

“(A) the land acquired by the United States in the exchange shall be included in the boundaries, and administered as part, of the New River Gorge National River; and

“(B) the land conveyed by the United States in the exchange shall be excluded from the boundaries, and shall not be administered as part, of the New River Gorge National River.”

NEW, GAULEY, MEADOW, AND BLUESTONE RIVERS;  
CONGRESSIONAL FINDINGS AND PURPOSE

Pub. L. 100-534, §2, Oct. 26, 1988, 102 Stat. 2699, provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) The outstanding natural, scenic, cultural and recreational values of the segment of the New River in West Virginia within the boundaries of the New River Gorge National River [now New River Gorge National Park and Preserve] have been preserved and enhanced by its inclusion in the National Park System.

“(2) The establishment of the New River Gorge National River has provided the basis for increased recreation and tourism activities in southern West Virginia due to its nationally recognized status and has greatly contributed to the regional economy.

“(3) Certain boundary modifications to the New River Gorge National River are necessary to further protect the scenic resources within the river’s visual corridor and to provide for better management of the national park unit.

“(4) Several tributaries of the New River in West Virginia also possess remarkable and outstanding features of national significance. The segment of the Gauley River below Summersville Dam has gained national recognition as a premier whitewater recreation resource. The lower section of the Bluestone River and the lower section of the Meadow River possess remarkable and outstanding natural, scenic, and recreational values due to their predominantly undeveloped condition.

“(5) Portions of several of the New River tributaries, including segments of the Gauley River, the Meadow River, and the Bluestone River are suitable for inclusion in the National Park System or the National Wild and Scenic Rivers System.

“(6) It is in the national interest to preserve the natural condition of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia and to enhance recreational opportunities available on the free-flowing segments.

“(b) PURPOSE.—The purpose of this Act [see Short Title of 1988 Amendment note above] is to provide for the protection and enhancement of the natural, scenic, cultural, and recreational values on certain free-flowing segments of the New, Gauley, Meadow, and Bluestone Rivers in the State of West Virginia for the benefit and enjoyment of present and future generations.”

COORDINATION AMONG RECREATIONAL RESOURCES

Pub. L. 100-534, title IV, §401, Oct. 26, 1988, 102 Stat. 2707, provided that: “Subject to existing authority, the Secretary of the Interior shall cooperate with, and assist, any regional authority comprised of representatives of West Virginia State authorities and local government authorities in or any combination of the foregoing Nicholas, Fayette, Raleigh, Summers, Greenbrier, and Mercer Counties, West Virginia, for the purposes of providing for coordinated development and promotion of recreation resources of regional or national significance which are located in southern West Virginia and management by State or Federal agencies, including State, local and National Park System units, State and National Forest System units, and historic sites.”

SPECIAL PROVISIONS

Pub. L. 100-534, title IV, §402, Oct. 26, 1988, 102 Stat. 2707, provided that: “Subject to his responsibilities to

protect the natural resources of the National Park System, the Secretary of the Interior shall enter into a cooperative agreement with the State of West Virginia providing for the State’s regulation, in accordance with State law, of persons providing commercial recreational watercraft services on units of the National Park System and components of the National Wild and Scenic Rivers System subject to this Act [see Short Title of 1988 Amendment note above].”

CONSOLIDATED MANAGEMENT

Pub. L. 100-534, title IV, §404, Oct. 26, 1988, 102 Stat. 2708, provided that: “In order to achieve the maximum economy and efficiency of operations in the administration of the National Park System units established or expanded pursuant to this Act [see Short Title of 1988 Amendment note above], the Secretary shall consolidate offices and personnel administering all such units to the extent practicable and shall utilize the existing facilities of the New River Gorge National River [now New River Gorge National Park and Preserve] to the extent practicable.”

NEW SPENDING AUTHORITY

Pub. L. 100-534, title IV, §405, Oct. 26, 1988, 102 Stat. 2708, provided that: “Any new spending authority which is provided under this Act [see Short Title of 1988 Amendment note above] shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts.”

**§ 410eeee-1. Establishment; administration, protection, and development; utilization of other authorities; boundary description, availability for public inspection**

For the purpose of conserving and interpreting outstanding natural, scenic, and historic values and objects in and around the New River Gorge and preserving as a free-flowing stream an important segment of the New River in West Virginia for the benefit and enjoyment of present and future generations, the Secretary of the Interior (hereinafter referred to as the “Secretary”) shall establish and administer the New River Gorge National River.<sup>1</sup> The Secretary shall administer, protect, and develop the national river in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.),<sup>2</sup> as amended and supplemented; except that any other statutory authority available to the Secretary for the preservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this subchapter. The boundaries of the national river shall be as generally depicted on the drawing entitled “Proposed New River Gorge National River” numbered NERI 80,034, dated May 2001, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(Pub. L. 95-625, title XI, §1101, Nov. 10, 1978, 92 Stat. 3544; Pub. L. 100-534, title I, §101, Oct. 26, 1988, 102 Stat. 2700; Pub. L. 104-333, div. I, title IV, §406(a)(1), Nov. 12, 1996, 110 Stat. 4149; Pub. L. 107-356, §2(a), Dec. 17, 2002, 116 Stat. 3013.)

REFERENCES IN TEXT

The Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), referred to in text, is act Aug. 25, 1916, ch. 408, 39

<sup>1</sup> See Change of Name note below.

<sup>2</sup> See References in Text note below.

Stat. 535, known as the National Park Service Organic Act, which enacted sections 1, 2, 3, and 4 of this title and provisions set out as a note under section 100101 of Title 54, National Park Service and Related Programs. Sections 1 to 4 of the Act were repealed and restated as section 1865(a) of Title 18, Crimes and Criminal Procedure, and section 100101(a), chapter 1003, and sections 100751(a), 100752, 100753, and 102101 of Title 54 by Pub. L. 113-287, §§ 3, 4(a)(1), 7, Dec. 19, 2014, 128 Stat. 3094, 3260, 3272. For complete classification of this Act to the Code, see Tables. For disposition of former sections of this title, see Disposition Table preceding section 100101 of Title 54.

#### CODIFICATION

Section was formerly classified to section 460m-15 of this title.

#### AMENDMENTS

2002—Pub. L. 107-356 substituted “NERI 80,034, dated May 2001” for “NERI-80,028A, dated March 1996”.

1996—Pub. L. 104-333 substituted “NERI-80,028A, dated March 1996” for “NERI-80,023, dated January 1987”.

1988—Pub. L. 100-534 substituted “NERI-80,023, dated January 1987” for “NERI-20,002, dated July 1978”.

#### CHANGE OF NAME

New River Gorge National River redesignated New River Gorge National Park and Preserve by Pub. L. 116-260, div. FF, title II, §202, Dec. 27, 2020, 134 Stat. 3089, which is classified to section 410eeee of this title.

### § 410eeee-2. Acquisition of property

#### (a) Authority of Secretary; manner; donation of State lands; improved and unimproved properties

Within the boundaries of the New River Gorge National River,<sup>1</sup> the Secretary may acquire lands and waters or interests therein by donation, purchase with donated or appropriated funds, transfer, or exchange. Lands owned by the State of West Virginia or a political subdivision thereof may be acquired by donation only. In addition, the Secretary may acquire by any of the foregoing methods not to exceed ten acres outside the boundaries of the national river for an administrative headquarters site, and funds appropriated for land acquisition shall be available for the acquisition of the administrative headquarters site. The authority of the Secretary to condemn in fee, improved properties as defined in subsection (c) of this section shall not be invoked as long as the owner of such improved property holds and uses it in a manner compatible with the purposes of this subchapter. The Secretary may acquire any such improved property without the consent of the owner whenever he finds that such property has undergone, since January 1, 1978, or is imminently about to undergo, changes in land use which are incompatible with the purposes of the national river. The Secretary may acquire less than fee interest in any improved or unimproved property within the boundaries of the national river.

#### (b) Non-federally owned lands; cooperative agreements affecting properties of historical significance

On non-federally owned lands within the national river boundaries, the Secretary is author-

ized to enter into cooperative agreements with organizations or individuals to mark or interpret properties of significance to the history of the Gorge area.

#### (c) “Improved property” defined

For the purposes of this Act, the term “improved property” means (i) a detached single family dwelling, the construction of which was begun before January 1, 1977 (hereafter referred to as “dwelling”), 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 necessary to the dwelling which are situated on the land so designated, or (ii) property developed for agricultural uses, together with any structures accessory thereto which were so used on or before January 1, 1977, or (iii) commercial and small business properties which were so used on or before January 1, 1977, the purpose of which is determined by the Secretary to contribute to visitor use and enjoyment of the national river. In determining when and to what extent a property is to be considered an “improved property”, the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1977, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

#### (d) Owner’s reservation of right of use and occupancy for fixed term of years or for life; election by owner; fair market value; termination; notification

The owner of an improved property, as defined in this subchapter, on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for non-commercial residential, or agricultural purposes, or the continuation of existing commercial operations, as the case may be, 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, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value of the property on that date of the right retained by the owner. A right retained by the owner 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 purposes of this subchapter, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(Pub. L. 95-625, title XI, §1102, Nov. 10, 1978, 92 Stat. 3545; Pub. L. 99-500, §101(h) [title I, §116(a)], Oct. 18, 1986, 100 Stat. 1783-242, 1783-266, and Pub.

<sup>1</sup> See Change of Name note below.