

land, Texas, within those lands described in subsection (a) shall remain navigable waters of the United States:

(1) to (3) Omitted.

**(c) Requirement that areas be improved**

The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section and not described in subsection (b) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures or other permanent physical improvements, including marina facilities. All such work is subject to applicable Federal statutes and regulations, including sections 401 and 403 of this title, section 1344 of this title and the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

**(d) Expiration**

If, 20 years from December 19, 1991, any area or part thereof described in subsection (a) of this section and not described in subsection (b) of this section is not bulkheaded or filled or occupied by permanent structures or other permanent physical improvements, including marina facilities, in accordance with the requirements set out in subsection (c) of this section, or if work is not commenced within five years after issuance of any permits required to be obtained under subsection (c), then the declaration of nonnavigability for such area or part thereof shall expire.

(Pub. L. 102-241, § 52, Dec. 19, 1991, 105 Stat. 2228.)

**Editorial Notes**

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (c), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

CODIFICATION

The text of the boundary descriptions contained in pars. (1) to (5) of subsec. (a) and pars. (1) to (3) of subsec. (b), which is not set out in the Code, appears at 105 Stat. 2228 to 2231.

**§ 59gg. Declaration of nonnavigability for portions of Cuyahoga County, Ohio**

**(a) Area to be declared nonnavigable; public interest**

Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of the county of Cuyahoga, Ohio, described as follows, are not in the public interest then, subject to subsections (b) and (c), those portions of such county, bounded and described as follows, are declared to be nonnavigable waters of the United States:

Situated in the city of Cleveland, county of Cuyahoga, and State of Ohio, T7N, R13W, and known as being a part of original two acre lots numbers 16, 17, 18, 19, and 20 and the northerly extensions thereof, and being more fully described as follows:

Beginning at the intersection of the centerline of East 9th Street (99 feet wide) with the centerline of Relocated Erieside Avenue, N.E. (70 feet wide); thence south 56 degrees 06 minutes 52 seconds west on the centerline of Relocated Erieside Avenue, N.E., a distance of 112.89 feet to a point; thence north 33 degrees 53 minutes 08 seconds west a distance of 35.00 feet to a  $\frac{5}{8}$ -inch rebar on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E.; thence southwest on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the left, with a radius of 335.00 feet and whose chord bears south 42 degrees 36 minutes 52 seconds west 156.41 feet, an arc distance of 157.87 feet to a  $\frac{5}{8}$ -inch rebar; thence south 29 degrees 06 minutes 52 seconds west on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 119.39 feet to a  $\frac{5}{8}$ -inch rebar; thence southwest on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the right, with a radius of 665.00 feet and whose chord bears south 39 degrees, 49 minutes 33 seconds west 247.19 feet, an arc distance of 248.64 feet to a  $\frac{5}{8}$ -inch rebar and the true place of beginning of the parcel herein described; thence southwest on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the right, with a radius of 665.00 feet and whose chord bears south 53 degrees, 17 minutes 33 seconds west 64.05 feet, an arc distance of 64.08 feet to a  $\frac{5}{8}$ -rebar set; thence south 56 degrees 03 minutes 30 seconds west on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 248.38 feet to a  $\frac{5}{8}$ -rebar set; thence northwesterly on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the right, with a radius of 265.00 feet and whose chord bears north 79 degrees 02 minutes 42 seconds west 374.09 feet, an arc distance of 415.31 feet to a drill hole set; thence north 34 degrees 08 minutes 55 seconds west on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 505.30 feet to a  $\frac{5}{8}$ -inch rebar set; thence northwesterly on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the left, with a radius of 112.00 feet and whose chord bears north 40 degrees 32 minutes 41 seconds west 24.95 feet, an arc distance of 25.01 feet to a drill hole set on the southerly right-of-way line of former Erieside Avenue, as vacated by city of Cleveland Ordinance No. 1100-87, passed June 16, 1987; thence northeasterly on the former right-of-way line along the arc of a curve to the right, with a radius of 515.00 feet and whose chord bears north 75 degrees 36 minutes 18 seconds east 136.45 feet, an arc distance of 136.85 feet to a  $\frac{5}{8}$ -inch rebar set; thence north 86 degrees 13 minutes 04 seconds east on said former right-of-way line a distance of 294.57 feet to a  $\frac{5}{8}$ -inch rebar set; thence north 52 degrees 57 minutes 23 seconds east on said former right-of-way line a distance of 56.98 feet to a  $\frac{5}{8}$ -inch rebar set; thence south 33 degrees 53 minutes 08 seconds east a distance of 244.65 feet to a  $\frac{5}{8}$ -inch rebar set;

thence south 78 degrees 53 minutes 08 seconds east a distance of 105.04 feet to a 5/8-inch rebar set; thence north 56 degrees 06 minutes 52 seconds east a distance of 70.75 feet to a 5/8-inch rebar set; thence south 33 degrees 53 minutes 08 seconds east a distance of 274.74 feet to the true place of beginning containing 325,706 square feet (7.477 acres) more or less.

**(b) Limits on applicability; regulatory requirements**

The declaration under subsection (a) shall apply to those parts of the areas described in subsection (a) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including sections 401 and 403 of this title, section 1344 of this title, and the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

**(c) Expiration date**

If, 20 years from October 31, 1992, any area or part thereof described in subsection (a) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set forth in subsection (b), or if work in connection with any activity permitted in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

(Pub. L. 102-580, title III, §335, Oct. 31, 1992, 106 Stat. 4853.)

**Editorial Notes**

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

**Statutory Notes and Related Subsidiaries**

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 3 of Pub. L. 102-580, set out as a note under section 2201 of this title.

**§ 59hh. Declaration of nonnavigability for portion of Pelican Island, Texas**

**(a) In general**

The Secretary of the Army is authorized to convey to the City<sup>1</sup> of Galveston, Texas, fee simple absolute title to all or any part of a parcel of land containing approximately 605 acres known as the San Jacinto Disposal Area located on the east end of Galveston Island, Texas, in the W.A.A. Wallace Survey, A-647 and A-648, City<sup>1</sup> of Galveston, Galveston County, Texas, being part of the old Fort San Jacinto site, at the fair market value of such parcel to be determined in accordance with the provisions of subsection (d). Such conveyance shall only be made by the Secretary of the Army upon the agree-

ment of the Secretary and the City<sup>1</sup> as to all compensation due herein.

**(b) Compensation for conveyance**

**(1) In general**

Upon receipt of compensation from the city of Galveston, the Secretary shall convey the parcel, or any part of the parcel, as described in subsection (a).

**(2) Full parcel**

If the full 605-acre parcel is conveyed, the compensation shall be—

(A) conveyance to the Department of the Army of fee simple absolute title to a parcel of land containing approximately 564 acres on Pelican Island, Texas, in the Eneas Smith Survey, A-190, Pelican Island, city of Galveston, Galveston County, Texas, adjacent to property currently owned by the United States, with the fair market value of the parcel being determined in accordance with subsection (d); and

(B) payment to the United States of an amount equal to the difference between the fair market value of the parcel to be conveyed under subsection (a) and the fair market value of the parcel to be conveyed under subparagraph (A).

**(3) Partial parcel**

If the conveyance is 125 acres or less, compensation shall be an amount equal to the fair market value of the parcel to be conveyed, with the fair market value of the parcel being determined in accordance with subsection (d).

**(c) Disposition of spoil**

Costs of maintaining the Galveston Harbor and Channel will continue to be governed by the Local Cooperation Agreement (LCA) between the United States of America and the City<sup>1</sup> of Galveston dated October 18, 1973, as amended. Upon conveyance of the parcel, or any part of the parcel, described in subsection (a), the Department of the Army shall be compensated directly for the present value of the total costs to the Department for disposal of dredge material and site preparation pursuant to the LCA, if any,<sup>2</sup> in excess of the present value of the total costs that would have been incurred if this conveyance had not been made.

**(d) Determination of fair market value**

The fair market value of the land to be conveyed pursuant to subsections (a) and (b) shall be determined by independent appraisers using the market value method.

**(e) Navigational servitude**

**(1) Declaration of nonnavigability; public interest**

Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the parcel described in subsection (a) are not in the public interest then, subject to paragraphs (2) and (3), such parcel is declared to be nonnavigable waters of the United States.

<sup>1</sup> So in original. Probably should not be capitalized.

<sup>2</sup> So in original.