 108-7, div. F, title IV, § 414, Feb. 20, 2003, 117 Stat. 294.)

REFERENCES IN TEXT

Sections 539m to 539m-12 of this title, referred to in text, was in the original "this title", meaning title IV

¹ So in original. Probably should be "28".