

to restore or preserve the quality, quantity, timing, or distribution of surface or groundwater, if other reasonable alternative measures to achieve the same purpose are impractical.

“(B) SECRETARIAL AUTHORITY.—The Secretary may use lands referred to in subparagraph (A) either under an agreement with the tribal chairman or upon an order of the United States district court for the district in which the MRA is located, upon petition by the Secretary and finding by the court that—

“(i) the proposed actions of the Secretary are necessary; and

“(ii) other reasonable alternative measures are impractical.

“(3) COSTS.—

“(A) IN GENERAL.—In the event the Secretary exercises the authority granted the Secretary under paragraph (2), the United States shall be liable to the Tribe or the members of the Tribe for—

“(i) cost of modification, removal, relocation, or reconstruction of structures lawfully erected in good faith on the MRA; and

“(ii) loss of use of the affected land within the MRA.

“(B) PAYMENT OF COMPENSATION.—Any compensation paid under subparagraph (A) shall be paid as cash payments with respect to taking structures and other fixtures and in the form of rights to occupy similar land adjacent to the MRA with respect to taking land.

“(4) RULE OF CONSTRUCTION.—Paragraphs (2) and (3) shall not apply to a natural easement described in section 6(d)(1).

“(f) PARTIES HELD HARMLESS.—

“(1) UNITED STATES HELD HARMLESS.—

“(A) IN GENERAL.—Subject to subparagraph (B) with respect to any tribal member, tribal employee, tribal contractor, tribal enterprise, or any person residing within the MRA, notwithstanding any other provision of law, the United States (including an officer, agent, or employee of the United States), shall not be liable for any action or failure to act by the Tribe (including an officer, employee, or member of the Tribe), including any failure to perform any of the obligations of the Tribe under this Act.

“(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to alter any liability or other obligation that the United States may have under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(2) TRIBE HELD HARMLESS.—Notwithstanding any other provision of law, the Tribe and the members of the Tribe shall not be liable for any injury, loss, damage, or harm that—

“(A) occurs with respect to the MRA; and

“(B) is caused by an action or failure to act by the United States, or the officer, agent, or employee of the United States (including the failure to perform any obligation of the United States under this Act).

“(g) COOPERATIVE AGREEMENTS.—Nothing in this Act shall alter the authority of the Secretary and the Tribe to enter into any cooperative agreement, including any agreement concerning law enforcement, emergency response, or resource management.

“(h) WATER RIGHTS.—Nothing in this Act shall enhance or diminish any water rights of the Tribe, or members of the Tribe, or the United States (with respect to the Park).

“(i) ENFORCEMENT.—

“(1) ACTIONS BROUGHT BY ATTORNEY GENERAL.—The Attorney General may bring a civil action in the United States district court for the district in which the MRA is located, to enjoin the Tribe from violating any provision of this Act.

“(2) ACTION BROUGHT BY TRIBE.—The Tribe may bring a civil action in the United States district court for the district in which the MRA is located to

enjoin the United States from violating any provision of this Act.”

§ 410a. Acceptance of title to lands

The Secretary of the Interior is authorized, in his discretion and upon submission of evidence of title satisfactory to him, to accept on behalf of the United States, title to the lands referred to in section 410 of this title as may be deemed by him necessary or desirable for national-park purposes: *Provided*, That no land for said park shall be accepted until exclusive jurisdiction over the entire park area, in form satisfactory to the Secretary of the Interior, shall have been ceded by the State of Florida to the United States.

(May 30, 1934, ch. 371, § 2, 48 Stat. 816.)

§ 410b. Administration, protection, and development

The administration, protection, and development of the aforesaid park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2, 3, and 4 of this title, as amended: *Provided*, That the provisions of the Federal Power Act [16 U.S.C. 791a et seq.] shall not apply to this park: *Provided further*, That nothing in sections 410 to 410c of this title shall be construed to lessen any existing rights of the Seminole Indians which are not in conflict with the purposes for which the Everglades National Park is created.

(May 30, 1934, ch. 371, § 3, 48 Stat. 816; Aug. 21, 1937, ch. 732, 50 Stat. 742.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, was in the original the “Act approved June 10, 1920, known as the Federal Water Power Act,” and was redesignated as the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and 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

1937—Act Aug. 21, 1937, struck out proviso which prohibited expenditure of public moneys by the United States on the park within a period of five years.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 410c. Preservation of primitive condition

The said area or areas shall be permanently reserved as a wilderness, and no development of the project or plan for the entertainment of visitors shall be undertaken which will interfere with the preservation intact of the unique flora and fauna and the essential primitive natural conditions now prevailing in this area.

(May 30, 1934, ch. 371, § 4, 48 Stat. 817.)

§ 410d. Acceptance and protection of property pending establishment of park; publication of establishment order

(a) For the purpose of protecting the scenery, the wildlife, and other natural features of the region authorized to be established as the Everglades National Park by sections 410 to 410c of this title, notwithstanding any provision contained in said sections, the Secretary of the Interior is authorized in his discretion to accept on behalf of the United States any land, submerged land, or interests therein, subject to such reservations of oil, gas, or mineral rights as the Secretary may approve, within the area of approximately two thousand square miles recommended by said Secretary in his report to the Congress of December 3, 1930, pursuant to the Act of March 1, 1929 (45 Stat. 1443): *Provided*, That no general development of the property accepted pursuant to this section shall be undertaken nor shall the park be established until title satisfactory to the Secretary to a major portion of the lands, to be selected by him, within the aforesaid recommended area shall have been vested in the United States: *Provided further*, That until the property acquired by the United States pursuant to this section has been cleared of the aforesaid reservations, the Secretary in his discretion shall furnish such protection thereover as may be necessary for the accomplishment of the purposes of this section: *And provided further*, That in the event the park is not established within ten years from December 6, 1944, or upon the abandonment of the park at any time after its establishment, title to any lands accepted pursuant to the provisions of this section shall thereupon automatically revert in the State of Florida or other grantors of such property to the United States.

(b) Upon the execution of the aforesaid provisions relating to establishment thereof, the Everglades National Park shall be established by order of the Secretary which shall be published in the Federal Register.

(Dec. 6, 1944, ch. 508, 58 Stat. 794.)

REFERENCES IN TEXT

Act of March 1, 1929 (45 Stat. 1443), referred to in subsec. (a), is act Mar. 1, 1929, ch. 446, 45 Stat. 1443, which is not classified to the Code.

§ 410e. Acquisition of additional lands; reservation of oil, gas, and mineral rights; reservation of royalty rights

In order to consolidate the Federal ownership of lands within the boundary set forth in deed numbered 19035 executed December 28, 1944, by the trustees of the Internal Improvement Fund of the State of Florida, and accepted by the Secretary of the Interior on March 14, 1947, for Everglades National Park purposes, the said Secretary is authorized, within the aforesaid boundary and with any funds made available for that purpose, to procure lands or interests therein by purchase or otherwise, subject, however, to the right of retention by owners of lands, interests in lands, interests in oil, gas, and mineral rights, or royalties, their heirs, executors, administrators, successors, or assigns (hereinafter referred to as "owners"), at their election, of the following:

(1) The reservation until October 9, 1958, of all oil, gas, and mineral rights or interests, including the right to lease, explore for, produce, store, and remove oil, gas, and other minerals from such lands: *Provided*, That if on or before said date, oil, gas, or other minerals are being produced in commercial quantities anywhere within the boundary set forth in aforesaid deed numbered 19035, then in that event the time of the reservation as set forth in this subsection shall automatically extend for all owners, regardless of whether such production is from land in which such owners have an interest, for so long as oil, gas, or other minerals are produced in commercial quantities anywhere within said boundary. To exercise this reservation, the owners, their lessees, agents, employees, and assigns shall have such right of ingress and egress to and from such lands as may be necessary; and

(2) After the termination of the reserved rights of owners as set forth in subsection (1) of this section, a further reservation of the right to customary royalties, applying at the time of production, in any oil, gas, or other minerals which may be produced from such lands at any time before January 1, 1985, should production ever be authorized by the Federal Government or its assigns.

(Oct. 10, 1949, ch. 659, §1, 63 Stat. 733.)

§ 410f. Limitation of Federal action during reservation period

Unless consented to by an owner retaining the reservation set forth in subsection (1) of section 410e of this title, no action shall be taken by the Federal Government during the period of such reservation to purchase, acquire, or otherwise terminate or interfere with any lease or leases which may be applicable to said owner's lands.

(Oct. 10, 1949, ch. 659, §2, 63 Stat. 734.)

§ 410g. Rules and regulations governing reservation rights

Any reservations retained under the provisions of subsection (1) of section 410e of this title shall be exercised by the owners subject to reasonable rules and regulations which the Secretary may prescribe for the protection of the park, but which shall permit the reserved rights to be exercised so that the oil, gas, and minerals may be explored for, developed, extracted, and removed from the park area in accordance with sound conservation practices. All operations shall be carried on under such regulations as the Secretary may prescribe to protect the lands and areas for park purposes.

(Oct. 10, 1949, ch. 659, §3, 63 Stat. 734.)

§ 410h. Ascertainment of owners' election regarding reservation rights

In any action caused by the Secretary of the Interior to be commenced for the acquisition of lands under the provisions hereof, reasonable diligence shall be exercised by him to ascertain whether owners elect to retain reservations in accordance with the provisions of sections 410e to 410h of this title. If, after the exercise of such reasonable diligence, owners cannot be located,