

**Statutory Notes and Related Subsidiaries**

## PHLEGER ESTATE ADDITION

Section 2(a) and (b)(2) of Pub. L. 102-299 authorized Secretary of the Interior to acquire by donation or purchase with donated or appropriated funds approximately 1,232 acres of land in San Mateo County, California, known generally as the Phleger property, as generally depicted on map entitled "1991 addition to Golden Gate National Recreation Area (Phleger Estate)" and numbered GGNRA<sup>641/40062</sup>, with Federal share of acquisition of land not to exceed 50 percent of purchase price of land, and directed Secretary, upon acquisition of the land and after publication of notice in the Federal Register, to revise boundary of Golden Gate National Recreation Area to reflect inclusion of such land, and to prepare and make available a map displaying such boundary revision in accordance with subsection (b) of this section.

**§ 460bb-2. Acquisition policy****(a) Authority of Secretary; exchange of property; disposal of certain lands; transfer from Federal agency to administrative jurisdiction of Secretary; facilities and improvements under permit from Secretary of the Army**

Within the boundaries of the recreation area, the Secretary may acquire lands, improvements, waters, or interests therein, by donation, purchase, exchange or transfer. Any lands, or interests therein, owned by the State of California or any political subdivision thereof, may be acquired only by donation. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs. Land so acquired outside of the boundaries may be exchanged by the Secretary for non-Federal lands within the boundaries. Any portion of land acquired outside the boundaries and not utilized for exchange shall be reported to the General Services Administration for disposal under chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41: *Provided*, That no disposal shall be for less than fair market value. Except as hereinafter provided, Federal property within the boundaries of the recreation area is hereby transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of this subchapter, subject to the continuation of such existing uses as may be agreed upon between the Secretary and the head of the agency formerly having jurisdiction over the property. Notwithstanding any other provision of law, the Secretary may develop and administer for the purposes of this subchapter structures or other improvements and facilities on lands for which he receives a permit of use and occupancy from the Secretary of the Army.

**(b) Transfer of certain properties to administrative jurisdiction of Secretary; military properties, reservation of use and occupancy by Secretary of the Army; radio receiver station, retention of jurisdiction when not superfluous**

Fort Cronkhite, Fort Barry, and the westerly one-half of Fort Baker, in Marin County, California, as depicted on the map entitled "Golden Gate Military Properties" numbered NRAGG-20,002 and dated January 1972, which

shall be on file and available for public inspection in the offices of the National Park Service, are hereby transferred to the jurisdiction of the Secretary for purposes of this subchapter, subject to continued use and occupancy by the Secretary of the Army of those lands needed for existing air defense missions, reserve activities and family housing, until he determines that such requirements no longer exist. The Coast Guard Radio Receiver Station, shall remain under the jurisdiction of the Secretary of the Department in which the Coast Guard is operating. When this station is determined to be excess to the needs of the Coast Guard, it shall be transferred to the jurisdiction of the Secretary for purposes of this subchapter.

**(c) Military property; public service facilities: construction, maintenance, and determinations of identity and location by Secretary of the Army**

The easterly one-half of Fort Baker in Marin County, California, shall remain under the jurisdiction of the Department of the Army. When this property is determined by the Department of Defense to be excess to its needs, it shall be transferred to the jurisdiction of the Secretary for purposes of this subchapter. The Secretary of the Army shall grant to the Secretary reasonable public access through such property to Horseshoe Bay, together with the right to construct and maintain such public service facilities as are necessary for the purposes of this subchapter. The precise facilities and location thereof shall be determined between the Secretary and the Secretary of the Army.

**(d) Presidio of San Francisco; use and occupation of certain acreage by Secretary**

Upon enactment, the Secretary of the Army shall grant to the Secretary the irrevocable use and occupancy of one hundred acres of the Baker Beach area of the Presidio of San Francisco, as depicted on the map referred to in subsection (b).

**(e) Use and occupancy of airfield acreage by Secretary**

The Secretary of the Army shall grant to the Secretary within a reasonable time, the irrevocable use and occupancy of forty-five acres of the Crissy Army Airfield of the Presidio, as depicted on the map referred to in subsection (b).

**(f) Transfer of remainder to administrative jurisdiction of Secretary; use and occupancy by Coast Guard under permit from Secretary**

When all or any substantial portion of the remainder of the Presidio is determined by the Department of Defense to be excess to its needs, such lands shall be transferred to the jurisdiction of the Secretary for purposes of this subchapter. The Secretary shall grant a permit for continued use and occupancy for that portion of said Fort Point Coast Guard Station necessary for activities of the Coast Guard.

**(g) Transfer of certain Coast Guard properties to administrative jurisdiction of Secretary; navigational aids; maintenance and operation by Coast Guard and plans for access to new installations**

Point Bonita, Point Diablo, Point Montara, and Lime Point shall remain under the jurisdiction

tion of the Secretary of the Department in which the Coast Guard is operating. When this property is determined to be excess to the needs of the Coast Guard, it shall be transferred to the jurisdiction of the Secretary for purposes of this subchapter. The Coast Guard may continue to maintain and operate existing navigational aids: *Provided*, That access to such navigational aids and the installation of necessary new navigational aids within the recreation area shall be undertaken in accordance with plans which are mutually acceptable to the Secretary and the Secretary of the Department in which the Coast Guard is operating and which are consistent with both the purposes of this subchapter and the purpose of existing statutes dealing with establishment, maintenance, and operation of navigational aids.

**(h) Transfer of certain property of Navy Department to administrative jurisdiction of Secretary**

That portion of Fort Miley comprising approximately one and seven-tenths acres of land presently used and required by the Secretary of the Navy for its inshore, underseas warfare installations shall remain under the administrative jurisdiction of the Department of the Navy until such time as all or any portion thereof is determined by the Department of Defense to be excess to its needs, at which time such excess portion shall be transferred to the administrative jurisdiction of the Secretary for purposes of this subchapter. That property known as the Pillar Point Military Reservation, under the jurisdiction of the Secretary of Defense shall be transferred to the administrative jurisdiction of the Secretary at such time as the property, or any portion thereof, becomes excess to the needs of the Department of Defense.

**(i) New construction; limitation; notice and public hearing; exceptions**

New construction and development within the boundaries described in section 460bb-1(a) of this title on lands under the administrative jurisdiction of a department other than that of the Secretary is prohibited, except that improvements on lands which have not been transferred to his administrative jurisdiction may be reconstructed or demolished. Any such structure which is demolished may be replaced with an improvement of similar size, following consultation with the Secretary or his designated representative, who shall conduct a public hearing at a location in the general vicinity of the area, notice of which shall be given at least one week prior to the date thereof. The foregoing limitation on construction and development shall not apply to expansion of those facilities known as Letterman General Hospital or the Western Medical Institute of Research.

**(j) Owner's reservation of right of use and occupancy for residential purposes for fixed term of years or for life; election by owner; adjustment of compensation; termination of use and occupancy inconsistent with statutory purposes and upon tender of sum for unexpired right; lease of Federal lands; restrictive covenants, offer to prior owner or leaseholder**

The owner of improved residential property or of agricultural property on the date of its acquisition by the Secretary under this subchapter may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy 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 or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her 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 the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under this subchapter, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this subchapter. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or who was a leaseholder thereon immediately before its acquisition by the United States.

**(k) "Improved and agricultural property" defined**

The term "improved property", as used in subsection (j) of this section, means a detached, noncommercial residential dwelling, the construction of which was begun before June 1, 1971, or, in the case of areas added by action of the Ninety-fifth Congress, October 1, 1978, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as 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 land so designated. The term "agricultural property" as used in this subchapter means lands which are in regular use for agricultural, ranching, or dairying purposes as of January 1, 1978, together with residential and other structures related to the above uses of the property as such structures exist on said date.

**(l) Relocation assistance benefits and rights; waiver through retention of right of use and occupancy; displaced person status of owner**

Whenever an owner of property elects to retain a right of use and occupancy as provided for in this subchapter, such owner shall be deemed to have waived any benefits or rights accruing under sections 4623, 4624, 4625, and 4626 of title 42, and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 4601(6) of title 42.

**(m) Acquisition of land; contract authority; installment payments; interest rate; provisions applicable to judgments against United States**

Notwithstanding any other provision of law, the Secretary shall have the same authority with respect to contracts for the acquisition of land and interests in land for the purposes of this subchapter as was given the Secretary of the Treasury for other land acquisitions by section 3171 of title 40 relating to purchase of sites for public buildings, and the Secretary and the owner of land to be acquired under this subchapter may agree that the purchase price will be paid in periodic installments over a period that does not exceed ten years, with interest on the unpaid balance thereof at a rate which is not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities on the installments. Judgments against the United States for amounts in excess of the deposit in court made in condemnation actions shall be subject to the provisions of section 1304 of title 31 and sections 2414 and 2517 of title 28.

**(n) Management of State donated lands**

The Secretary shall accept and shall manage in accordance with this subchapter, any land and improvements adjacent to the recreation area which are donated by the State of California or its political subdivisions. The boundaries of the recreation area shall be changed to include such donated lands.

**(o) Payment deferral; scheduling; interest rate**

In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of this subchapter, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.

**(p) San Francisco water department property; scenic and recreational easement**

With reference to those lands known as the San Francisco water department property shown on map numbered NRA GG-80,000-A, the Secretary shall administer such land in accordance with the provisions of the documents entitled "Grant of Scenic Easement", and "Grant of Scenic and Recreational Easement", both executed on January 15, 1969, between the city and county of San Francisco and the United States, including such amendments to the subject document as may be agreed to by the affected parties subsequent to December 28, 1980. The Secretary is

authorized to seek appropriate agreements needed to establish a trail within this property and connecting with a suitable beach unit under the jurisdiction of the Secretary.

(Pub. L. 92-589, §3, Oct. 27, 1972, 86 Stat. 1299; Pub. L. 95-625, title III, §317(b)-(e), Nov. 10, 1978, 92 Stat. 3485; Pub. L. 96-607, title X, §1001(3)-(5), Dec. 28, 1980, 94 Stat. 3544.)

**Editorial Notes**

REFERENCES IN TEXT

Upon enactment, referred to in subsec. (d), probably means the date of enactment of this subchapter by Pub. L. 92-589, which was Oct. 27, 1972.

CODIFICATION

In subsec. (a), "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended" on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

"Section 3171 of title 40 relating to purchase of sites for public buildings" substituted in subsec. (m) for "section 34 of the Act of May 30, 1908, relating to purchase of sites for public buildings (35 Stat. 545)" on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

In subsec. (m), "section 1304 of title 31" substituted for "the Act of July 27, 1956 (70 Stat. 624) [31 U.S.C. 724a]" 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.

AMENDMENTS

1980—Subsec. (g). Pub. L. 96-607, §1001(3), inserted reference to Point Montara.

Subsec. (h). Pub. L. 96-607, §1001(4), transferred to the jurisdiction of the Secretary the Pillar Point Military Reservation at such time as the property, or any portion thereof, becomes excess to the needs of the Department of Defense.

Subsec. (p). Pub. L. 96-607, §1001(5), added subsec. (p).  
1978—Subsec. (i). Pub. L. 95-625, §317(b), in revising the text, substituted provision prohibiting new construction and development in the recreation area on lands under the administrative jurisdiction of a department other than that of the Secretary but authorized reconstruction or demolition of improvements upon the nontransferred lands of such agency after consultations with the Secretary and upon notice and hearing for prior provision limited to new construction and development on property under administrative jurisdiction of the Department of the Army required to accommodate facilities being relocated from property being transferred to administrative jurisdiction of the Secretary or directly related to the essential missions of the Sixth United States Army.

Subsec. (j). Pub. L. 95-625, §317(c), substituted provision making the subsection applicable to improved residential property and agricultural property for prior provision for application to improved property of a noncommercial residential nature and authorized lease of Federally-owned lands, subject to restrictive covenants, with first offer to prior owner or leaseholder.

Subsec. (k). Pub. L. 95-625, §317(d), defined "improved property" to include residential dwelling, the construction of which was begun, in the case of areas added by action of the Ninety-fifth Congress, October 1, 1978, and included definition of "agricultural property".

Subsecs. (n), (o). Pub. L. 95-625, §317(e), added subsecs. (n) and (o).

**Statutory Notes and Related Subsidiaries****TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§ 460bb-3. Administration****(a) Provisions applicable; utilization of authorities for conservation and management of wildlife and natural resources; provisions applicable to Muir Woods National Monument and Fort Point National Historic Site**

The Secretary shall administer the lands, waters and interests therein acquired for the recreation area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4),<sup>1</sup> as amended and supplemented, and the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this subchapter. Notwithstanding their inclusion within the boundaries of the recreation area, the Muir Woods National Monument and Fort Point National Historic Site shall continue to be administered as distinct and identifiable units of the national park system in accordance with the laws applicable to such monument and historic site.

**(b) Federal-State cooperative agreements for police and fire protection**

The Secretary may enter into cooperative agreements with any Federal agency, the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement and fire preventive assistance.

**(c) Water resource developments**

The authority of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection, and navigation improvements on land and/or waters within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary and the Secretary of the Army and which are consistent with both the purpose of this subchapter and the purpose of existing statutes dealing with water and related resource development.

**(d) Transportation system; study for coordinated public and private system**

The Secretary, in cooperation with the State of California and affected political subdivisions thereof, local and regional transit agencies, and the Secretaries of Transportation and of the Army, shall make a study for a coordinated public and private transportation system to and within the recreation area and other units of the national park system in Marin and San Francisco Counties.

<sup>1</sup> See References in Text note below.

**(e) Fees or admission charges**

No fees or admission charges shall be levied for admission of the general public to the recreation area except to portions under lease or permit for a particular and limited purpose authorized by the Secretary. The Secretary may authorize reasonable charges for public transportation and for admission to the sailing vessel Balclutha and other historic vessels of the National Maritime Museum.

**(f) Certain rental proceeds; crediting; management contract**

Notwithstanding any other provisions of law, in the administration of those parcels of property known as Haslett Warehouse, Cliff House Properties and Louis' Restaurant, the Secretary shall credit any proceeds from the rental of space in the aforementioned properties to the appropriation, if any, bearing the cost of their administration, maintenance, repair and related expenses and also for the maintenance, repair and related expenses of the vessels and the adjacent piers comprising the San Francisco Maritime National Historical Park, and for major renovation and park rehabilitation of those buildings included in the Fort Mason Foundation Cooperative Agreement: *Provided*, That surplus funds, if any, will be deposited into the Treasury of the United States: *Provided further*, That notwithstanding any other provision of law, in the administration of said parcels and of the AFDL-38 Drydock or other vessels or heavy marine equipment, the Secretary may, if he deems appropriate, enter into a contract for the management (including rental or lease) of said properties with such terms and conditions as will protect the Government's interest, with excess funds being used as set forth above.

(Pub. L. 92-589, §4, Oct. 27, 1972, 86 Stat. 1302; Pub. L. 95-625, title III, §317(f), Nov. 10, 1978, 92 Stat. 3486; Pub. L. 99-395, §1, 2(a), Aug. 27, 1986, 100 Stat. 836; Pub. L. 100-348, §6, June 27, 1988, 102 Stat. 657.)

**Editorial Notes****REFERENCES IN TEXT**

The Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), referred to in subsec. (a), is act Aug. 25, 1916, ch. 408, 39 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.

**AMENDMENTS**

1988—Subsec. (f). Pub. L. 100-348 substituted “San Francisco Maritime National Historical Park” for “National Maritime Museum”.

1986—Subsec. (e). Pub. L. 99-395, §2(a), substituted “and for admission to the sailing vessel Balclutha and other historic vessels of the National Maritime Museum” for “and, for a period not exceeding five years from November 10, 1978, for admission to the sailing vessel Balclutha”.