

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

§ 1719. Mineral interests; reservation and conveyance requirements and procedures

(a) All conveyances of title issued by the Secretary, except those involving land exchanges provided for in section 1716 of this title, shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except that if the Secretary makes the findings specified in subsection (b) of this section, the minerals may then be conveyed together with the surface to the prospective surface owner as provided in subsection (b).

(b)(1) The Secretary, after consultation with the appropriate department or agency head, may convey mineral interests owned by the United States where the surface is or will be in non-Federal ownership, regardless of which Federal entity may have administered the surface, if he finds (1) that there are no known mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate nonmineral development of the land and that such development is a more beneficial use of the land than mineral development.

(2) Conveyance of mineral interests pursuant to this section shall be made only to the existing or proposed record owner of the surface, upon payment of administrative costs and the fair market value of the interests being conveyed.

(3) Before considering an application for conveyance of mineral interests pursuant to this section—

(i) the Secretary shall require the deposit by the applicant of a sum of money which he deems sufficient to cover administrative costs including, but not limited to, costs of conducting an exploratory program to determine the character of the mineral deposits in the land, evaluating the data obtained under the exploratory program to determine the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance: *Provided*, That, if the administrative costs exceed the deposit, the applicant shall pay the outstanding amount; and, if the deposit exceeds the administrative costs, the applicant shall be given a credit for or refund of the excess; or

(ii) the applicant, with the consent of the Secretary, shall have conducted, and submitted to the Secretary the results of, such an exploratory program, in accordance with standards promulgated by the Secretary.

(4) Moneys paid to the Secretary for administrative costs pursuant to this subsection shall be paid to the agency which rendered the service and deposited to the appropriation then current.

(Pub. L. 94-579, title II, §209, Oct. 21, 1976, 90 Stat. 2757.)

§ 1720. Coordination by Secretary of the Interior with State and local governments

At least sixty days prior to offering for sale or otherwise conveying public lands under this Act, the Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located, in order to afford the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning the use of such lands prior to such conveyance. The Secretary shall also promptly notify such public officials of the issuance of the patent or other document of conveyance for such lands.

(Pub. L. 94-579, title II, §210, Oct. 21, 1976, 90 Stat. 2758.)

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§ 1721. Conveyances of public lands to States, local governments, etc.

(a) Unsurveyed islands; authorization and limitations on authority

The Secretary is authorized to convey to States or their political subdivisions under the Recreation and Public Purposes Act (44 Stat. 741 as amended; 43 U.S.C. 869 et seq.), as amended, but without regard to the acreage limitations contained therein, unsurveyed islands determined by the Secretary to be public lands of the United States. The conveyance of any such island may be made without survey: *Provided, however*, That such island may be surveyed at the request of the applicant State or its political subdivision if such State or subdivision donates money or services to the Secretary for such survey, the Secretary accepts such money or services, and such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management. Any such island so surveyed shall not be conveyed without approval of such survey by the Secretary prior to the conveyance.

(b) Omitted lands; authorization and limitations on authority

(1) The Secretary is authorized to convey to States and their political subdivisions under the Recreation and Public Purposes Act [43 U.S.C. 869 to 869-4], but without regard to the acreage limitations contained therein, lands other than islands determined by him after survey to be public lands of the United States erroneously or fraudulently omitted from the original surveys (hereinafter referred to as "omitted lands"). Any such conveyance shall not be made without a survey: *Provided*, That the prospective recipient may donate money or services to the Secretary for the surveying necessary prior to conveyance if the Secretary accepts such money or services, such services are conducted pursuant to criteria established by the Director of the Bu-

reau of Land Management, and such survey is approved by the Secretary prior to the conveyance.

(2) The Secretary is authorized to convey to the occupant of any omitted lands which, after survey, are found to have been occupied and developed for a five-year period prior to January 1, 1975, if the Secretary determines that such conveyance is in the public interest and will serve objectives which outweigh all public objectives and values which would be served by retaining such lands in Federal ownership. Conveyance under this subparagraph shall be made at not less than the fair market value of the land, as determined by the Secretary, and upon payment in addition of administrative costs, including the cost of making the survey, the cost of appraisal, and the cost of making the conveyance.

(c) Conformity with land use plans and programs and coordination with State and local governments of conveyances

(1) No conveyance shall be made pursuant to this section until the relevant State government, local government, and areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262) [42 U.S.C. 3334] and/or section 6506 of title 31 have notified the Secretary as to the consistency of such conveyance with applicable State and local government land use plans and programs.

(2) The provisions of section 1720 of this title shall be applicable to all conveyances under this section.

(d) Applicability of other statutory requirements for authorized use of conveyed lands

The final sentence of section 1(c) of the Recreation and Public Purposes Act [43 U.S.C. 869(c)] shall not be applicable to conveyances under this section.

(e) Limitations on uses of conveyed lands

No conveyance pursuant to this section shall be used as the basis for determining the baseline between Federal and State ownership, the boundary of any State for purposes of determining the extent of a State's submerged lands or the line of demarcation of Federal jurisdiction, or any similar or related purpose.

(f) Applicability to lands within National Forest System, National Park System, National Wildlife Refuge System, and National Wild and Scenic Rivers System

The provisions of this section shall not apply to any lands within the National Forest System, defined in the Act of August 17, 1974 (88 Stat. 476; 16 U.S.C. 1601), the National Park System, the National Wildlife Refuge System, and the National Wild and Scenic Rivers System.

(g) Applicability to other statutory provisions authorizing sale of specific omitted lands

Nothing in this section shall supersede the provisions of the Act of December 22, 1928 (45 Stat. 1069; 43 U.S.C. 1068), as amended, and the Act of May 31, 1962 (76 Stat. 89), or any other Act authorizing the sale of specific omitted lands.

(Pub. L. 94-579, title II, §211, Oct. 21, 1976, 90 Stat. 2758.)

REFERENCES IN TEXT

The Recreation and Public Purposes Act, referred to in subsecs. (a) and (b)(1), is act June 14, 1926, ch. 578, 44 Stat. 741, as amended, which is classified to sections 869 to 869-4 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 869 of this title and Tables.

Act of August 17, 1974 (88 Stat. 476; 16 U.S.C. 1601), referred to in subsec. (f), is Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, as amended, known as the Forest and Rangelands Renewable Resources Planning Act of 1974, which is classified generally to subchapter I (§1600 et seq.) chapter 36 of Title 16, Conservation. The provisions of such Act defining the lands within the National Forest System are set out in section 1609 of Title 16. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of Title 16 and Tables.

Act of December 22, 1928 (45 Stat. 1069; 43 U.S.C. 1068), as amended, referred to in subsec. (g), is act Dec. 22, 1928, ch. 47, 45 Stat. 1069, as amended, which is classified generally to chapter 25A (§1068 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

Act of May 31, 1962, referred to in subsec. (g), is Pub. L. 87-469, May 31, 1962, 76 Stat. 89, which is not classified to the Code.

CODIFICATION

In subsec. (c)(1), "section 6506 of title 31" substituted for "title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103-4) [42 U.S.C. 4231 et seq.]" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§ 1722. Sale of public lands subject to unintentional trespass

(a) Preference right of contiguous landowners; offering price

Notwithstanding the provisions of the Act of September 26, 1968 (82 Stat. 870; 43 U.S.C. 1431-1435), hereinafter called the "1968 Act", with respect to applications under the 1968 Act which were pending before the Secretary as of the effective date of this subsection and which he approves for sale under the criteria prescribed by the 1968 Act, he shall give the right of first refusal to those having a preference right under section 2 of the 1968 Act [43 U.S.C. 1432]. The Secretary shall offer such lands to such preference right holders at their fair market value (exclusive of any values added to the land by such holders and their predecessors in interest) as determined by the Secretary as of September 26, 1973.

(b) Procedures applicable

Within three years after October 21, 1976, the Secretary shall notify the filers of applications subject to paragraph (a) of this section whether he will offer them the lands applied for and at what price; that is, their fair market value as of September 26, 1973, excluding any value added to the lands by the applicants or their predecessors in interest. He will also notify the President of the Senate and the Speaker of the House of Representatives of the lands which he has determined not to sell pursuant to paragraph (a) of this section and the reasons therefor. With respect to such lands which the Secretary determined not to sell, he shall take no other action to convey those lands or interests in them before the end of ninety days (not counting days