

ACQUISITION OF LANDS BY EXCHANGE

Pub. L. 97-356, Oct. 19, 1982, 96 Stat. 1703, provided: "That (a) notwithstanding the fourth sentence of section 2(a) of the Act entitled 'An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes', approved November 5, 1966 (16 U.S.C. 460u-1(a)), or any other provision of law, the Secretary of the Interior is authorized—

"(1) to accept from the State of Indiana the conveyance of 69.17 acres of land located within area IV-A, as designated on the map referred to in the first section of such Act (16 U.S.C. 460u), commonly known as 'Blue Heron Rookery', and

"(2) in exchange for such conveyance, to convey to the State of Indiana 31.26 acres of land located within area IV, as designated on such map, commonly known as 'Hoosier Prairie'.

"(b) The Secretary of the Interior may not carry out the conveyance specified in subsection (a)(2) unless, simultaneously with such conveyance and in consideration of such conveyance, the State of Indiana—

"(1) transfers to the Secretary all right, title, and interest in the land described in subsection (a)(1);

"(2) enters into a recordable agreement satisfactory to the Secretary providing that—

"(A) the State will not use, or permit the use, of the land described in subsection (a)(2) for any purpose other than the interpretation and public appreciation and use of the Hoosier Prairie Unit of the Indiana Dunes National Lakeshore;

"(B) the State will not transfer any right, title, or interest in, or control over, any land described in subsection (a)(2) to any person other than the Secretary;

"(C) the State will permit access by the Secretary at reasonable times to the land described in subsection (a)(2); and

"(D) upon a final determination by the Secretary that—

"(i) the State has failed to comply with the requirements of subparagraph (A) or (B), and

"(ii) after receipt of notice from the Secretary respecting such failure, the State has failed or refused to comply with such requirements,

all right, title, and interest in such land shall revert to the United States for administration by the Secretary as part of the lakeshore.

The Secretary may make a determination under subparagraph (D) only after notice and opportunity for hearing on the record. The reversion under subparagraph (D) shall take effect upon publication of such determination by the Secretary in the Federal Register without further notice or requirement for physical entry by the Secretary unless an action for judicial review is brought in the United States court of appeals for the appropriate circuit within ninety days following such publication. In any such action the court may issue such orders as appropriate to carry out the requirements of this subsection."

**§ 460u-2. Direction for establishment; publication in Federal Register; continuing acquisition of lands**

As soon as practicable after November 5, 1966, and following the acquisition by the Secretary of an acreage within the boundaries of the area described in section 460u of this title which in his opinion is efficiently administrable for the purposes of this subchapter, he shall establish the Indiana Dunes National Lakeshore by publication of notice thereof in the Federal Register. By no later than October 1, 1977, the Secretary shall publish in the Federal Register a detailed description of the boundaries of the lakeshore and shall from time to time so publish any additional boundary changes as may occur. Following such establishment and subject to the limi-

tations and conditions prescribed in section 460u of this title, the Secretary may continue to acquire lands and interests in lands for the lakeshore.

(Pub. L. 89-761, §3, Nov. 5, 1966, 80 Stat. 1309; Pub. L. 94-549, §1(2), Oct. 18, 1976, 90 Stat. 2529.)

AMENDMENTS

1976—Pub. L. 94-549 inserted provision requiring the Secretary to publish in the Federal Register, no later than October 1, 1977, the boundaries of the lakeshore and from time to time publish any additional changes in the boundaries as they occur.

**§ 460u-3. "Improved property" and "appropriate map" defined; terms and conditions for rights of use and occupancy**

As used in this subchapter, the term "improved property" means a detached, one-family dwelling which meets each of the following criteria:

(1) The construction of the dwelling began before the date (shown in the table contained in this section) corresponding to the appropriate map.

(2) The property is located within the boundaries delineated on the map described in such table which corresponds to such date.

(3) The property is not located within the boundaries of any other map referred to in such table which bears an earlier date.

The term "appropriate map", means a map identified as "Boundary Map—Indiana Dunes National Lakeshore" (or "A Proposed Indiana Dunes National Lakeshore" in the case of a dwelling the construction of which was begun before January 4, 1965) which is dated and numbered as provided in the following table.

| Property within boundaries of map       | Construction began before |
|---|---------------------------|
| Dated October 1992, No. 626-80,039-C    | October 1, 1991           |
| Dated October 1986, No. 626-80,033-B    | February 1, 1986          |
| Dated December 1980, No. 626-91014      | January 1, 1981           |
| Dated September 1976, No. 626-91007     | February 1, 1973          |
| Dated September 1966, No. LNPNE-1008-ID | January 4, 1965           |

The term "improved property" also includes the lands on which the dwelling is situated which meets both of the following criteria:

(A) The land is in the same ownership as the dwelling.

(B) The Secretary has designated the lands as reasonably necessary for the enjoyment of the dwelling for the sole purpose of non-commercial residential use.

Such term also includes any structures accessory to the dwelling which are situated on the lands so designated. The maps referred to in this section shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior. The Secretary shall designate the land referred to in subparagraph (B). The amount of land so designated shall in every case be not more than three acres in area, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided*, That the Secretary may exclude from the land so designated any beach or waters, together with so much of

the land adjoining such beach or waters, as he may deem necessary for public access thereto or public use thereof. All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this subchapter.

(Pub. L. 89-761, §4, Nov. 5, 1966, 80 Stat. 1309; Pub. L. 94-549, §1(3), Oct. 18, 1976, 90 Stat. 2529; Pub. L. 96-612, §1(5), Dec. 28, 1980, 94 Stat. 3575; Pub. L. 99-583, §1(b), Oct. 29, 1986, 100 Stat. 3318; Pub. L. 102-430, §4(a), Oct. 23, 1992, 106 Stat. 2208.)

#### AMENDMENTS

1992—Pub. L. 102-430 amended table generally. Prior to amendment, table read as follows:

| "Property Within Boundaries of Map         | Construction Began Before |
|--|---------------------------|
| Dated October 1986, #626-80,033-B .....    | February 1, 1986          |
| Dated December 1980, #626-91014 .....      | January 1, 1981           |
| Dated September 1976, #626-91007 .....     | February 1, 1973          |
| Dated September 1966, #LNPNE-1008-ID ..... | January 4, 1965".         |

1986—Pub. L. 99-583 substituted provisions defining "improved property" and "appropriate map" for former provisions which read as follows: "The term "improved property", whenever used in this subchapter, shall mean a detached, one-family dwelling, construction of which was begun before January 1, 1981 or, in the case of improved property located within the boundaries delineated on a map identified as "Boundary Map, Indiana Dunes National Lakeshore", dated September 1976 and bearing the number 626-91007, before February 1, 1973, or, in the case of improved property located within the boundaries delineated on a map identified as "A Proposed Indiana Dunes National Lakeshore", dated September 1966, and bearing the number "LNPNE-1008-ID", which map is on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, before January 4, 1965, 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 lands so designated."

1980—Pub. L. 96-612 inserted "January 1, 1981 or, in the case of improved property located within the boundaries delineated on a map identified as 'Boundary Map, Indiana Dunes National Lakeshore', dated September 1976 and bearing the number 626-91007, before" after "begun before".

1976—Pub. L. 94-549 struck out subsec. (a) which related to the suspension of the authority of the Secretary to acquire improved property by condemnation when an appropriate zoning agency had in force a valid zoning ordinance, designated subsec. (b) as the entire provision, and in the entire provision as so designated, inserted provision including in definition of "improved property" a one-family dwelling the construction of which was begun before February 1, 1973, or in the case of improved property located within the boundaries of the map bearing the number "LNPNE-1008-ID", property the construction of which was begun before January 4, 1965, and provision which subjected all rights of use and occupancy to terms and conditions the Secretary deems appropriate.

#### § 460u-4. Repealed. Pub. L. 94-549, §1(9), Oct. 18, 1976, 90 Stat. 2533

Section, Pub. L. 89-761, §5, Nov. 5, 1966, 80 Stat. 1310, authorized Secretary to set standards for and to approve use of local zoning ordinances with regard to

preservation and development of lakeshore areas and in event of nonconforming variances, to terminate suspension of his authority to acquire improved property by condemnation.

#### § 460u-5. Owner's retention of right of use and occupancy for residential purposes

##### (a) Election; conveyance or lease of right; adjustment of compensation; retained rights

(1) Except for owners described in paragraph (2) and owners of improved property within the area on the map referred to in section 460u-3 of this title, dated December 1980, and numbered 626-91014, as area II-B, any owner or owners of record of improved property may retain a right of use and occupancy of said improved property for noncommercial residential purposes for a term (A) ending on his or her death or the death of his or her spouse, whichever occurs last, or (B) for a fixed term not to extend beyond September 30, 2010, or such lesser term as the owner or owners may elect at the time of acquisition by the Secretary. In the case of improved property within the boundaries of the map dated December 1980 and numbered 626-91014 the retention of a retained right under clause numbered (A) shall only be available to homeowners of record as of October 1, 1980, who have attained the age of majority as of that date and make a bona fide written offer not later than October 1, 1985, to sell to the Secretary. Where any such owner retains a right of use and occupancy as herein provided, such right during its existence may be conveyed or leased for noncommercial residential purposes. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

(2)(A) In the case of property included within the boundaries of the lakeshore after 1980, any owner or owners of record of improved property may retain a right of use and occupancy for noncommercial residential purposes for a term ending at either of the following:

(i) A fixed term not to extend beyond September 30, 2010, or such lesser fixed term as the owner or owners may elect at the time of acquisition.

(ii) A term ending at the death of any owner or of a spouse of any owner, whichever occurs last.

The owner shall elect the term to be reserved.

(B) The retention of rights under subparagraph (A) shall be available only to individuals who are homeowners of record as of July 1, 1986, who have attained the age of majority as of that date and who make a bona fide written offer not later than July 1, 1991, to sell to the Secretary.

(3)(A) In the case of improved property included within the boundaries of the lakeshore after October 1, 1991, that was not included within such boundaries on or before that date, an individual who is an owner of record of such property may retain a right of use and occupancy of such improved property for noncommercial residential purposes for a term ending, subject to subparagraph (B), at either of the following:

(i) A fixed term not to extend beyond October 1, 2020, or such lesser fixed term as the owner may elect at the time of acquisition.