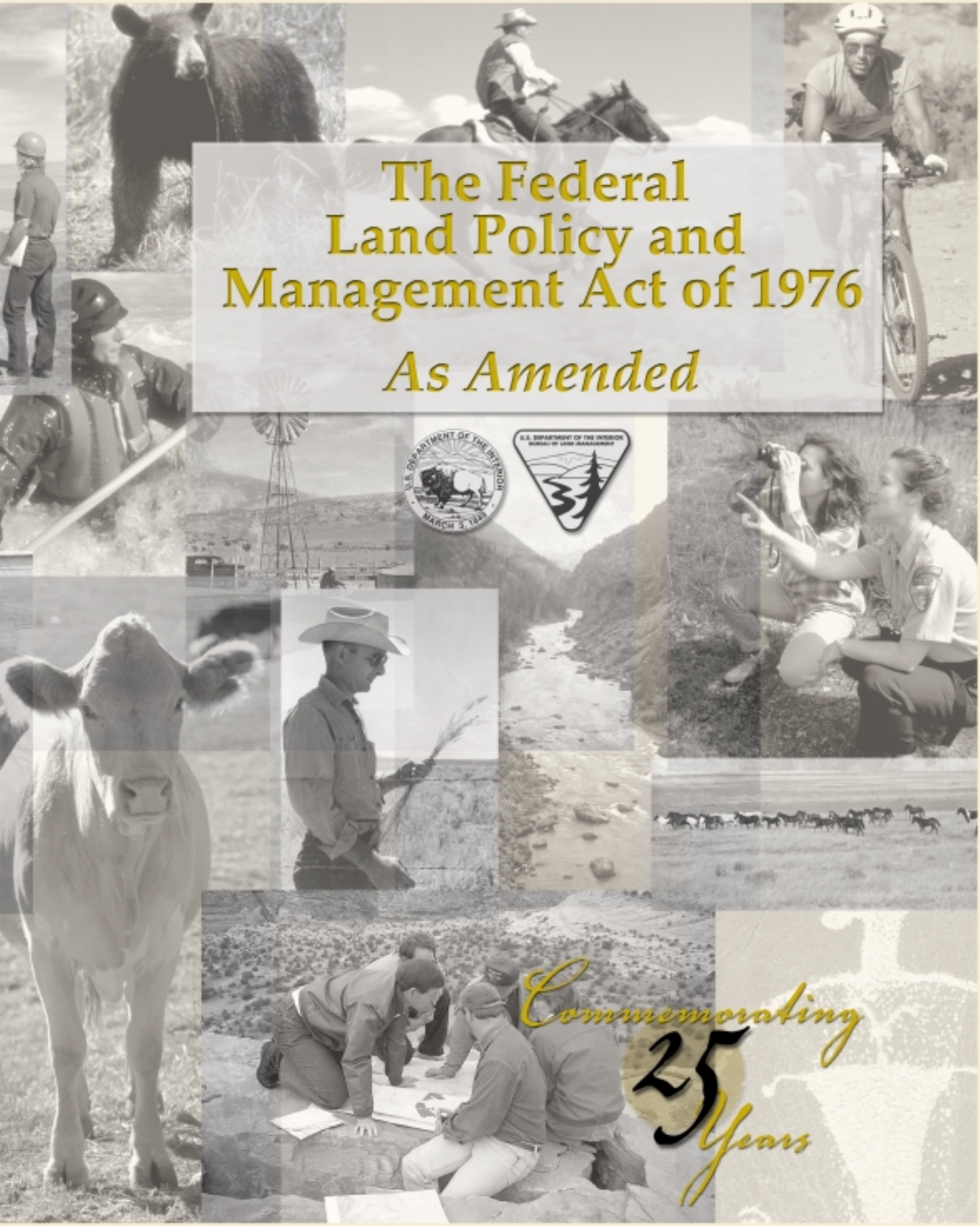

The Federal Land Policy and Management Act of 1976

As Amended

Commemorating 25 Years

The Federal Land Policy and Management Act of 1976, as amended, is the Bureau of Land Management "organic act" that establishes the agency's multiple-use mandate to serve present and future generations.

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As Amended

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FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976

Public Law 94-579
94th Congress

An Act

To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled [italics in original],

Editor's Note

This version of FLPMA was created and updated to include all sections of the Act as originally passed by Congress in 1976; consequently, it is more inclusive and annotated than most. In the text, additions have been italicized and deletions have been removed. Editor's notes are in a different, smaller font, and are framed by brackets "[ ]."

This document was prepared by the Bureau of Land Management and the Office of the Solicitor. Great care was taken to ensure that all amendments were included correctly and with precision. Nevertheless, we recognize that this document still could contain errors. The user is encouraged to consult the official United States Code if there is any doubt about the accuracy of the information contained herein.

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TITLE I

SHORT TITLE, DECLARATION OF POLICY, AND DEFINITIONS

SHORT TITLE

Sec. 101. [43 U.S.C. 1701 note] This Act may be cited as the "Federal Land Policy and Management Act of 1976".

DECLARATION OF POLICY

Sec. 102. [43 U.S.C. 1701] (a) The Congress declares that it is the policy of the United States that–

(1) the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest;

(2) the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts;

(3) public lands not previously designated for any specific use and all existing classifications of public lands that were effected by executive action or statute before the date of enactment of this Act be reviewed in accordance with the provisions of this Act;

(4) the Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action;

(5) in administering public land statutes and exercising discretionary authority granted by them, the Secretary be required to establish comprehensive rules and regulations after considering the views of the general public; and to structure adjudication procedures to assure adequate third party participation, objective administrative review of initial decisions, and expeditious decision making;

(6) judicial review of public land adjudication decisions be provided by law;

(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law;

(8) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use;

(9) the United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute;

(10) uniform procedures for any disposal of public land, acquisition of non-Federal land for public purposes, and the exchange of such lands be established by statute, requiring each disposal, acquisition, and exchange to be consistent with the prescribed mission of the department or agency involved, and reserving to the Congress review of disposals in excess of a specified acreage;

(11) regulations and plans for the protection of public land areas of critical environmental concern be promptly developed;

(12) the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from

The intent of Congress is for all clarifications of public lands effected by Executive Action to be reviewed in Accordance with provisions of FLPMA.

Here it is in the Policy Statement; Congress is retaining its authority to designate Federal lands over the Executive Branch.

Congress intended all Public lands, including those set aside by EO, to be included in the intent and managed according to the principals outlined in FLPMA.

the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands; and

(13) the Federal Government should, on a basis equitable to both the Federal and local taxpayer, provide for payments to compensate States and local governments for burdens created as a result of the immunity of Federal lands from State and local taxation.

(b) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation and shall then be construed as supplemental to and not in derogation of the purposes for which public lands are administered under other provisions of law.

DEFINITIONS

Sec. 103. [43 U.S.C. 1702] Without altering in any way the meaning of the following terms as used in any other statute, whether or not such statute is referred to in, or amended by, this Act, as used in this Act–

(a) The term "areas of critical environmental concern" means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.

(b) The term "holder" means any State or local governmental entity, individual, partnership, corporation, association, or other business entity receiving or using a right-of-way under title V of this Act.

(c) The term "multiple use" means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(d) The term "public involvement" means the opportunity for participation by affected citizens in rule making, decision making, and planning with respect to the public lands, including public meetings or hearings held at locations near the affected lands, or advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance.

(e) The term "public lands" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except–

(1) lands located on the Outer Continental Shelf; and

(2) lands held for the benefit of Indians, Aleuts, and Eskimos.

(f) The term "right-of-way" includes an easement, lease, permit, or license to occupy, use, or traverse public lands granted for the purpose listed in title V of this Act.

(g) The term "Secretary," unless specifically designated otherwise, means the Secretary of the Interior.

(h) The term "sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.

Landscape-level Planning, View shed restrictions, Climate Change regulatory burdens all constitute withdrawal of Public Resources because limiting one in preference for another constitutes a change of use of public values. Thus, adding regulatory burdens constitutes implicit withdrawal.

(i) The term "wilderness" as used in section 603 shall have the same meaning as it does in section 2(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131–1136).

(j) The term "withdrawal" means withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land, other than "property" governed by the Federal Property and Administrative Services Act, as amended (40 U.S.C. 472) from one department, bureau or agency to another department, bureau or agency.

(k) An "allotment management plan" means a document prepared in consultation with the lessees or permittees involved, which applies to livestock operations on the public lands or on lands within National Forests in the eleven contiguous Western States and which:

(1) prescribes the manner in, and extent to, which livestock operations will be conducted in order to meet the multiple-use, sustained-yield, economic and other needs and objectives as determined for the lands by the Secretary concerned; and

(2) describes the type, location, ownership, and general specifications for the range improvements to be installed and maintained on the lands to meet the livestock grazing and other objectives of land management; and

(3) contains such other provisions relating to livestock grazing and other objectives found by the Secretary concerned to be consistent with the provisions of this Act and other applicable law.

(l) The term "principal or major uses" includes, and is limited to, domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production.

(m) The term "department" means a unit of the executive branch of the Federal Government which is headed by a member of the President's Cabinet and the term "agency" means a unit of the executive branch of the Federal Government which is not under the jurisdiction of a head of a department.

(n) The term "Bureau" means the Bureau of Land Management.

(o) The term "eleven contiguous Western States" means the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(p) The term "grazing permit and lease" means any document authorizing use of public lands or lands in National Forests in the eleven contiguous Western States for the purpose of grazing domestic livestock.

[The term "sixteen contiguous Western States," where changed by P.L. 95-514, refers to: Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington and Wyoming. This term is defined by P.L. 95-514 and found in sections 401(b)(1), 402(a) and 403(a).]

TITLE II

LAND USE PLANNING; LAND ACQUISITION AND DISPOSITION

INVENTORY AND IDENTIFICATION

Sec. 201. [43 U.S.C. 1711] (a) The Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern. This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands.

(b) As funds and manpower are made available, the Secretary shall ascertain the boundaries of the public lands; provide means of public identification thereof including, where appropriate, signs and maps; and provide State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in proximity of such public lands.

LAND USE PLANNING

Sec. 202. [43 U.S.C. 1712] (a) The Secretary shall, with public involvement and consistent with the terms and conditions of this Act, develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands. Land use plans shall be developed for the public lands regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses.

(b) In the development and revision of land use plans, the Secretary of Agriculture shall coordinate land use plans for lands in the National Forest System with the land use planning and management programs of and for Indian tribes by, among other things, considering the policies of approval tribal land resource management programs.

(c) In the development and revision of land use plans, the Secretary shall–

(1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law;

(2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences;

(3) give priority to the designation and protection of areas of critical environmental concern;

(4) rely, to the extent it is available, on the inventory of the public lands, their resources, and other values;

(5) consider present and potential uses of the public lands;

(6) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(7) weigh long-term benefits to the public against short-term benefits;

(8) provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans; and

(9) to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the

lands are located, including, but not limited to, the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended [16 U.S.C. 460l–4 et seq. note], and of or for Indian tribes by, among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary shall, to the extent he finds practical, keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands. Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such State and with respect to such other land use matters as may be referred to them by him. Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.

(d) Any classification of public lands or any land use plan in effect on the date of enactment of this Act is subject to review in the land use planning process conducted under this section, and all public lands, regardless of classification, are subject to inclusion in any land use plan developed pursuant to this section. The Secretary may modify or terminate any such classification consistent with such land use plans.

(e) The Secretary may issue management decisions to implement land use plans developed or revised under this section in accordance with the following:

(1) Such decisions, including but not limited to exclusions (that is, total elimination) of one or more of the principal or major uses made by a management decision shall remain subject to reconsideration, modification, and termination through revision by the Secretary or his delegate, under the provisions of this section, of the land use plan involved.

Congress must approve management elimination of Pub lands

(2) Any management decision or action pursuant to a management decision that excludes (that is, totally eliminates) one or more of the principal or major uses for two or more years with respect to a tract of land of one hundred thousand acres or more shall be reported by the Secretary to the House of Representatives and the Senate. If within ninety days from the giving of such notice (exclusive of days on which either House has adjourned for more than three consecutive days), the Congress adopts a concurrent resolution of nonapproval of the management decision or action, then the management decision or action shall be promptly terminated by the Secretary. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the management decision or action. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same management decision or action. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be

debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) Withdrawals made pursuant to section 204 of this Act may be used in carrying out management decisions, but public lands shall be removed from or restored to the operation of the Mining Law of 1872, as amended (R.S. 2318–2352; 30 U.S.C. 21 et seq.) or transferred to another department, bureau, or agency only by withdrawal action pursuant to section 204 or other action pursuant to applicable law: *Provided*, That nothing in this section shall prevent a wholly owned Government corporation from acquiring and holding rights as a citizen under the Mining Law of 1872.

(f) The Secretary shall allow an opportunity for public involvement and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands.

SALES

Sec. 203. [43 U.S.C. 1713] (a) A tract of the public lands (except land in units of the National Wilderness Preservation System, National Wild and Scenic Rivers Systems, and National System of Trails) may be sold under this Act where, as a result of land use planning required under section 202 of this Act, the Secretary determines that the sale of such tract meets the following disposal criteria:

(1) such tract because of its location or other characteristics is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal department or agency; or

(2) such tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(3) disposal of such tract will serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on land other than public land and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership.

(b) Where the Secretary determines that land to be conveyed under clause (3) of subsection (a) of this section is of agricultural value and is desert in character, such land shall be conveyed either under the sale authority of this section or in accordance with other existing law.

(c) Where a tract of the public lands in excess of two thousand five hundred acres has been designated for sale, such sale may be made only after the end of the ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the day the Secretary has submitted notice of such designation to the Senate and the House of Representatives, and then only if the Congress has not adopted a concurrent resolution stating that such House does not approve of such designation. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the designation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same designation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the

consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Sales of public lands shall be made at a price not less than their fair market value as determined by the Secretary.

(e) The Secretary shall determine and establish the size of tracts of public lands to be sold on the basis of the land use capabilities and development requirements of the lands; and, where any such tract which is judged by the Secretary to be chiefly valuable for agriculture is sold, its size shall be no larger than necessary to support a family-sized farm.

(f) Sales of public lands under this section shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper in order (1) to assure equitable distribution among purchasers of lands, or (2) to recognize equitable considerations or public policies, including but not limited to, a preference to users, he may sell those lands with modified competitive bidding or without competitive bidding. In recognizing public policies, the Secretary shall give consideration to the following potential purchasers:

(1) the State in which the land is located;

(2) the local government entities in such State which are in the vicinity of the land;

(3) adjoining landowners;

(4) individuals; and

(5) any other person.

(g) The Secretary shall accept or reject, in writing, any offer to purchase made through competitive bidding at his invitation no later than thirty days after the receipt of such offer or, in the case of a tract in excess of two thousand five hundred acres, at the end of thirty days after the end of the ninety-day period provided in subsection (c) of this section, whichever is later, unless the offeror waives his right to a decision within such thirty-day period. Prior to the expiration of such periods the Secretary may refuse to accept any offer or may withdraw any land or interest in land from sale under this section when he determines that consumption of the sale would not be consistent with this Act or other applicable law.

WITHDRAWALS

See Definition of Withdrawal in Title I.

Sec. 204. [43 U.S.C. 1714] (a) On and after the effective date of this Act the Secretary is authorized to make, modify, extend, or revoke withdrawals but only in accordance with the provisions and limitations of this section. The Secretary may delegate this withdrawal authority only to individuals in the Office of the Secretary who have been appointed by the President, by and with the advice and consent of the Senate.

(b) (1) Within thirty days of receipt of an application for withdrawal, and whenever he proposes a withdrawal on his own motion, the Secretary shall publish a notice in the Federal Register stating that the application has been submitted for filing or the proposal has been made and the extent to which the land is to be segregated while the application is being considered by the Secretary. Upon publication of such notice the land shall be segregated from the operation of the public land laws to the extent specified in the notice. The segregative effect of the application shall terminate upon (a) rejection of the application by the Secretary, (b) withdrawal of lands by the Secretary, or (c) the expiration of two years from the date of the notice.

(2) The publication provisions of this subsection are not applicable to withdrawals under subsection (e) hereof.

(c) (1) On and after the dates of approval of this Act a withdrawal aggregating five thousand acres or more may be made (or such a withdrawal or any other withdrawal involving in the aggregate five thousand acres or more which terminates after such date of approval may be extended) only for a period of not more than twenty years by the Secretary on his own motion or upon request by a department or agency head. The Secretary shall notify both Houses of Congress of such a withdrawal no later than its effective date and the withdrawal shall terminate and become ineffective at

A withdrawal of 5000 acres or more requires notification of Congress & detailed explanation as to the purpose (C)(2)(1), inventory, adjacent impacts to non-public (private) lands, degradation of local communities and INDIVIDUALS, identification of present users and WHY incompatibilities exist.

the end of ninety days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) beginning on the day notice of such withdrawal has been submitted to the Senate and the House of Representatives, if the Congress has adopted a concurrent resolution stating that such House does not approve the withdrawal. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(2) With the notices required by subsection (c)(1) of this section and within three months after filing the notice under subsection (e) of this section, the Secretary shall furnish to the committees–

(1) a clear explanation of the proposed use of the land involved which led to the withdrawal;

(2) an inventory and evaluation of the current natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed use, including particularly aspects of use that might cause degradation of the environment, and also the economic impact of the change in use on individuals, local communities, and the Nation;

(3) an identification of present users of the land involved, and how they will be affected by the proposed use;

(4) an analysis of the manner in which existing and potential resource uses are incompatible with or in conflict with the proposed use, together with a statement of the provisions to be made for continuation or termination of existing uses, including an economic analysis of such continuation or termination;

A comparison determination between the existing and proposed withdrawal use(s).

(5) an analysis of the manner in which such lands will be used in relation to the specific requirements for the proposed use;

More Economic analysis for withdrawels

(6) a statement as to whether any suitable alternative sites are available (including cost estimates) for the proposed use or for uses such a withdrawal would displace;

(7) a statement of the consultation which has been or will be had with other Federal departments and agencies, with regional, State, and local government bodies, and with other appropriate individuals and groups;

In the withdrawal process BLM must publish an analysis as to Coordination activities with State & Local Governments; for those areas governed by local Land-Use Plans, those Plan must be reconciled according to Coordination section.

(8) a statement indicating the effect of the proposed uses, if any, on State and local government interests and the regional economy;

(9) a statement of the expected length of time needed for the withdrawal;

(10) the time and place of hearings and of other public involvement concerning such withdrawal;

(11) the place where the records on the withdrawal can be examined by interested parties; and

(12) a report prepared by a qualified mining engineer, engineering geologist, or geologist which shall include but not be limited to information on: general geology, known mineral deposits, past and present mineral production, mining claims, mineral leases, evaluation of future mineral potential, present and potential market demands.

(d) A withdrawal aggregating less than five thousand acres may be made under this subsection by the Secretary on his own motion or upon request by a department or an agency head–

(1) for such period of time as he deems desirable for a resource use; or

(2) for a period of not more than twenty years for any other use, including but not limited to use for administrative sites, location of facilities, and other proprietary purposes; or

(3) for a period of not more than five years to preserve such tract for a specific use then under consideration by the Congress.

(e) When the Secretary determines, or when the *Committee on Natural Resources of the House of Representatives or the Committee on Energy and Natural Resources of the Senate* [P.L. 103-437, 1994] notifies the Secretary, that an emergency situation exists and that extraordinary measures must be taken to preserve values that would otherwise be lost, the Secretary notwithstanding the provisions of subsections (c) (1) and (d) of this section, shall immediately make a withdrawal and file notice of such emergency withdrawal with *both of those Committees* [P.L. 103-437, 1994]. Such emergency withdrawal shall be effective when made but shall last only for a period not to exceed three years and may not be extended except under the provisions of subsection (c) (1) or (d), whichever is applicable, and (b) (1) of this section. The information required in subsection (c) (2) of this subsection shall be furnished the committees within three months after filing such notice.

(f) All withdrawals and extensions thereof, whether made prior to or after approval of this Act, having a specific period shall be reviewed by the Secretary toward the end of the withdrawal period and may be extended or further extended only upon compliance with the provisions of subsection (c) (1) or (d), whichever is applicable, and only if the Secretary determines that the purpose for which the withdrawal was first made requires the extension, and then only for a period no longer than the length of the original withdrawal period. The Secretary shall report on such review and extensions to the *Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate*. [P.L. 103-437, 1994]

(g) All applications for withdrawal pending on the date of approval of this Act shall be processed and adjudicated to conclusion within fifteen years of the date of approval of this Act, in accordance with the provisions of this section. The segregative effect of any application not so processed shall terminate on that date.

(h) All new withdrawals made by the Secretary under this section (except an emergency withdrawal made under subsection (e) of this section) shall be promulgated after an opportunity for a public hearing.

(i) In the case of lands under the administration of any department or agency other than the Department of the Interior, the Secretary shall make, modify, and revoke withdrawals only with the consent of the head of the department or agency concerned, except when the provisions of subsection (e) of this section apply.

(j) The Secretary shall not make, modify, or revoke any withdrawal created by Act of Congress; make a withdrawal which can be made only by Act of Congress; modify or revoke any withdrawal creating national monuments under the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431–433); or modify, or revoke any withdrawal which added lands to the National Wildlife Refuge System prior to the date of approval of this Act or which thereafter adds lands to that System under the terms of this Act. Nothing in this Act is intended to modify or change any provision of the Act of February 27, 1976 (90 Stat. 199; 16 U.S.C. 668dd (a)).

BLM cannot modify, by means of a Management Plan or Rules the elements that affect withdrawals under Antiquities Act.

(k) There is hereby authorized to be appropriated the sum of $10,000,000 for the purpose of processing withdrawal applications pending on the effective date of this Act, to be available until expended.

(l) (1) The Secretary shall, within fifteen years of the date of enactment of this Act, review withdrawals existing on the date of approval of this Act, in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming of (1) all Federal lands other than withdrawals of the public lands

administered by the Bureau of Land Management and of lands which, on the date of approval of this Act, were part of Indian reservations and other Indian holdings, the National Forest System, the National Park System, the National Wildlife Refuge System, other lands administered by the Fish and Wildlife Service or the Secretary through the Fish and Wildlife Service, the National Wild and Scenic Rivers System, and the National System of Trails; and (2) all public lands administered by the Bureau of Land Management and of lands in the National Forest System (except those in wilderness areas, and those areas formally identified as primitive or natural areas or designated as national recreation areas) which closed the lands to appropriation under the Mining Law of 1872 (17 Stat. 91, as amended; 30 U.S.C. 22 et seq.) or to leasing under the Mineral Leasing Act of 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

(2) In the review required by paragraph (1) of this subsection, the Secretary shall determine whether, and for how long, the continuation of the existing withdrawal of the lands would be, in his judgment, consistent with the statutory objectives of the programs for which the lands were dedicated and of the other relevant programs. The Secretary shall report his recommendations to the President, together with statements of concurrence or nonconcurrence submitted by the heads of the departments or agencies which administer the lands. The President shall transmit this report to the President of the Senate and the Speaker of the House of Representatives, together with his recommendations for action by the Secretary, or for legislation. The Secretary may act to terminate withdrawals other than those made by Act of the Congress in accordance with the recommendations of the President unless before the end of ninety days (not counting days on which the Senate and the House of Representatives has adjourned for more than three consecutive days) beginning on the day the report of the President has been submitted to the Senate and the House of Representatives the Congress has adopted a concurrent resolution indicating otherwise. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) There are hereby authorized to be appropriated not more than $10,000,000 for the purpose of paragraph (1) of this subsection to be available until expended to the Secretary and to the heads of other departments and agencies which will be involved.

ACQUISITIONS

Sec. 205. [43 U.S.C. 1715] (a) Notwithstanding any other provisions of law, the Secretary, with respect to the public lands and the Secretary of Agriculture, with respect to the acquisition of access over non-Federal lands to units of the National Forest System, are authorized to acquire pursuant to this Act by purchase, exchange, donation, or eminent domain, lands or interests therein: *Provided*, That with respect to the public lands, the Secretary may exercise the power of eminent domain only if necessary to secure access to public lands, and then only if the lands so acquired are

confined to as narrow a corridor as is necessary to serve such purpose. Nothing in this subsection shall be construed as expanding or limiting the authority of the Secretary of Agriculture to acquire land by eminent domain within the boundaries of units of the National Forest System.

(b) Acquisitions pursuant to this section shall be consistent with the mission of the department involved and with applicable departmental land-use plans.

(c) *Except as provided in subsection (e) of this section* [P.L. 99-632, 1986], lands and interests in lands acquired by the Secretary pursuant to this section or section 206 shall, upon acceptance of title, become public lands, and, for the administration of public land laws not repealed by this Act, shall remain public lands. If such acquired lands or interests in lands are located within the exterior boundaries of a grazing district established pursuant to the first section of the Act of June 28, 1934 (48 Stat. 1269, as amended; 43 U.S.C. 315) (commonly known as the " Taylor Grazing Act"), they shall become a part of that district. Lands and interests in lands acquired pursuant to this section which are within boundaries of the National Forest System may be transferred to the Secretary of Agriculture and shall then become National Forest System lands and subject to all the laws, rules, and regulations applicable thereto.

(d) Lands and interests in lands acquired by the Secretary of Agriculture pursuant to this section shall, upon acceptance of title, become National Forest System lands subject to all the laws, rules, and regulations applicable thereto.

(e) *Lands acquired by the Secretary pursuant to this section or section 206* [43 U.S.C. 1716] *in exchange for lands which were revested in the United States pursuant to the provisions of the Act of June 9, 1916 (39 Stat. 218) or reconveyed to the United States pursuant to the provisions of the Act of February 26, 1919* [16 U.S.C. 342] *(40 Stat. 1179), shall be considered for all purposes to have the same status as, and shall be administered in accordance with the same provisions of law applicable to, the revested or reconveyed lands exchanged for the lands acquired by the Secretary.* [P.L. 99-632, 1986]

EXCHANGES

Sec. 206. [43 U.S.C. 1716] (a) A tract of public land or interests therein may be disposed of by exchange by the Secretary under this Act and a tract of land or interests therein within the National Forest System may be disposed of by exchange by the Secretary of Agriculture under applicable law where the Secretary concerned determines that the public interest will be well served by making that exchange: *Provided*, That when considering public interest the Secretary concerned shall give full consideration to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife and the Secretary concerned finds that the values and the objectives which Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the values of the non-Federal lands or interests and the public objectives they could serve if acquired.

(b) In exercising the exchange authority granted by subsection (a) or by section 205 (a) of this Act, the Secretary *concerned* [P.L. 100-409 §3, Aug. 20, 1988] may accept title to any non-Federal land or interests therein in exchange for such land, or interests therein which he finds proper for transfer out of Federal ownership and which are located in the same State as the non-Federal land or interest to be acquired. For the purposes of this subsection, unsurveyed school sections which, upon survey by the Secretary, would become State lands, shall be considered as "non-Federal lands". The values of the lands exchanged by the Secretary under this Act and by the Secretary of Agriculture under applicable law relating to lands within the National Forest System either shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary concerned as the circumstances require so long as payment does not exceed 25 per centum of the total value of the lands or interests transferred out of Federal ownership. *The Secretary concerned and the other party or parties involved in the exchange may mutually agree to waive the requirement for the payment of money to equalize*

values where the Secretary concerned determines that the exchange will be expedited thereby and that the public interest will be better served by such a waiver of cash equalization payments and where the amount to be waived is no more than 3 per centum of the value of the lands being transferred out of Federal ownership or $15,000, whichever is less, except that the Secretary of Agriculture shall not agree to waive any such requirement for payment of money to the United States. [P.L. 100-409 §9, Aug. 20, 1988] The Secretary concerned shall try to reduce the amount of the payment of money to as small an amount as possible.

(c) Lands acquired by *the Secretary* by exchange under this section which are within the boundaries of *any unit* of the National Forest System, *National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or any other system established by Act of Congress, or the boundaries of the California Desert Conservation Area, or the boundaries of any national conservation area or national recreation area established by Act of Congress, upon acceptance of title by the United States shall immediately be reserved for and become a part of the unit or area within which they are located, without further action by the Secretary, and shall thereafter be managed in accordance with all laws, rules, and regulations applicable to such unit or area.* [P.L. 100-409 §3, Aug. 20, 1988]

(d)(1) No later than ninety days after entering into an agreement to initiate an exchange of land or interests therein pursuant to this Act or other applicable law, the Secretary concerned and other party or parties involved in the exchange shall arrange for appraisal (to be completed within a time frame and under such terms as are negotiated by the parties) of the lands or interests therein involved in the exchange in accordance with subsection (f) of this section.

(2) If within one hundred and eighty days after the submission of an appraisal or appraisals for review and approval by the Secretary concerned, the Secretary concerned and the other party or parties involved cannot agree to accept the findings of an appraisal or appraisals, the appraisal or appraisals shall be submitted to an arbitrator appointed by the Secretary from a list of arbitrators submitted to him by the American Arbitration Association for arbitration to be conducted in accordance with the real estate valuation arbitration rules of the American Arbitration Association. Such arbitration shall be binding for a period of not to exceed two years on the Secretary concerned and the other party or parties involved in the exchange insofar as concerns the value of the lands which were the subject of the appraisal or appraisals.

(3) Within thirty days after the completion of the arbitration, the Secretary concerned and the other party or parties involved in the exchange shall determine whether to proceed with the exchange, modify the exchange to reflect the findings of the arbitration or any other factors, or to withdraw from the exchange. A decision to withdraw from the exchange may be made by either the Secretary concerned or the other party or parties involved.

(4) Instead of submitting the appraisal to an arbitrator, as provided in paragraph (2) of this section, the Secretary concerned and the other party or parties involved in an exchange may mutually agree to employ a process of bargaining or some other process to determine the values of the properties involved in the exchange.

(5) The Secretary concerned and the other party or parties involved in an exchange may mutually agree to suspend or modify any of the deadlines contained in this subsection.

(e) Unless mutually agreed otherwise by the Secretary concerned and the other party or parties involved in an exchange pursuant to this Act or other applicable law, all patents or titles to be issued for land or interests therein to be acquired by the Federal Government and lands or interests therein to be transferred out of Federal ownership shall be issued simultaneously after the Secretary concerned has taken any necessary steps to assure that the United States will receive acceptable title.

(f)(1) Within one year after August 20, 1988, the Secretaries of the Interior and Agriculture shall promulgate new and comprehensive rules and regulations governing exchanges of land and interests

therein pursuant to this Act and other applicable law. Such rules and regulations shall fully reflect the changes in law made by subsections (d) through (i) of this section and shall include provisions pertaining to appraisals of lands and interests therein involved in such exchanges.

(2) The provisions of the rules and regulations issued pursuant to paragraph (1) of this subsection governing appraisals shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisitions: Provided, however, That the provisions of such rules and regulations shall –

(A) ensure that the same nationally approved appraisal standards are used in appraising lands or interest therein being acquired by the Federal Government and appraising lands or interests therein being transferred out of Federal ownership; and

(B) with respect to costs or other responsibilities or requirements associated with land exchanges –

(i) recognize that the parties involved in an exchange may mutually agree that one party (or parties) will assume, without compensation, all or part of certain costs or other responsibilities or requirements ordinarily borne by the other party or parties; and

(ii) also permit the Secretary concerned, where such Secretary determines it is in the public interest and it is in the best interest of consummating an exchange pursuant to this Act or other applicable law, and upon mutual agreement of the parties, to make adjustments to the relative values involved in an exchange transaction in order to compensate a party or parties to the exchange for assuming costs or other responsibilities or requirements which would ordinarily be borne by the other party or parties.

As used in this subparagraph, the term "costs or other responsibilities or requirements" shall include, but not be limited to, costs or other requirements associated with land surveys and appraisals, mineral examinations, title searches, archeological surveys and salvage, removal of encumbrances, arbitration pursuant to subsection (d) of this section, curing deficiencies preventing highest and best use, and other costs to comply with laws, regulations and policies applicable to exchange transactions, or which are necessary to bring the Federal or non-Federal lands or interests involved in the exchange to their highest and best use for the appraisal and exchange purposes. Prior to making any adjustments pursuant to this subparagraph, the Secretary concerned shall be satisfied that the amount of such adjustment is reasonable and accurately reflects the approximate value of any costs or services provided or any responsibilities or requirements assumed.

(g) Until such time as new and comprehensive rules and regulations governing exchange of land and interests therein are promulgated pursuant to subsection (f) of this section, land exchanges may proceed in accordance with existing laws and regulations, and nothing in the Act shall be construed to require any delay in, or otherwise hinder, the processing and consummation of land exchanges pending the promulgation of such new and comprehensive rules and regulations. Where the Secretary concerned and the party or parties involved in an exchange have agreed to initiate an exchange of land or interests therein prior to the day of enactment of such subsections, subsections (d) through (i) of this section shall not apply to such exchanges unless the Secretary concerned and the party or parties involved in the exchange mutually agree otherwise.

(h)(1) Notwithstanding the provisions of this Act and other applicable laws which require that exchanges of land or interests therein be for equal value, where the Secretary concerned determines it is in the public interest and that the consummation of a particular exchange will be expedited thereby, the Secretary concerned may exchange lands or interests therein which are of approximately equal value in cases where –

(A) the combined value of the lands or interests therein to be transferred from Federal ownership by the Secretary concerned in such exchange is not more than $150,000; and

(B) the Secretary concerned finds in accordance with the regulations to be promulgated pur-

suant to subsection (f) of this section that a determination of approximately equal value can be made without formal appraisals, as based on a statement of value made by a qualified appraiser and approved by an authorized officer; and

(C) the definition of and procedure for determining "approximately equal value" has been set forth in regulations by the Secretary concerned and the Secretary concerned documents how such determination was made in the case of the particular exchange involved.

(2) As used in this subsection, the term "approximately equal value" shall have the same meaning with respect to lands managed by the Secretary of Agriculture as it does in the Act of January 22, 1983 (commonly known as the "Small Tracts Act").

(i)(1) Upon receipt of an offer to exchange lands or interests in lands pursuant to this Act or other applicable laws, at the request of the head of the department or agency having jurisdiction over the lands involved, the Secretary of the Interior may temporarily segregate the Federal lands under consideration for exchange from appropriation under the mining laws. Such temporary segregation may only be made for a period of not to exceed five years. Upon a decision not to proceed with the exchange or upon deletion of any particular parcel from the exchange offer, the Federal lands involved or deleted shall be promptly restored to their former status under the mining laws. Any segregation pursuant to this paragraph shall be subject to valid existing rights as of the date of such segregation.

(2) All non-Federal lands which are acquired by the United States through exchange pursuant to this Act or pursuant to other laws applicable to lands managed by the Secretary of Agriculture shall be automatically segregated from appropriation under the public land law, including the mining laws, for ninety days after acceptance of title by the United States. Such segregation shall be subject to valid existing rights as of the date of such acceptance of title. At the end of such ninety day period, such segregation shall end and such lands shall be open to operation of the public land laws and to entry, location, and patent under the mining laws except to the extent otherwise provided by this Act or other applicable law, or appropriate actions pursuant thereto.

[P.L. 100-409 §3, Aug. 20, 1988]

QUALIFIED CONVEYEES

Sec. 207. [43 U.S.C. 1717] No tract of land may be disposed of under this Act, whether by sale, exchange, or donation, to any person who is not a citizen of the United States, or in the case of a corporation, is not subject to the laws of any State or of the United States.

CONVEYANCES

Sec. 208. [43 U.S.C. 1718] The Secretary shall issue all patents or other documents of conveyance after any disposal authorized by this Act. The Secretary shall insert in any such patent or other document of conveyance he issues, except in the case of land exchanges, for which the provisions of subsection 206 (b) of this Act shall apply, such terms, covenants, conditions, and reservations as he deems necessary to insure proper land use and protection of the public interest: *Provided*, That a conveyance of lands by the Secretary, subject to such terms, covenants, conditions, and reservations, shall not exempt the grantee from compliance with applicable Federal or State law or State land use plans: *Provided further,* That the Secretary shall not make conveyances of public lands containing terms and conditions which would, at the time of the conveyance, constitute a violation of any law or regulation pursuant to State and local land use plans, or programs.

RESERVATION AND CONVEYANCE OF MINERALS

Sec. 209. [43 U.S.C. 1719] (a) All conveyances of title issued by the Secretary, except those involving land exchanges provided for in section 206, 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 non-mineral 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.

COORDINATION WITH STATE AND LOCAL GOVERNMENTS

Sec. 210. [43 U.S.C. 1720] 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.

OMITTED LANDS

Sec. 211. [43 U.S.C. 1721] Omitted Lands.– (a) The Secretary is hereby 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) (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 Bureau 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) (1) No conveyance shall be made pursuant to this section until the relevant State government, local government, and area wide 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 title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4) [31 U.S.C. 6506(a)-(e)] 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 210 of this Act shall be applicable to all conveyances under this section.

(d) 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) 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) 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) 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.

RECREATION AND PUBLIC PURPOSES ACT

Sec. 212. The Recreation and Public Purposes Act of 1926 (44 Stat. 741, as amended; 43 U.S.C. 869 et seq.), as amended, is further amended as follows:

(a) The second sentence of subsection (a) of the first section of that Act (43 U.S.C. 869(a)) is amended to read as follows: "Before the land may be disposed of under this Act it must be shown to the satisfaction of the Secretary that the land is to be used for an established or definitely proposed project, that the land involved is not of national significance nor more than is reasonably necessary for the proposed use, and that for proposals of over 640 acres comprehensive land use plans and zoning regulations applicable to the area in which the public lands to be disposed of are located have been adopted by the appropriate State or local authority. The Secretary shall provide an opportunity for participation by affected citizens in disposals under this Act, including public hearings or

meetings where he deems it appropriate to provide public comments, and shall hold at least one public meeting on any proposed disposal of more than six hundred forty acres under this Act."

(b) Subsection (b) (i) of the first section of that Act (43 U.S.C. 869(b)) is amended to read as follows:

"(b) Conveyances made in any one calendar year shall be limited as follows:

"(i) For recreational purposes:

"(A) To any State or the State park agency or any other agency having jurisdiction over the State park system of such State designated by the Governor of that State as its sole representative for acceptance of lands under this provision, hereinafter referred to as the State, or to any political subdivision of such State, six thousand four hundred acres, and such additional acreage as may be needed for small road-side parks and rest sites of not more than ten acres each.

"(B) To any nonprofit corporation or nonprofit association, six hundred and forty acres.

"(C) No more than twenty-five thousand six hundred acres may be conveyed for recreational purposes under this Act in any one State per calendar year. Should any State or political subdivision, however, fail to secure, in any one year, six thousand four hundred acres, not counting lands for small roadside parks and rest sites, conveyances may be made thereafter if pursuant to an application on file with the Secretary of the Interior on or before the last day of said year and to the extent that the conveyance would not have exceeded the limitations of said year."

(c) Section 2(a) of that Act (43 U.S.C. 869–1) is amended by inserting "or recreational purposes" immediately after "historic-monument purposes".

(d) Section 2(b) of that Act (43 U.S.C. 869–1) is amended by adding ", except that leases of such lands for recreational purposes shall be made without monetary consideration" after the phase "reasonable annual rental".

NATIONAL FOREST TOWNSITES

Sec. 213. The Act of July 31, 1958 (72 Stat. 438, 7 U.S.C. 1012a, 16 U.S.C. 478a), is amended to read as follows: "When the Secretary of Agriculture determines that a tract of National Forest System land in Alaska or in the eleven contiguous Western States is located adjacent to or contiguous to an established community, and that transfer of such land would serve indigenous community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership, he may, upon application, set aside and designate as a townsite an area of not to exceed six hundred and forty acres of National Forest System land for any one application. After public notice, and satisfactory showing of need therefor by any county, city, or other local governmental subdivision, the Secretary may offer such area for sale to a governmental subdivision at a price not less than the fair market value thereof: *Provided, however,* That the Secretary may condition conveyances of townsites upon the enactment, maintenance, and enforcement of a valid ordinance which assures any land so conveyed will be controlled by the governmental subdivision so that use of the area will not interfere with the protection, management, and development of adjacent or contiguous National Forest System lands."

UNINTENTIONAL TRESPASS ACT

Sec. 214. [43 U.S.C. 1722] (a) 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. 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) Within three years after the date of approval of this Act, 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 on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the date the Secretary has submitted such notice to the Senate and House of Representatives. If, during that ninety-day period, the Congress adopts a concurrent resolution stating the length of time such suspension of action should continue, he shall continue such suspension for the specified time period. If the committee to which a resolution has been referred during the said ninety-day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the suspension of action. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same suspension of action. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) Within five years after the date of approval of this Act, the Secretary shall complete the processing of all applications filed under the 1968 Act and hold sales covering all lands which he has determined to sell thereunder.

Sec. 215. [43 U.S.C. 1723] (a) When the sole impediment to consummation of an exchange of lands or interests therein (hereinafter referred to as an exchange) determined to be in the public interest, is the inability of the Secretary of the Interior to revoke, modify, or terminate part or all of a withdrawal or classification because of the order (or subsequent modification or continuance thereof) of the United States District Court for the District of Columbia dated February 10, 1986, in Civil Action No. 85-2238 (National Wildlife Federation v. Robert E. Burford, et al.), the Secretary of the Interior is hereby authorized, notwithstanding such order (or subsequent modification or continuance thereof) to use the authority contained herein, in lieu of other authority provided in this Act including section 204, to revoke, modify, or terminate in whole or in part, withdrawals or classifications to the extent deemed necessary by the Secretary to enable the United States to transfer land or interests therein out of Federal ownership pursuant to an exchange.

(b) REQUIREMENTS. – The authority specified in subsection (a) of this section may be exercised only in cases where –

(1) a particular exchange is proposed to be carried out pursuant to this Act, as amended, or other applicable law authorizing such an exchange;

(2) the proposed exchange has been prepared in compliance with all laws applicable to such exchange;

(3) the head of each Federal agency managing the lands proposed for such transfer has submitted to the Secretary of the Interior a statement of concurrence with the proposed revocation, modification, or termination;

(4) at least sixty days have elapsed since the Secretary of the Interior has published in the Federal Register a notice of the proposed revocation, modification, or termination; and

(5) at least sixty days have elapsed since the Secretary of the Interior has transmitted to the Committee on Natural Resources [P.L. 103-437 1994] of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which includes –

(A) a justification for the necessity of exercising such authority in order to complete an exchange;

(B) an explanation of the reasons why the continuation of the withdrawal or a classification or portion thereof proposed for revocation, modification, or termination is no longer necessary for the purposes of the statutory or other program or programs for which the withdrawal or classification was made or other relevant programs;

(C) assurances that all relevant documents concerning the proposed exchange or purchase for which such authority is proposed to be exercised (including documents related to compliance with the National Environmental Policy Act of 1969 and all other applicable provisions of law) are available for public inspection in the office of the Secretary concerned located nearest to the lands proposed for transfer out of Federal ownership in furtherance of such exchange and that the relevant portions of such documents are also available in the offices of the Secretary concerned in Washington, District of Columbia; and

(D) an explanation of the effect of the revocation, modification, or termination of a withdrawal or classification or portion thereof and the transfer of lands out of Federal ownership pursuant to the particular proposed exchange, on the objectives of the land management plan which is applicable at the time of such transfer to the land to be transferred out of Federal ownership.

(c) LIMITATIONS. – (1) Nothing in this section shall be construed as affirming or denying any of the allegations made by any party in the civil action specified in subsection (a), or as constituting an expression of congressional opinion with respect to the merits of any allegation, contention, or argument made or issue raised by any party in such action, or as expanding or diminishing the jurisdiction of the United States District Court for the District of Columbia.

(2) Except as specifically provided in this section, nothing in this section shall be construed as modifying, terminating, revoking, or otherwise affecting any provision of law applicable to land exchanges, withdrawals, or classifications.

(3) The availability or exercise of the authority granted in subsection (a) may not be considered by the Secretary of the Interior in making a determination pursuant to this Act or other applicable law as to whether or not any proposed exchange is in the public interest.

(d) TERMINATION. – The authority specified in subsection (a) shall expire either (1) on December 31, 1990, or (2) when the Court order (or subsequent modification or continuation thereof) specified in subsection (a) is no longer in effect, whichever occurs first. [P.L. 100-409 1988]

[The termination clause in subsection (d) was satisfied on November 4, 1988, when the Court order specified in subsection (a) was vacated by National Wildlife Federation v. Burford, 699 F. Supp. 327, 332 (D.D.C. 1988). That reversal was upheld in a 1989 Appeals court decision, 878 F.2d 422, and by the Supreme Court in 1990, 497 U.S. 871.]

TITLE III

ADMINISTRATION

BLM DIRECTORATE AND FUNCTIONS

Sec. 301. [43 U.S.C. 1731] (a) The Bureau of Land Management established by Reorganization Plan Numbered 3, of 1946 (5 U.S.C. App. 519) shall have as its head a Director. Appointments to the position of Director shall hereafter be made by the President, by and with the advice and consent of the Senate. The Director of the Bureau shall have a broad background and substantial experience in public land and natural resource management. He shall carry out such functions and shall perform such duties as the Secretary may prescribe with respect to the management of lands and resources under his jurisdiction according to the applicable provisions of this Act and any other applicable law.

(b) Subject to the discretion granted to him by Reorganization Plan Numbered 3 of 1950 (43 U.S.C. 1451 note), the Secretary shall carry out through the Bureau all functions, powers, and duties vested in him and relating to the administration of laws which, on the date of enactment of this section, were carried out by him through the Bureau of Land Management established by section 403 of Reorganization Plan Numbered 3 of 1946. The Bureau shall administer such laws according to the provisions thereof existing as of the date of approval of this Act as modified by the provisions of this Act or by subsequent law.

(c) In addition to the Director, there shall be an Associate Director of the Bureau and so many Assistant Directors, and other employees, as may be necessary, who shall be appointed by the Secretary subject to the provisions of title 5, United States Code [5 U.S.C. 101 et seq.], governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title [5 U.S.C. 5101 et seq., 5331] relating to classification and General Schedule pay rates.

(d) Nothing in this section shall affect any regulation of the Secretary with respect to the administration of laws administered by him through the Bureau on the date of approval of this section.

MANAGEMENT OF USE, OCCUPANCY, AND DEVELOPMENT

Sec. 302. [43 U.S.C. 1732] (a) The Secretary shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 202 of this Act when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.

(b) In managing the public lands, the Secretary shall, subject to this Act and other applicable law and under such terms and conditions as are consistent with such law, regulate, through easements, permits, leases, licenses, published rules, or other instruments as the Secretary deems appropriate, the use, occupancy, and development of the public lands, including, but not limited to, long-term leases to permit individuals to utilize public lands for habitation, cultivation, and the development of small trade or manufacturing concerns: *Provided*, That unless otherwise provided for by law, the Secretary may permit Federal departments and agencies to use, occupy, and develop public lands only through rights-of-way under section 507 of this Act, withdrawals under section 204 of this Act, and, where the proposed use and development are similar or closely related to the programs of the Secretary for the public lands involved, cooperative agreements under subsection (b) of section 307 of this Act: *Provided further*, That nothing in this Act shall be construed as authorizing the Secretary concerned to require Federal permits to hunt and fish on public lands or on lands in the National Forest System and adjacent waters or as

enlarging or diminishing the responsibility and authority of the States for management of fish and resident wildlife. However, the Secretary concerned may designate areas of public land and of lands in the National Forest System where, and establish periods when, no hunting or fishing will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law. Except in emergencies, any regulations of the Secretary concerned relating to hunting and fishing pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. Nothing in this Act shall modify or change any provision of Federal law relating to migratory birds or to endangered or threatened species. Except as provided in section 314, section 603, and subsection (f) of section 601 of this Act and in the last sentence of this paragraph, no provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress. In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.

(c) The Secretary shall insert in any instrument providing for the use, occupancy, or development of the public lands a provision authorizing revocation or suspension, after notice and hearing, of such instrument upon a final administrative finding of a violation of any term or condition of the instrument, including, but not limited to, terms and conditions requiring compliance with regulations under Acts applicable to the public lands and compliance with applicable State or Federal air or water quality standard or implementation plan: *Provided*, That such violation occurred on public lands covered by such instrument and occurred in connection with the exercise of rights and privileges granted by it: *Provided further*, That the Secretary shall terminate any such suspension no later than the date upon which he determines the cause of said violation has been rectified: *Provided further,* That the Secretary may order an immediate temporary suspension prior to a hearing or final administrative finding if he determines that such a suspension is necessary to protect health or safety or the environment: *Provided further,* That, where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit, license, or other authorization to use, occupy, or develop the public lands, the specific provisions of such law shall prevail.

(d) (1) The Secretary of the Interior, after consultation with the Governor of Alaska, may issue to the Secretary of Defense or to the Secretary of a military department within the Department of Defense or to the Commandant of the Coast Guard a nonrenewable general authorization to utilize public lands in Alaska (other than within a conservation system unit or the Steese National Conservation Area or the White Mountains National Recreation Area) for purposes of military maneuvering, military training, or equipment testing not involving artillery firing, aerial or other gunnery, or other use of live ammunition or ordnance.

(2) Use of public lands pursuant to a general authorization under this subsection shall be limited to areas where such use would not be inconsistent with the plans prepared pursuant to section 202. Each such use shall be subject to a requirement that the using department shall be responsible for any necessary cleanup and decontamination of the lands used, and to such other terms and conditions (including but not limited to restrictions on use of off-road or all-terrain vehicles) as the Secretary of the Interior may require to –

(A) minimize adverse impacts on the natural, environmental, scientific, cultural, and other resources and values (including fish and wildlife habitat) of the public lands involved; and

(B) minimize the period and method of such use and the interference with or restrictions on other uses of the public lands involved.

(3) (A) A general authorization issued pursuant to this subsection shall not be for a term of more than three years and shall be revoked in whole or in part, as the Secretary of the Interior finds necessary, prior to the end of such term upon a determination by the Secretary of the Interior that there has been a failure to comply with its terms and conditions or that activities pursuant to such an authorization have had or might have a significant

adverse impact on the resources or values of the affected lands.

(B) Each specific use of a particular area of public lands pursuant to a general authorization under this subsection shall be subject to specific authorization by the Secretary and to appropriate terms and conditions, including such as are described in paragraph (2) of this subsection.

(4) Issuance of a general authorization pursuant to this subsection shall be subject to the provisions of section 202(f) of this Act, section 810 of the Alaska National Interest Lands Conservation Act, and all other applicable provisions of law. The Secretary of a military department (or the Commandant of the Coast Guard) requesting such authorization shall reimburse the Secretary of the Interior for the costs of implementing this paragraph. An authorization pursuant to this subsection shall not authorize the construction of permanent structures or facilities on the public lands.

(5) To the extent that public safety may require closure to public use of any portion of the public lands covered by an authorization issued pursuant to this subsection, the Secretary of the military department concerned or the Commandant of the Coast Guard shall take appropriate steps to notify the public concerning such closure and to provide appropriate warnings of risks to public safety.

(6) For purposes of this subsection, the term "conservation system unit" has the same meaning as specified in section 102 of the Alaska National Interest Lands Conservation Act [16 U.S.C. 3102]. [P.L. 100-586, 1988]

ENFORCEMENT AUTHORITY

Sec. 303. [43 U.S.C. 1733] (a) The Secretary shall issue regulations necessary to implement the provisions of this Act with respect to the management, use, and protection of the public lands, including the property located thereon. Any person who knowingly and willfully violates any such regulation which is lawfully issued pursuant to this Act shall be fined no more than $1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate *judge* [P.L. 101-650, 1990] designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from utilizing public lands in violation of regulations issued by the Secretary under this Act.

(c) (1) When the Secretary determines that assistance is necessary in enforcing Federal laws and regulations relating to the public lands or their resources he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing such laws and regulations. The Secretary shall negotiate on reasonable terms with such officials who have authority to enter into such contracts to enforce such Federal laws and regulations. In the performance of their duties under such contracts such officials and their agents are authorized to carry firearms; execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; search without warrant or process any person, place, or conveyance according to any Federal law or rule of law; and seize without warrant or process any evidentiary item as provided by Federal law. The Secretary shall provide such law enforcement training as he deems necessary in order to carry out the contracted for responsibilities. While exercising the powers and authorities provided by such contract pursuant to this section, such law enforcement officials and their agents shall have all the immunities of Federal law enforcement officials.

(2) The Secretary may authorize Federal personnel or appropriate local officials to carry out his law enforcement responsibilities with respect to the public lands and their resources.

Such designated personnel shall receive the training and have the responsibilities and authority provided for in paragraph (1) of this subsection.

(d) In connection with the administration and regulation of the use and occupancy of the public lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or subdivision. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of the public lands.

(e) Nothing in this section shall prevent the Secretary from promptly establishing a uniformed desert ranger force in the California Desert Conservation Area established pursuant to section 601 of this Act for the purpose of enforcing Federal laws and regulations relating to the public lands and resources managed by him in such area. The officers and members of such ranger force shall have the same responsibilities and authority as provided for in paragraph (1) of subsection (c) of this section.

(f) Nothing in this Act shall be construed as reducing or limiting the enforcement authority vested in the Secretary by any other statute.

(g) The use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

SERVICE CHARGES, REIMBURSEMENT PAYMENTS, AND EXCESS PAYMENTS

Sec. 304. [43 U.S.C. 1734] (a) Notwithstanding any other provision of law, the Secretary may establish reasonable filing and service fees and reasonable charges, and commissions with respect to applications and other documents relating to the public lands and may change and abolish such fees, charges, and commissions.

(b) The Secretary is authorized to require a deposit of any payments intended to reimburse the United States for reasonable costs with respect to applications and other documents relating to such lands. The moneys received for reasonable costs under this subsection shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended. As used in this section "reasonable costs" include, but are not limited to, the costs of special studies; environmental impact statements; monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities. In determining whether costs are reasonable under this section, the Secretary may take into consideration actual costs (exclusive of management overhead), the monetary value of the rights or privileges sought by the applicant, the efficiency to the government processing involved, that portion of the cost incurred for the benefit of the general public interest rather than for the exclusive benefit of the applicant, the public service provided, and other factors relevant to determining the reasonableness of the costs.

(c) In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under any statute relating to the sale, lease, use, or other disposition of public lands which is not required or is in excess of the amount required by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds.

[43 U.S.C. 1734a] *In Fiscal Year 1997 and thereafter, all fees, excluding mining claim fees, in excess of the fiscal year 1996 collections established by the Secretary of the Interior under the authority of section 1734 of this title for processing, recording, or documenting authorizations to use public lands or public land natural resources (including cultural, historical, and mineral) and for providing specific services to public land users, and which are not presently being covered into any Bureau of Land Management appropriation accounts, and not otherwise dedicated by law for a specific distribution, shall be made immediately available for program operations in this account and remain available until expended.* [P.L. 104-208, 1996]

DEPOSITS AND FORFEITURES

Sec. 305. [43 U.S.C. 1735] (a) Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary; or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to the public lands shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on those public lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement.

(b) Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a-1181j), shall be expended for the benefit of such land only.

(c) If any portion of a deposit or amount forfeited under this Act is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the Secretary, upon application or otherwise, may cause a refund of the amount in excess to be made from applicable funds.

[43 U.S.C. 1735 note. P.L. 106-291, 2000, defines the conditions under which excess repair funds may be used to repair other lands. P.L. 106-291 was intended to clarify, but did not amend 43 U.S.C. 1735. It should be consulted when relevant (see Title I, "Service Charges, Deposits, And Forfeitures").]

WORKING CAPITAL FUND

Sec. 306. [43 U.S.C. 1736] (a) There is hereby established a working capital fund for the management of the public lands. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with the Federal Property and Administrative Services Act of 1949 (63 Stat. 377, as amended), [40 U.S.C. 471 note] and regulations promulgated thereunder, supplies and equipment services in support of Bureau programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Secretary for the Bureau.

(b) The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

(c) The fund shall be credited with payments from appropriations, and funds of the Bureau, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

(d) There is hereby authorized to be appropriated a sum not to exceed $3,000,000 as initial capital of the working capital fund.

[43 U.S.C. 1736a] *There is hereby established in the Treasury of the United States a special fund to be derived hereafter* [October 5, 1992] *from the Federal share of moneys received from the disposal of salvage timber prepared for sale from the lands under the jurisdiction of the Bureau of Land Management, Department of the Interior. The money in this fund shall be immediately available to the Bureau of Land Management without further appropriation, for the purposes of planning and preparing salvage timber for disposal, the administration of salvage timber sales, and subsequent site preparation and reforestation.* [P.L. 102-381, 1992]

STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS

Sec. 307. [43 U.S.C. 1737] (a) The Secretary may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the public lands.

(b) Subject to the provisions of applicable law, the Secretary may enter into contracts and cooperative agreements involving the management, protection, development, and sale of public lands.

(c) The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the public lands, including the acquisition of rights-of-way for such purposes. He may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to depositors of amounts contributed by them in specific instances where contributions are in excess of their share of the cost.

(d) The Secretary may recruit, without regard to the civil service classification laws, rules, or regulations, the services of individuals contributed without compensation as volunteers for aiding in or facilitating the activities administered by the Secretary through the Bureau of Land Management.

(e) In accepting such services of individuals as volunteers, the Secretary –

(1) shall not permit the use of volunteers in hazardous duty or law enforcement work, or in policymaking processes or to displace any employee; and

(2) may provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

(f) Volunteers shall not be deemed employees of the United States except for the purposes of – [P.L. 98-540, 1984]

(1) the tort claims provisions of title 28;

(2) subchapter 1 of chapter 81 of title 5; and

(3) claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, in which case the provisions of 31 U.S.C. 3721 shall apply. [P.L. 101-286, 1990]

(g) Effective with fiscal years beginning after September 30, 1984, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (d), but not more than $250,000 may be appropriated for any one fiscal year. [P.L. 98-540, 1984]

CONTRACTS FOR SURVEYS AND RESOURCE PROTECTION

Sec. 308. [43 U.S.C. 1738] (a) The Secretary is authorized to enter into contracts for the use of aircraft, and for supplies and services, prior to the passage of an appropriation therefor, for airborne cadastral survey and resource protection operations of the Bureau. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred.

(b) Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal years until such appropriation becomes available for expenditure.

ADVISORY COUNCILS AND PUBLIC PARTICIPATION

Sec. 309. [43 U.S.C. 1739] (a) The Secretary *shall* [P.L. 95-514, 1978] establish advisory councils of not less than ten and not more than fifteen members appointed by him from among persons who are representative of the various major citizens' interests concerning the problems relating to land use

planning or the management of the public lands located within the area for which an advisory council is established. At least one member of each council shall be an elected official of general purpose government serving the people of such area. To the extent practicable there shall be no overlap or duplication of such councils. Appointments shall be made in accordance with rules prescribed by the Secretary. The establishment and operation of an advisory council established under this section shall conform to the requirements of the Federal Advisory Committee Act (86 Stat. 770; 5 U. S.C. App. 1).

(b) Notwithstanding the provisions of subsection (a) of this section, each advisory council established by the Secretary under this section shall meet at least once a year with such meetings being called by the Secretary.

(c) Members of advisory councils shall serve without pay, except travel and per diem will be paid each member for meetings called by the Secretary.

(d) An advisory council may furnish advice to the Secretary with respect to the land use planning, classification, retention, management, and disposal of the public lands within the area for which the advisory council is established and such other matters as may be referred to it by the Secretary.

(e) In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, the public lands.

RULES AND REGULATIONS

Sec. 310. [43 U.S.C. 1740] The Secretary, with respect to the public lands, shall promulgate rules and regulations to carry out the purposes of this Act and of other laws applicable to the public lands, and the Secretary of Agriculture, with respect to lands within the National Forest System, shall promulgate rules and regulations to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5 of the United States Code, without regard to section 553 (a) (2). Prior to the promulgation of such rules and regulations, such lands shall be administered under existing rules and regulations concerning such lands to the extent practical.

PUBLIC LANDS PROGRAM REPORT

Sec. 311. [43 U.S.C. 1741] (a) For the purpose of providing information that will aid Congress in carrying out its oversight responsibilities for public lands programs and for other purposes, the Secretary shall prepare a report in accordance with subsections (b) and (c) and submit it to the Congress no later than one hundred and twenty days after the end of each fiscal year beginning with the report for fiscal year 1979.

(b) A list of programs and specific information to be included in the report as well as the format of the report shall be developed by the Secretary after consulting with the *Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate* [P.L. 103-437, 1994] and shall be provided to the committees prior to the end of the second quarter of each fiscal year.

(c) The report shall include, but not be limited to, program identification information, program evaluation information, and program budgetary information for the preceding current and succeeding fiscal years.

SEARCH AND RESCUE

Sec. 312. [43 U.S.C. 1742] Where in his judgment sufficient search, rescue, and protection forces are not otherwise available, the Secretary is authorized in cases of emergency to incur such expenses as may be necessary (a) in searching for and rescuing, or in cooperating in the search for and rescue of, persons lost on the public lands, (b) in protecting or rescuing, or in cooperating in the protection and rescue of, persons or animals endangered by an act of God, and (c) in transporting deceased persons

or persons seriously ill or injured to the nearest place where interested parties or local authorities are located.

SUNSHINE IN GOVERNMENT

Sec. 313. [43 U.S.C. 1743] (a) Each officer or employee of the Secretary and the Bureau who–

(1) performs any function or duty under this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit, lease, or right-of-way under, or (B) applies for or acquires any land or interests therein under, or (C) is otherwise subject to the provisions of, this Act, shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary shall–

(1) act within ninety days after the date of enactment of this Act–

(A) to define the term "known financial interests" for the purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

RECORDATION OF MINING CLAIMS AND ABANDONMENT

Sec. 314. [43 U.S.C. 1744] (a) The owner of an unpatented lode or placer mining claim located prior to the date of this Act shall, within the three-year period following the date of the approval of this Act and prior to December 31 of each year thereafter, file the instruments required by paragraphs (1) and (2) of this subsection. The owner of an unpatented lode or placer mining claim located after the date of this Act shall, prior to December 31 of each year following the calendar year in which the said claim was located, file the instruments required by paragraphs (1) and (2) of this subsection:

(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), an affidavit of assessment work performed thereon, on a detailed report provided by the Act of September 2, 1958 (72 Stat. 1701; 30 U.S.C. 28–1), relating thereto.

(2) File in the office of the Bureau designated by the Secretary a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection, including a description of the location of the mining claim sufficient to locate the claimed lands on the ground.

(b) The owner of an unpatented lode or placer mining claim or mill or tunnel site located prior to the date of approval of this Act shall, within the three-year period following the date of approval of this Act, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground. The owner of an unpatented lode or placer mining claim or mill or tunnel site located after the date of approval of this Act shall, within ninety days after the date of

location of such claim, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground.

(c) The failure to file such instruments as required by subsections (a) and (b) shall be deemed conclusively to constitute an abandonment of the mining claim or mill or tunnel site by the owner; but it shall not be considered a failure to file if the instrument is defective or not timely filed for record under other Federal laws permitting filing or recording thereof, or if the instrument is filed for record by or on behalf of some but not all of the owners of the mining claim or mill or tunnel site.

(d) Such recordation or application by itself shall not render valid any claim which would not be otherwise valid under applicable law. Nothing in this section shall be construed as a waiver of the assessment and other requirements of such law.

RECORDABLE DISCLAIMERS OF INTEREST IN LAND

Sec. 315. [43 U.S.C. 1745] (a) After consulting with any affected Federal agency, the Secretary is authorized to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and where he determines (1) a record interest of the United States in lands has terminated by operation of law or is otherwise invalid; or (2) the lands lying between the meander line shown on a plat of survey approved by the Bureau or its predecessors and the actual shoreline of a body of water are not lands of the United States; or (3) accreted, relicted, or avulsed lands are not lands of the United States.

(b) No document or disclaimer shall be issued pursuant to this section unless the applicant therefor has filed with the Secretary an application in writing and notice of such application setting forth the grounds supporting such application has been published in the Federal Register at least ninety days preceding the issuance of such disclaimer and until the applicant therefor has paid to the Secretary the administrative costs of issuing the disclaimer as determined by the Secretary. All receipts shall be deposited to the then-current appropriation from which expended.

(c) Issuance of a document of disclaimer by the Secretary pursuant to the provisions of this section and regulations promulgated hereunder shall have the same effect as a quit-claim deed from the United States.

CORRECTION OF CONVEYANCE DOCUMENTS

Sec. 316. [43 U.S.C. 1746] The Secretary may correct patents or documents of conveyance issued pursuant to section 208 of this Act or to other Acts relating to the disposal of public lands where necessary in order to eliminate errors. In addition, the Secretary may make corrections of errors in any documents of conveyance which have heretofore been issued by the Federal Government to dispose of public lands.

MINERAL REVENUES

Sec. 317. [30 U.S.C. 191] (a) Section 35 of the Act of February 25, 1920 (41 Stat. 437, 450; 30 U.S.C. 181, 191), as amended, is further amended to read as follows: "All money received from sales, bonuses, royalties, and rentals of the public lands under the provisions of this Act and the Geothermal Steam Act of 1970 [30 U.S.C. 1001 note.], notwithstanding the provisions of section 20 thereof, shall be paid into the Treasury of the United States; 50 per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after March 31 and September 30 of each year to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act, for (i) planning, (ii) construction and maintenance of

public facilities, and (iii) provision of public service; and excepting those from Alaska, 40 per centum thereof shall be paid into, reserved, appropriated, as part of the reclamation fund created by the Act of Congress known as the Reclamation Act [43 U.S.C. 391 note.], approved June 17, 1902, and of those from Alaska as soon as practicable after March 31 and September 30 of each year, 90 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: *Provided*, That all moneys which may accrue to the United States under the provisions of this Act and the Geothermal Steam Act of 1970 [30 U.S.C. 1001 note.] from lands within the naval petroleum reserves shall be deposited in the Treasury as 'miscellaneous receipts', as provided by the Act of June 4, 1920 (41 Stat. 813), as amended June 30, 1938 (52 Stat. 1252). All moneys received under the provisions of this Act and the Geothermal Steam Act of 1970 not otherwise disposed of by this section shall be credited to miscellaneous receipts."

(b) Funds now held pursuant to said section 35 [30 U.S.C. 191 note.] by the States of Colorado and Utah separately from the Department of the Interior oil shale test leases known as C-A; C-B; U-A and U-B shall be used by such States and subdivisions as the legislature of each State may direct giving priority to those subdivisions socially or economically impacted by the development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services.

[43 U.S.C. 1747](c)(1) The Secretary is authorized to make loans to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of minerals leased in such States pursuant to the Act of February 25, 1920, as amended [30 U.S.C. 181 et seq.]. Such loans shall be confined to the uses specified for the 50 per centum of mineral leasing revenues to be received by such States and subdivisions pursuant to section 35 of such Act [30 U.S.C. 191].

(2) The total amount of loans outstanding pursuant to this subsection for any State and political subdivisions thereof in any year shall be not more than the anticipated mineral leasing revenues to be received by that State pursuant to section 35 of the Act of February 25, 1920, as amended [30 U.S.C. 191], for the ten years following.

(3) The Secretary, after consultation with the Governors of the affected States, shall allocate such loans among the States and their political subdivisions in a fair and equitable manner, giving priority to those States and subdivisions suffering the most severe impacts.

(4) Loans made pursuant to this subsection shall be subject to such terms and conditions as the Secretary determines necessary to assure the achievement of the purpose of this subsection. The Secretary shall promulgate such regulations as may be necessary to carry out the provisions of this subsection no later than three months after August 20, 1978.

(5) Loans made pursuant to this subsection shall bear interest equivalent to the lowest interest rate paid on an issue of at least $1,000,000 of tax exempt bonds of such State or any agency thereof within the preceding calendar year.

(6) Any loan made pursuant to this subsection shall be secured only by a pledge of the revenues received by the State or the political subdivision thereof pursuant to section 35 of the Act of February 25, 1920, as amended [30 U.S.C. 191], and shall not constitute an obligation upon the general property or taxing authority of such unit of government.

(7) Notwithstanding any other provision of law, loans made pursuant to this subsection may be used for the non-Federal share of the aggregate cost of any project or program otherwise funded by the Federal Government which requires a non-Federal share for such project or program and which provides planning or public facilities otherwise eligible for assistance under this subsection.

(8) Nothing in this subsection shall be construed to preclude any forbearance for the benefit of the borrower including loan restructuring, which may be determined by the Secretary as justified by the failure of anticipated mineral development or related revenues to materialize as expected when the loan was made pursuant to this subsection.

(9) Recipients of loans made pursuant to this subsection shall keep such records as the Secretary shall prescribe by regulation, including records which fully disclose the disposition of the proceeds of such assistance and such other records as the Secretary may require to facilitate an effective audit. The Secretary and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records.

(10) No person in the United States shall, on the grounds of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or part with funds made available under this subsection.

(11) All amounts collected in connection with loans made pursuant to this subsection, including interest payments or repayments of principal on loans, fees, and other moneys, derived in connection with this subsection, shall be deposited in the Treasury as miscellaneous receipts. [P.L. 95-352, 1978]

APPROPRIATION AUTHORIZATION

Sec. 318. [43 U.S.C. 1748] (a) There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act, but no amounts shall be appropriated to carry out after *October 1, 2002* [P.L. 104-333, 1996], any program, function, or activity of the Bureau under this or any other Act unless such sums are specifically authorized to be appropriated as of October 21, 1976, or are authorized to be appropriated in accordance with the provisions of subsection (b) of this section.

(b) Consistent with section 607 of the Congressional Budget Act of 1974 [31 U.S.C. 1110], beginning May 15, 1977, and not later than May 15 of each second even numbered year thereafter, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a request for the authorization of appropriations for all programs, functions, and activities of the Bureau to be carried out during the four-fiscal-year period beginning on October 1 of the calendar year following the calendar year in which such request is submitted. The Secretary shall include in his request, in addition to the information contained in his budget request and justification statement to the Office of Management and Budget, the funding levels which he determines can be efficiently and effectively utilized in the execution of his responsibilities for each such program, function, or activity, notwithstanding any budget guidelines or limitations imposed by any official or agency of the executive branch.

(c) Nothing in this section shall apply to the distribution of receipts of the Bureau from the disposal of lands, natural resources, and interests in lands in accordance with applicable law, nor to the use of contributed funds, private deposits for public survey work, and townsite trusteeships, nor to fund allocations from other Federal agencies, reimbursements from both Federal and non-Federal sources, and funds expended for emergency firefighting and rehabilitation.

(d) In exercising the authority to acquire by purchase granted by subsection (a) of section 205 of this Act, the Secretary may use the Land and Water Conservation Fund to purchase lands which are necessary for proper management of public lands which are primarily of value for outdoor recreation purposes.

TITLE IV
RANGE MANAGEMENT

GRAZING FEES

Sec. 401. [43 U.S.C. 1751] (a) The Secretary of Agriculture and the Secretary of the Interior shall jointly cause to be conducted a study to determine the value of grazing on the lands under their jurisdiction in the eleven Western States with a view to establishing a fee to be charged for domestic livestock grazing on such lands which is equitable to the United States and to the holders of grazing permits and leases on such lands. In making such study, the Secretaries shall take into consideration the costs of production normally associated with domestic livestock grazing in the eleven Western States, differences in forage values, and such other factors as may relate to the reasonableness of such fees. The Secretaries shall report the result of such study to the Congress not later than one year from and after the date of approval of this Act, together with recommendations to implement a reasonable grazing fee schedule based upon such study. If the report required herein has not been submitted to the Congress within one year after the date of approval of this Act, the grazing fee charge then in effect shall not be altered and shall remain the same until such report has been submitted to the Congress. Neither Secretary shall increase the grazing fee in the 1977 grazing year.

(b) (1) Congress finds that a substantial amount of the Federal range lands is deteriorating in quality, and that installation of additional range improvements could arrest much of the continuing deterioration and could lead to substantial betterment of forage conditions with resulting benefits to wildlife, watershed protection, and livestock production. Congress therefore directs that 50 per centum or *$10,000,000 per annum, whichever is greater* [P.L. 95-514, 1978] of all moneys received by the United States as fees for grazing domestic livestock on public lands (other than from ceded Indian lands) under the Taylor Grazing Act (48 Stat. 1269; 43 U.S.C. 315 et seq.) and the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181d), and on lands in National Forests in the *sixteen* [P.L. 95-514, 1978] contiguous Western States under the provisions of this section shall be credited to a separate account in the Treasury, one-half of which is authorized to be appropriated and made available for use in the district, region, or national forest from which such moneys were derived, as the respective Secretary may direct after consultation with district, regional, or national forest user representatives, for the purpose of on-the-ground range rehabilitation, protection, and improvements on such lands, and the remaining one-half shall be used for on-the-ground range rehabilitation, protection, and improvements as the Secretary concerned directs. Any funds so appropriated shall be in addition to any other appropriations made to the respective Secretary for planning and administration of the range betterment program and for other range management. Such rehabilitation, protection, and improvements shall include all forms of range land betterment including, but not limited to, seeding and reseeding, fence construction, weed control, water development, and fish and wildlife habitat enhancement as the respective Secretary may direct after consultation with user representatives. The annual distribution and use of range betterment funds authorized by this paragraph shall not be considered a major Federal action requiring a detailed statement pursuant to section 4332(c) of title 42 of the United States Code.

(2) The first clause of section 10 (b) of the Taylor Grazing Act (48 Stat. 1269), as amended by the Act of August 6, 1947 (43 U.S.C. 315i), [43 U.S.C. 1751] is hereby repealed. All distributions of moneys made under section (b) (1) of this section shall be in addition to distributions made under section 10 of the Taylor Grazing Act [43 U.S.C. 315i] and shall not apply to distribution of moneys made under section 11 of that Act [43 U.S.C. 315j]. The

remaining moneys received by the United States as fees for grazing domestic livestock on the public lands shall be deposited in the Treasury as miscellaneous receipts.

(3) Section 3 of the Taylor Grazing Act, [43 U.S.C. 315b] as amended (43 U.S.C. 315), is further amended by–

(a) Deleting the last clause of the first sentence thereof, which begins with "and in fixing," deleting the comma after "time," and adding to that first sentence the words "in accordance with governing law."

(b) Deleting the second sentence thereof.

GRAZING LEASES AND PERMITS

Sec. 402. [43 U.S.C. 1752] (a) Except as provided in subsection (b) of this section, permits and leases for domestic livestock grazing on public lands issued by the Secretary under the Act of June 28, 1934 (48 Stat. 1269, as amended; 43 U.S.C. 315 et seq.) or the Act of August 28, 1937 (50 Stat. 874, as amended; 43 U.S.C. 1181a-1181j), or by the Secretary of Agriculture, with respect to lands within National Forests in the *sixteen* [P.L. 95-914, 1978] contiguous Western States, shall be for a term of ten years subject to such terms and conditions the Secretary concerned deems appropriate and consistent with the governing law, including, but not limited to, the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, or to cancel or suspend a grazing permit or lease for any violation of a grazing regulation or of any term or condition of such grazing permit or lease.

(b) Permits or leases may be issued by the Secretary concerned for a period shorter than ten years where the Secretary concerned determines that–

(1) the land is pending disposal; or

(2) the land will be devoted to a public purpose prior to the end of ten years; or

(3) it will be in the best interest of sound land management to specify a shorter term: *Provided, That the absence from an allotment management plan of details the Secretary concerned would like to include but which are undeveloped shall not be the basis for establishing a term shorter than ten years: Provided further, That the absence of completed land use plans or court ordered environmental statements shall not be the sole basis for establishing a term shorter than ten years unless the Secretary determines on a case-by-case basis that the information to be contained in such land use plan or court ordered environmental impact statement is necessary to determine whether a shorter term should be established for any of the reasons set forth in items (1) through (3) of this subsection.* [P.L. 95-914, 1978]

(c) So long as (1) the lands for which the permit or lease is issued remain available for domestic livestock grazing in accordance with land use plans prepared pursuant to section 202 of this Act or section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 477; 16 U.S.C. 1601), (2) the permittee or lessee is in compliance with the rules and regulations issued and the terms and conditions in the permit or lease specified by the Secretary concerned, and (3) the permittee or lessee accepts the terms and conditions to be included by the Secretary concerned in the new permit or lease, the holder of the expiring permit or lease shall be given first priority for receipt of the new permit or lease.

(d) All permits and leases for domestic livestock grazing issued pursuant to this section may incorporate an allotment management plan developed by the Secretary concerned. However, nothing in this subsection shall be construed to supersede any requirement for completion of court ordered environmental impact statements prior to development and incorporation of allotment management plans. If the Secretary concerned elects to develop an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation and coordination with the lessees, permittees, and landowners involved, the district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753), and any State or States having lands within the area to be

covered by such allotment management plan. Allotment management plans shall be tailored to the specific range condition of the area to be covered by such plan, and shall be reviewed on a periodic basis to determine whether they have been effective in improving the range condition of the lands involved or whether such lands can be better managed under the provisions of subsection (e) of this section. The Secretary concerned may revise or terminate such plans or develop new plans from time to time after such review and careful and considered consultation, cooperation and coordination with the parties involved. As used in this subsection, the terms "court ordered environmental impact statement" and "range condition" shall be defined as in the "Public Rangelands Improvement Act of 1978(43 U.S.C. 1901 et seq.)". [P.L. 95-514, 1978]

(e) *In* [P.L. 95-514, 1978] all cases where the Secretary concerned has not completed an allotment management plan or determines that an allotment management plan is not necessary for management of livestock operations and will not be prepared, the Secretary concerned shall incorporate in grazing permits and leases such terms and conditions as he deems appropriate for management of the permitted or leased lands pursuant to applicable law. The Secretary concerned shall also specify therein the numbers of animals to be grazed and the seasons of use and that he may reexamine the condition of the range at any time and, if he finds on reexamination that the conditions of the range requires adjustment in the amount or other aspect of grazing use, that the permittee or lessee shall adjust his use to the extent the Secretary concerned deems necessary. Such readjustment shall be put into full force and effect on the date specified by the Secretary concerned.

(f) Allotment management plans shall not refer to livestock operations or range improvements on non-Federal lands except where the non-Federal lands are intermingled with, or, with the consent of the permittee or lessee involved, associated with, the Federal lands subject to the plan. The Secretary concerned under appropriate regulations shall grant to lessees and permittees the right of appeal from decisions which specify the terms and conditions of allotment management plans. The preceding sentence of this subsection shall not be construed as limiting any other right of appeal from decisions of such officials.

(g) Whenever a permit or lease for grazing domestic livestock is canceled in whole or in part, in order to devote the lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States a reasonable compensation for the adjusted value, to be determined by the Secretary concerned, of his interest in authorized permanent improvements placed or constructed by the permittee or lessee on lands covered by such permit or lease, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein. Except in cases of emergency, no permit or lease shall be canceled under this subsection without two years' prior notification.

(h) Nothing in this Act shall be construed as modifying in any way law existing on the date of approval of this Act with respect to the creation of right, title, interest or estate in or to public lands or lands in National Forests by issuance of grazing permits and leases.

GRAZING ADVISORY BOARDS

Sec. 403. [43 U.S.C. 1753] (a) For each Bureau district office and National Forest headquarters office in the *sixteen* [P.L. 95-514, 1978] contiguous Western States having jurisdiction over more than five hundred thousand acres of lands subject to commercial livestock grazing (hereinafter in this section referred to as "office"), the Secretary and the Secretary of Agriculture, upon the petition of a simple majority of the livestock lessees and permittees under the jurisdiction of such office, shall establish and maintain at least one grazing advisory board of not more than fifteen advisers.

(b) The function of grazing advisory boards established pursuant to this section shall be to offer advice and make recommendations to the head of the office involved concerning the development of allotment management plans and the utilization of range-betterment funds.

(c) The number of advisers on each board and the number of years an adviser may serve shall be

determined by the Secretary concerned in his discretion. Each board shall consist of livestock representatives who shall be lessees or permittees in the area administered by the office concerned and shall be chosen by the lessees and permittees in the area through an election prescribed by the Secretary concerned.

(d) Each grazing advisory board shall meet at least once annually.

(e) Except as may be otherwise provided by this section, the provisions of the Federal Advisory Committee Act (86 Stat. 770; 5 U.S. C. App. 1) shall apply to grazing advisory boards.

(f) The provisions of this section shall expire December 31, 1985.

MANAGEMENT OF CERTAIN HORSES AND BURROS

Sec. 404. Sections 9 and 10 of the Act of December 15, 1971 (85 Stat. 649, 651; 16 U.S.C. 1331, 1339–1340) are renumbered as sections 10 and 11, respectively, and the following new section is inserted after section 8:

"Sec. 9. [16 U.S.C. 1338a] In administering this Act, the Secretary may use or contract for the use of helicopters or, for the purpose of transporting captured animals, motor vehicles. Such use shall be undertaken only after a public hearing and under the direct supervision of the Secretary or of a duly authorized official or employee of the Department. The provisions of subsection (a) of the Act of September 8, 1959 (73 Stat. 470; 18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary."

[16 U.S.C. 1338a Note: Subsequent amendments were made to this section in 1996 concerning management of the National Park System.]

TITLE V

RIGHTS-OF-WAY

AUTHORIZATION TO GRANT RIGHTS-OF-WAY

Sec. 501. [43 U.S.C. 1761] (a) The Secretary, with respect to the public lands *(including public lands, as defined in section 103(e) of this Act, which are reserved from entry pursuant to section 24 of the Federal Power Act (16 U.S.C. 818))* [P.L. 102-486, 1992] and, the Secretary of Agriculture, with respect to lands within the National Forest System (except in each case land designated as wilderness), are authorized to grant, issue, or renew rights-or-way over, upon, under, or through such lands for–

(1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) pipelines and other systems for the transportation or distribution of liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, and for storage and terminal facilities in connection therewith;

(3) pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the *Federal Energy Regulatory Commission under the Federal Power Act, including part I thereof* (41 Stat. 1063, 16 U.S.C. 791a-825r) [P.L. 102-486, 1992];

(5) systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication;

(6) roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways, or other means of transportation except where such facilities are constructed and maintained in connection with commercial recreation facilities on lands in the National Forest System; or

(7) such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, under, or through such lands.

(b) (1) The Secretary concerned shall require, prior to granting, issuing, or renewing a right-of-way, that the applicant submit and disclose those plans, contracts, agreements, or other information reasonably related to the use, or intended use, of the right-of-way, including its effect on competition, which he deems necessary to a determination, in accordance with the provisions of this Act, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way.

(2) If the applicant is a partnership, corporation, association, or other business entity, the Secretary concerned, prior to granting a right-to-way pursuant to this title, shall require the applicant to disclose the identity of the participants in the entity, when he deems it necessary to a determination, in accordance with the provisions of this title, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way. Such disclosures shall include, where applicable: (A) the name and address of each partner; (B) the name and address of each share-holder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote; and (C) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting

stock of that entity owned, directly or indirectly, by the affiliate.

(3) The Secretary of Agriculture shall have the authority to administer all rights-of-way granted or issued under authority of previous Acts with respect to lands under the jurisdiction of the Secretary of Agriculture, including rights-of-way granted or issued pursuant to authority given to the Secretary of the Interior by such previous Acts. [P.L. 99-545, 1986]

(c) (1) Upon receipt of a written application pursuant to paragraph (2) of this subsection from an applicant meeting the requirements of this subsection, the Secretary of Agriculture shall issue a permanent easement, without a requirement for reimbursement, for a water system as described in subsection (a)(1) of this section, traversing Federal lands within the National Forest System ('National Forest Lands'), constructed and in operation or placed into operation prior to October 21, 1976, if –

(A) the traversed National Forest lands are in a State where the appropriation doctrine governs the ownership of water rights;

(B) at the time of submission of the application the water system is used solely for agricultural irrigation or livestock watering purposes;

(C) the use served by the water system is not located solely on Federal lands;

(D) the originally constructed facilities comprising such system have been in substantially continuous operation without abandonment;

(E) the applicant has a valid existing right, established under applicable State law, for water to be conveyed by the water system;

(F) a recordable survey and other information concerning the location and characteristics of the system as necessary for proper management of National Forest lands is provided to the Secretary of Agriculture by the applicant for the easement; and

(G) the applicant submits such application on or before December 31, 1996.

(2) (A) Nothing in this subsection shall be construed as affecting any grants made by any previous Act. To the extent any such previous grant of right-of-way is a valid existing right, it shall remain in full force and effect unless an owner thereof notifies the Secretary of Agriculture that such owner elects to have a water system on such right-of-way governed by the provision of this subsection and submits a written application for issuance of an easement pursuant to this subsection, in which case upon the issuance of an easement pursuant to this subsection such previous grant shall be deemed to have been relinquished and shall terminate.

(B) Easements issued under the authority of this subsection shall be fully transferable with all existing conditions and without the imposition of fees or new conditions or stipulations at the time of transfer. The holder shall notify the Secretary of Agriculture within sixty days of any address change of the holder or change in ownership of the facilities.

(C) Easements issued under the authority of this subsection shall include all changes or modifications to the original facilities in existence as of October 21, 1976, the date of enactment of this Act.

(D) Any future extension or enlargement of facilities after October 21, 1976, shall require the issuance of a separate authorization, not authorized under this subsection.

(3) (A) Except as otherwise provided in this subsection, the Secretary of Agriculture may terminate or suspend an easement issued pursuant to this subsection in accordance with the procedural and other provisions of section 506 [43 U.S.C. 1766] *of this Act. An easement issued pursuant to this subsection shall terminate if the water system for which such easement was issued is used for any purpose other than agricultural irrigation or livestock watering use. For purposes of subparagraph (D) of paragraph (1) of this subsection, non-use of a water system for agricultural irrigation or livestock watering purposes for any continuous five-year period shall constitute a rebuttable presumption of abandonment of the facilities comprising such system.*

(B) Nothing in this subsection shall be deemed to be an assertion by the United States of any right

or claim with regard to the reservation, acquisition, or use of water. Nothing in this subsection shall be deemed to confer on the Secretary of Agriculture any power or authority to regulate or control in any manner the appropriation, diversion, or use of water for any purpose (nor to diminish any such power to authority of such Secretary under applicable law) or to require the conveyance or transfer to the United States of any right or claim to the appropriation, diversion, or use of water.

(C) Except as otherwise provided in this subsection, all rights-of-way issued pursuant to this subsection are subject to all conditions and requirements of this Act.

(D) In the event a right-of-way issued pursuant to this subsection is allowed to deteriorate to the point of threatening persons or property and the holder of the right-of-way, after consultation with the Secretary of Agriculture, refuses to perform the repair and maintenance necessary to remove the threat to persons or property, the Secretary shall have the right to undertake such repair and maintenance on the right-of-way and to assess the holder for the costs of such repair and maintenance, regardless of whether the Secretary had required the holder to furnish a bond or other security pursuant to subsection (i) of this section. [P.L. 99-545, 1986]

(d) With respect to any project or portion thereof that was licensed pursuant to, or granted an exemption from, part I of the Federal Power Act [16 U.S.C. 791a et seq.] which is located on lands subject to a reservation under section 24 of the Federal Power Act [16 U.S.C. 818] and which did not receive a permit, right-of-way or other approval under this section prior to enactment of this subsection, no such permit, right-of-way, or other approval shall be required for continued operation, including continued operation pursuant to section 15 of the Federal Power Act [16 U.S.C. 808]*, of such project unless the Commission determines that such project involves the use of any additional public lands or National Forest lands not subject to such reservation.* [P.L. 102-486, 1992]

COST-SHARE ROAD AUTHORIZATION

Sec. 502. [43 U.S.C. 1762] (a) The Secretary, with respect to the public lands, is authorized to provide for the acquisition, construction, and maintenance of roads within and near the public lands in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management of such lands for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Secretary utilizing appropriated funds, (2) by requirements on purchasers of timber and other products from the public lands, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods: *Provided*, That, where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of timber and other products from public lands shall not, except when the provisions of the second proviso of this subsection apply, be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate: *Provided further*, That when timber is offered with the condition that the purchaser thereof will build a road or roads in accordance with standards specified in the offer, the purchaser of the timber will be responsible for paying the full costs of construction of such roads.

(b) Copies of all instruments affecting permanent interests in land executed pursuant to this section shall be recorded in each county where the lands are located.

(c) The Secretary may require the user or users of a road, trail, land, or other facility administered by him through the Bureau, including purchasers of Government timber and other products, to maintain such facilities in a satisfactory condition commensurate with the particular use requirements

Coridors must recognize state and local land-use policies, economic efficiency and good engineering practice.

of each. Such maintenance to be borne by each user shall be proportionate to total use. The Secretary may also require the user or users of such a facility to reconstruct the same when such reconstruction is determined to be necessary to accommodate such use. If such maintenance or reconstruction cannot be so provided or if the Secretary determines that maintenance or reconstruction by a user would not be practical, then the Secretary may require that sufficient funds be deposited by the user to provide his portion of such total maintenance or reconstruction. Deposits made to cover the maintenance or reconstruction of roads are hereby made available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That deposits received for work on adjacent and overlapping areas may be combined when it is the most practicable and efficient manner of performing the work, and cost thereof may be determined by estimates: *And provided further,* That unexpended balances upon accomplishment of the purpose for which deposited shall be transferred to miscellaneous receipts or refunded.

(d) Whenever the agreement under which the United States has obtained for the use of, or in connection with, the public lands a right-of-way or easement for a road or an existing road or the right to use an existing road provides for delayed payments to the Government's grantor, any fees or other collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.

RIGHT-OF-WAY CORRIDORS

Sec. 503. [43 U.S.C. 1763] In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary concerned the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this Act. In designating right-of-way corridors and in determining whether to require that rights-of-way be confined to them, the Secretary concerned shall take into consideration national and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary concerned shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.

GENERAL PROVISIONS

Sec. 504. [43 U.S.C. 1764] (a) The Secretary concerned shall specify the boundaries of each right-of-way as precisely as is practical. Each right-of-way shall be limited to the ground which the Secretary concerned determines (1) will be occupied by facilities which constitute the project for which the right-of-way is granted, issued, or renewed, (2) to be necessary for the operation or maintenance of the project, (3) to be necessary to protect the public safety, and (4) will do no unnecessary damage to the environment. The Secretary concerned may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) Each right-of-way or permit granted, issued, or renewed pursuant to this section shall be limited to a reasonable term in light of all circumstances concerning the project. In determining the duration of a right-of-way the Secretary concerned shall, among other things, take into consideration the cost of the facility, its useful life, and any public purpose it serves. The right-of-way shall specify whether it is or is not renewable and the terms and conditions applicable to the renewal.

(c) Rights-of-way shall be granted, issued, or renewed pursuant to this title under such regulations or stipulations, consistent with the provisions of this title or any other applicable law, and shall also be subject to such terms and conditions as the Secretary concerned may prescribe regarding extent, duration, survey, location, construction, maintenance, transfer or assignment, and termination.

(d) The Secretary concerned prior to granting or issuing a right-of-way pursuant to this title for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations or with regulations issued by that Secretary, including the terms and conditions required under section 505 of this Act.

(e) The Secretary concerned shall issue regulations with respect to the terms and conditions that will be included in rights-of-way pursuant to section 505 of this title. Such regulations shall be regularly revised as needed. Such regulations shall be applicable to every right-of-way granted or issued pursuant to this title and to any subsequent renewal thereof, and may be applicable to rights-of-way not granted or issued, but renewed pursuant to this title.

(f) Mineral and vegetative materials, including timber, within or without a right-of-way, may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws or *for emergency repair work necessary for those rights-of-way authorized under section 501(c) of this Act.* [P.L. 99-545, 1986]

(g) *The holder of a right-of-way shall pay in advance the fair market value thereof, as determined by the Secretary granting, issuing, or renewing such right-of-way. The Secretary concerned may require either annual payment or a payment covering more than one year at a time except that private individuals may make at their option either annual payments or payments covering more than one year if the annual fee is greater than one hundred dollars. The Secretary concerned may waive rentals where a right-of-way is granted, issued or renewed in consideration of a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder.* [P.L. 99-545, 1986] The Secretary concerned may, by regulation or prior to promulgation of such regulations, as a condition of a right-of-way, require an applicant for or holder of a right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application for such right-of-way and in inspection and monitoring of construction, operation, and termination of the facility pursuant to such right-of-way: *Provided, however,* That the Secretary concerned need not secure reimbursement in any situation where there is in existence a cooperative cost share right-of-way program between the United States and the holder of a right-of-way. Rights-of-way may be granted, issued, or renewed to a Federal, State, or local government or any agency or instrumentality thereof, to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profit making corporations or business enterprises, or to a holder where he provides without or at reduced charges a valuable benefit to the public or to the programs of the Secretary concerned, or to a holder in connection with the authorized use or occupancy of Federal land for which the United States is already receiving compensation for such lesser charge, including free use as the Secretary concerned finds equitable and in the public interest. Such rights-of-way issued at less than fair market value are not assignable except with the approval of the Secretary issuing the right-of-way. The moneys received for reimbursement of reasonable costs shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended. *Rights-of-way shall be granted, issued, or renewed, without rental fees, for electric or telephone facilities, eligible for financing pursuant to the Rural Electrification Act of 1936, as amended [7 U.S.C. 901 et seq.], determined without regard to any application requirement under that Act,* [P.L. 104-333, 1996] *or any extensions from such facilities: Provided, That nothing in this sentence shall be construed to affect the authority of the Secretary granting, issuing, or renewing the right-of-way to require reimbursement of reasonable administrative and other costs pursuant to the second sentence of this subsection.* [P.L. 98-300, 1984]

[43 U.S.C. 1764 Note: effective date shall apply with respect to rights-of-way leases held on or after the date of enactment of this Act. [P.L. 104-333, 1996]]

(h) (1) The Secretary concerned shall promulgate regulations specifying the extent to which holders of rights-of-way under this title shall be liable to the United States for damage or injury incurred by the United States caused by the use and occupancy of the rights-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims caused by their use and occupancy of the rights-of-way.

(2) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

(i) Where he deems it appropriate, the Secretary concerned may require a holder of a right-of-way to furnish a bond, or other security, satisfactory to him to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary concerned.

(j) The Secretary concerned shall grant, issue, or renew a right-of-way under this title only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this title.

TERMS AND CONDITIONS

SEC. 505. [43 U.S.C. 1765] Each right-of-way shall contain–

(a) terms and conditions which will (i) carry out the purposes of this Act and rules and regulations issued thereunder; (ii) minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment; (iii) require compliance with applicable air and water quality standards established by or pursuant to applicable Federal or State law; and (iv) require compliance with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards; and

(b) such terms and conditions as the Secretary concerned deems necessary to (i) protect Federal property and economic interests; (ii) manage efficiently the lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the lands adjacent to or traversed by such right-of-way; (iii) protect lives and property; (iv) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes; (v) require location of the right-of-way along a route that will cause least damage to the environment, taking into consideration feasibility and other relevant factors; and (vi) otherwise protect the public interest in the lands traversed by the right-of-way or adjacent thereto.

SUSPENSION OR TERMINATION OF RIGHTS-OF-WAY

Sec. 506. [43 U.S.C. 1766] Abandonment of a right-of-way or noncompliance with any provision of this title, condition of the right-of-way, or applicable rule or regulation of the Secretary concerned may be grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way, and with respect to easements, an appropriate administrative proceeding pursuant to section 554 of title 5 of the United States Code, the Secretary concerned determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time. If the Secretary concerned determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way the Secretary concerned shall give written notice to the holder of the grounds for

such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with this title, condition, rule, or regulation as the case may be. Failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed, for any continuous five-year period, shall constitute a rebuttable presumption of abandonment of the right-of-way, except that where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances not within the holder's control, the Secretary concerned is not required to commence proceedings to suspend or terminate the right-of-way.

RIGHTS-OF-WAY FOR FEDERAL AGENCIES

Sec. 507. [43 U.S.C. 1767] (a) The Secretary concerned may provide under applicable provisions of this title for the use of any department or agency of the United States a right-of-way over, upon, under or through the land administered by him, subject to such terms and conditions as he may impose.

(b) Where a right-of-way has been reserved for the use of any department or agency of the United States, the Secretary shall take no action to terminate, or otherwise limit, that use without the consent of the head of such department or agency.

CONVEYANCE OF LANDS

Sec. 508. [43 U.S.C. 1768] If under applicable law the Secretary concerned decides to transfer out of Federal ownership any lands covered in whole or in part by a right-of-way, including a right-of-way granted under the Act of November 16, 1973 (87 Stat. 576; 30 U.S.C. 185), the lands may be conveyed subject to the right-of-way; however, if the Secretary concerned determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this title will be carried out, the terms and conditions of the right-of-way complied with, or the lands protected, he shall (a) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (b) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

EXISTING RIGHTS-OF-WAY

Sec. 509. [43 U.S.C. 1769] (a) Nothing in this title shall have the effect of terminating any right-of-way or right-of-use heretofore issued, granted, or permitted. However, with the consent of the holder thereof, the Secretary concerned may cancel such a right-of-way or right-of-use and in its stead issue a right-of-way pursuant to the provisions of this title.

(b) When the Secretary concerned issues a right-of-way under this title for a railroad and appurtenant communication facilities in connection with a realinement of a railroad on lands under his jurisdiction by virtue of a right-of-way granted by the United States, he may, when he considers it to be in the public interest and the lands involved are not within an incorporated community and are of approximately equal value, notwithstanding the provisions of this title, provide in the new right-of-way the same terms and conditions as applied to the portion of the existing right-of-way relinquished to the United States with respect to the payment of annual rental, duration of the right-of-way, and the nature of the interest in lands granted. The Secretary concerned or his delegate shall take final action upon all applications for the grant, issue, or renewal of rights-of-way under subsection (b) of this section no later than six months after receipt from the applicant of all information required from the applicant by this title.

EFFECT ON OTHER LAWS

Sec. 510. [43 U.S.C. 1770] (a) Effective on and after the date of approval of this Act, no right-of-way for the purposes listed in this title shall be granted, issued, or renewed over, upon, under, or through such lands except under and subject to the provisions, limitations, and conditions of this title:

Provided, That nothing in this title shall be construed as affecting or modifying the provisions of the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532–538) and in the event of conflict with, or inconsistency between, this title and the Act of October 13, 1964, the latter shall prevail: *Provided further,* That nothing in this Act should be construed as making it mandatory that, with respect to forest roads, the Secretary of Agriculture limit rights-of-way grants or their term of years or require disclosure pursuant to Section 501 (b) or impose any other condition contemplated by this Act that is contrary to present practices of that Secretary under the Act of October 13, 1964. Any pending application for a right-of-way under any other law on the effective date of this section shall be considered as an application under this title. The Secretary concerned may require the applicant to submit any additional information he deems necessary to comply with the requirements of this title.

(b) Nothing in this title shall be construed to preclude the use of lands covered by this title for highway purposes pursuant to sections 107 and 317 of title 23 of the United States Code.

(c) (1) Nothing in this title shall be construed as exempting any holder of a right-of-way issued under this title from any provision of the antitrust laws of the United States.

(2) For the purposes of this subsection, the term "antitrust laws" includes the Act of July 2, 1890 (26 Stat. 15 U.S.C. 1 et seq.); the Act of October 15, 1914 (38 Stat. 730, 15 U.S.C. 12 et seq.); the Federal Trade Commission Act (38 Stat. 717; 15 U.S.C. 41 et seq.); and sections 73 and 74 of the Act of August 27, 1894. [15 U.S.C. 8, 9]

COORDINATION OF APPLICATIONS

Sec. 511. [43 U.S.C. 1771] Applicants before Federal departments and agencies other than the Department of the Interior or Agriculture seeking a license, certificate, or other authority for a project which involve a right-of-way over, upon, under, or through public land or National Forest System lands must simultaneously apply to the Secretary concerned for the appropriate authority to use public lands or National Forest System lands and submit to the Secretary concerned all information furnished to the other Federal department or agency.

TITLE VI

DESIGNATED MANAGEMENT AREAS

CALIFORNIA DESERT CONSERVATION AREA

Sec. 601. [43 U.S.C. 1781] (a) The Congress finds that–

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, educational, recreational, and economic resources that are uniquely located adjacent to an area of large population;

(2) the California desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the California desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use, which are certain to intensify because of the rapidly growing population of southern California;

(4) the use of all California desert resources can and should be provided for in a multiple use and sustained yield management plan to conserve these resources for future generations, and to provide present and future use and enjoyment, particularly outdoor recreation uses, including the use, where appropriate, of off-road recreational vehicles;

(5) the Secretary has initiated a comprehensive planning process and established an interim management program for the public lands in the California desert; and

(6) to insure further study of the relationship of man and the California desert environment, preserve the unique and irreplaceable resources, including archeological values, and conserve the use of the economic resources of the California desert, the public must be provided more opportunity to participate in such planning and management, and additional management authority must be provided to the Secretary to facilitate effective implementation of such planning and management.

(b) It is the purpose of this section to provide for the immediate and future protection and administration of the public lands in the California desert within the framework of a program of multiple use and sustained yield, and the maintenance of environmental quality.

(c) (1) For the purpose of this section, the term "California desert" means the area generally depicted on a map entitled "California Desert Conservation Area—Proposed" dated April 1974, and described as provided in subsection (c) (2).

(2) As soon as practicable after the date of approval of this Act, the Secretary shall file a revised map and a legal description of the California Desert Conservation Area with the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives, and such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in such legal description and a map may be made by the Secretary. To the extent practicable, the Secretary shall make such legal description and map available to the public promptly upon request.

(d) The Secretary, in accordance with section 202 of this Act, shall prepare and implement a comprehensive, long-range plan for the management, use, development, and protection of the public lands within the California Desert Conservation Area. Such plan shall take into account the principles of multiple use and sustained yield in providing for resource use and development, including, but not limited to, maintenance of environmental quality, rights-of-way, and mineral development. Such plan shall be completed and implementation thereof initiated on or before September 30, 1980.

(e) During the period beginning on the date of approval of this Act and ending on the effective

date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage, use, and protect the public lands, and their resources now in danger of destruction, in the California Desert Conservation Area, to provide for the public use of such lands in an orderly and reasonable manner such as through the development of campgrounds and visitor centers, and to provide for a uniformed desert ranger force.

(f) Subject to valid existing rights, nothing in this Act shall affect the applicability of the United States mining laws on the public lands within the California Desert Conservation Area, except that all mining claims located on public lands within the California Desert Conservation Area shall be subject to such reasonable regulations as the Secretary may prescribe to effectuate the purposes of this section. Any patent issued on any such mining claim shall recite this limitation and continue to be subject to such regulations. Such regulations shall provide for such measures as may be reasonable to protect the scenic, scientific, and environmental values of the public lands of the California Desert Conservation Area against undue impairment, and to assure against pollution of the streams and waters within the California Desert Conservation Area.

(g) (1) The Secretary, within sixty days after the date of approval of this Act, shall establish a California Desert Conservation Area Advisory Committee (hereinafter referred to as "advisory committee") in accordance with the provisions of section 309 of this Act.

(2) It shall be the function of the advisory committee to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required under subsection (d) of this section.

(h) The Secretary of Agriculture and the Secretary of Defense shall manage lands within their respective jurisdictions located in or adjacent to the California Desert Conservation Area, in accordance with the laws relating to such lands and wherever practicable, in a manner consonant with the purpose of this section. The Secretary, the Secretary of Agriculture, and the Secretary of Defense are authorized and directed to consult among themselves and take cooperative actions to carry out the provisions of this subsection, including a program of law enforcement in accordance with applicable authorities to protect the archeological and other values of the California Desert Conservation Area and adjacent lands.

(i) The Secretary shall report to the Congress no later than two years after the date of approval of this Act, and annually thereafter, on the progress in, and any problems concerning, the implementation of this section, together with any recommendations, which he may deem necessary, to remedy such problems.

(j) There are authorized to be appropriated for fiscal years 1977 through 1981 not to exceed $40,000,000 for the purpose of this section, such amount to remain available until expended.

KING RANGE

Sec. 602.Section 9 of the Act of October 21, 1970 (84 Stat. 1067), [16 U.S.C. 460y-8] is amended by adding a new subsection (c), as follows:

"(c) In addition to the lands described in subsection (a) of this section, the land identified as the Punta Gorda Addition and the Southern Additions on the map entitled 'King Range National Conservation Area Boundary Map No. 2,' dated July 29, 1975, is included in the survey and investigation area referred to in the first section of this Act."

BUREAU OF LAND MANAGEMENT WILDERNESS STUDY

Sec. 603. [43 U.S.C. 1782] (a) Within fifteen years after the date of approval of this Act, the Secretary shall review those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964 (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall from time to time report to the President his recommendation as to the suitability

or nonsuitability of each such area or island for preservation as wilderness: *Provided*, That prior to any recommendations for the designation of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the *United States* Geological Survey [P.L. 102-154, 1991] and the *United States* Bureau of Mines [P.L. 102-285, 1992] to determine the mineral values, if any, that may be present in such areas: *Provided further*, That the Secretary shall report to the President by July 1, 1980, his recommendations on those areas which the Secretary has prior to November 1, 1975, formally identified as natural or primitive areas. The review required by this subsection shall be conducted in accordance with the procedure specified in section 3(d) of the Wilderness Act.

(b) The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to designation as wilderness of each such area, together with a map thereof and a definition of its boundaries. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

(c) During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on October 21, 1976: *Provided*, That, in managing the public lands the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection. Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review unless withdrawn by the Secretary under the procedures of section 204 of this Act for reasons other than preservation of their wilderness character. Once an area has been designated for preservation as wilderness, the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.] which apply to national forest wilderness areas shall apply with respect to the administration and use of such designated area, including mineral surveys required by section 4(d)(2) of the Wilderness Act, [16 U.S.C. 1133(d)(2)] and mineral development, access, exchange of lands, and ingress and egress for mining claimants and occupants.

43 U.S.C. 1783. **Yaquina Head Outstanding Natural Area** [P.L. 96-199, §119, 1980]

(a) In order to protect the unique scenic, scientific, educational, and recreational values of certain lands in and around Yaquina Head, in Lincoln County, Oregon, there is hereby established, subject to valid existing rights, the Yaquina Head Outstanding Natural Area (hereinafter referred to as the "area"). The boundaries of the area are those shown on the map entitled "Yaquina Head Area", dated July 1979, which shall be on file and available for public inspection in the Office of the Director, Bureau of Land Management, United States Department of the Interior, and the State Office of the Bureau of Land Management in the State of Oregon.

(b)(1) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall administer the Yaquina Head Outstanding Natural Area in accordance with the laws and regulations applicable to the public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1702) [43 U.S.C. 1702(e)], in such a manner as will best provide for–

(A) the conservation and development of the scenic, natural, and historic values of the area;

(B) the continued use of the area for purposes of education, scientific study, and public recreation which do not substantially impair the purposes for which the area is established; and

(C) protection of the wildlife habitat of the area.

(2) The Secretary shall develop a management plan for the area which accomplishes the purposes and is consistent with the provisions of this section. This plan shall be developed in accordance

with the provisions of section 202 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1712).

(3) Notwithstanding any other provision of this section, the Secretary is authorized to issue permits or to contract for the quarrying of materials from the area in accordance with the management plan for the area on condition that the lands be reclaimed and restored to the satisfaction of the Secretary. Such authorization to quarry shall require payment of fair market value for the materials to be quarried, as established by the Secretary, and shall also include any terms and conditions which the Secretary determines necessary to protect the values of such quarry lands for purposes of this section.

(c) The reservation of lands for lighthouse purposes made by Executive order of June 8, 1866, of certain lands totaling approximately 18.1 acres, as depicted on the map referred to in subsection (a) of this section, is hereby revoked. The lands referred to in subsection (a) of this section are hereby restored to the status of public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1702) [43 U.S.C. 1702(e)], and shall be administered in accordance with the management plan for the area developed pursuant to subsection (b) of this section, except that such lands are hereby withdrawn from settlement, sale, location, or entry, under the public land laws, including the mining laws (30 U.S.C., ch. 2), leasing under the mineral leasing laws (30 U.S.C. 181 et seq.), and disposals under the Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602).

(d) The Secretary shall, as soon as possible but in no event later than twenty-four months following the date of enactment of this section [March 5, 1980], acquire by purchase, exchange, donation, or condemnation all or any part of the lands and waters and interests in lands and waters within the area referred to in subsection (a) of this section which are not in Federal ownership except that State land shall not be acquired by purchase or condemnation. Any lands or interests acquired by the Secretary pursuant to this section shall become public lands as defined in the Federal Land Policy and Management Act of 1976, as amended [43 U.S.C. 1701 et seq.]. Upon acquisition by the United States, such lands are automatically withdrawn under the provisions of subsection (c) of this section except that lands affected by quarrying operations in the area shall be subject to disposals under the Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602). Any lands acquired pursuant to this subsection shall be administered in accordance with the management plan for the area developed pursuant to subsection (b) of this section.

(e) The Secretary is authorized to conduct a study relating to the use of lands in the area for purposes of wind energy research. If the Secretary determines after such study that the conduct of wind energy research activity will not substantially impair the values of the lands in the area for purposes of this section, the Secretary is further authorized to issue permits for the use of such lands as a site for installation and field testing of an experimental wind turbine generating system. Any permit issued pursuant to this subsection shall contain such terms and conditions as the Secretary determines necessary to protect the values of such lands for purposes of this section.

(f) The Secretary shall develop and administer, in addition to any requirements imposed pursuant to subsection (b) (3) of this section, a program for the reclamation and restoration of all lands affected by quarrying operations in the area acquired pursuant to subsection (d) of this section. All revenues received by the United States in connection with quarrying operations authorized by subsection (b) (3) of this section shall be deposited in a separate fund account which shall be established by the Secretary of the Treasury. Such revenues are hereby authorized to be appropriated to the Secretary as needed for reclamation and restoration of any lands acquired pursuant to subsection (d) of this section. After completion of such reclamation and restoration to the satisfaction of the Secretary, any unexpended revenues in such fund shall be returned to the general fund of the United States Treasury.

(g) There are hereby authorized to be appropriated in addition to that authorized by subsection (f) of this section, such sums as may be necessary to carry out the provisions of this section.

43 U.S.C. 1784. **Lands in Alaska; Bureau of Land Management Land Reviews.** [P.L. 96-487, title XIII, §1320, 1980]

Notwithstanding any other provision of law, section 1782 of the Federal Land Policy and Management Act of 1976 shall not apply to any lands in Alaska. However, in carrying out his duties under sections 1711 and 1712 of this title and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.]. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provisions of law.

43 U.S.C. 1785. **Fossil Forest Research Natural Area**. [P.L. 98-603, title I, §103, 1984; P.L. 104-333, div. I, title X, §1022, 1996]

(a) Establishment. – To conserve and protect natural values and to provide scientific knowledge, education, and interpretation for the benefit of future generations, there is established the Fossil Forest Research Natural Area (referred to in this section as the "Area"), consisting of the approximately 2,770 acres in the Farmington District of the Bureau of Land Management, New Mexico, as generally depicted on a map entitled "Fossil Forest", dated June 1983.

(b) Map and Legal Description. –

(1) In General. – As soon as practicable after the date of enactment of this paragraph [November 12, 1996], the Secretary of the Interior shall file a map and legal description of the Area with the Committee on Energy and Natural Resources of the Senate and the Committee on [P.L. 106-176, 2000] Resources of the House of Representatives.

(2) Force and Effect. – The map and legal description described in paragraph (1) shall have the same force and effect as if included in this Act.

(3) Technical Corrections. – The Secretary of the Interior may correct clerical, typographical, and cartographical errors in the map and legal description subsequent to filing the map pursuant to paragraph (1).

(4) Public Inspection. – The map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior.

(c) Management. –

(1) In General. – The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall manage the Area–

(A) to protect the resources within the Area; and

(B) in accordance with this Act, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable provisions of law.

(2) Mining. –

(A) Withdrawal. – Subject to valid existing rights, the lands within the Area are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

(B) Coal Preference Rights. – The Secretary of the Interior is authorized to issue coal leases in New Mexico in exchange for any preference right coal lease application within the Area. Such exchanges shall be made in accordance with applicable existing laws and regulations relating to coal leases after a determination has been made by the Secretary that the applicant is entitled to a preference right lease and that the exchange is in the public interest.

(C) Oil and Gas Leases. – Operations on oil and gas leases issued prior to the date of enactment of this paragraph [November 12, 1996], shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5-1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of

the natural, educational, and scientific research values of the Area in existence on the date of enactment of this paragraph [November 12, 1996].

(3) Grazing. – Livestock grazing on lands within the Area may not be permitted.

(d) Inventory. – Not later than 3 full fiscal years after the date of enactment of this subsection [November 12, 1996], the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall develop a baseline inventory of all categories of fossil resources within the Area. After the inventory is developed, the Secretary shall conduct monitoring surveys at intervals specified in the management plan developed for the Area in accordance with subsection (e).

(e) Management Plan. –

(1) In General. – Not later than 5 years after the date of enactment of this act [November 12, 1996], the Secretary of the Interior shall develop and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on [P.L. 106-176, 2000] Resources of the House of Representatives a management plan that describes the appropriate use of the Area consistent with this subsection [P.L. 106-176, 2000].

(2) Contents. – The management plan shall include–

(A) a plan for the implementation of a continuing cooperative program with other agencies and groups for–

(i) laboratory and field interpretation; and

(ii) public education about the resources and values of the Area (including vertebrate fossils);

(B) provisions for vehicle management that are consistent with the purpose of the Area and that provide for the use of vehicles to the minimum extent necessary to accomplish an individual scientific project;

(C) procedures for the excavation and collection of fossil remains, including botanical fossils, and the use of motorized and mechanical equipment to the minimum extent necessary to accomplish an individual scientific project; and

(D) mitigation and reclamation standards for activities that disturb the surface to the detriment of scenic and environmental values.

TITLE VII

EFFECT ON EXISTING RIGHTS; REPEAL OF EXISTING LAWS; SEVERABILITY

EFFECT ON EXISTING RIGHTS

Sec. 701. [43 U.S.C. 1701 note] (a) Nothing in this Act, or in any amendment made by this Act, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act.

(b) Notwithstanding any provision of this Act, in the event of conflict with or inconsistency between this Act and the Acts of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a-1181j), and May 24, 1939 (53 Stat. 753), insofar as they relate to management of timber resources, and disposition of revenues from lands and resources, the latter Acts shall prevail.

(c) All withdrawals, reservations, classifications, and designations in effect as of the date of approval of this Act shall remain in full force and effect until modified under the provisions of this Act or other applicable law.

(d) Nothing in this Act, or in any amendments made by this Act, shall be construed as permitting any person to place, or allow to be placed, spent oil shale, overburden, or byproducts from the recovery of other minerals found with oil shale, on any Federal land other than Federal land which has been leased for the recovery of shale oil under the Act of February 25, 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

(e) Nothing in this Act shall be construed as modifying, revoking, or changing any provision of the Alaska Native Claims Settlement Act (85 Stat. 688, as amended; 43 U.S.C. 1601 et seq.).

(f) Nothing in this Act shall be deemed to repeal any existing law by implication.

(g) Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or–

(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on public lands;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two or more States and the Federal Government;

(4) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto;

(5) as modifying the terms of any interstate compact; or

(6) as a limitation upon any State criminal statute or upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties, or as depriving any State or political subdivision thereof of any right it may have to exercise civil and criminal jurisdiction on the national resource lands; or as amending, limiting, or infringing the existing laws providing grants of lands to the States.

(h) All actions by the Secretary concerned under this Act shall be subject to valid existing rights.

(i) The adequacy of reports required by this Act to be submitted to the Congress or its committees shall not be subject to judicial review.

(j) Nothing in this Act shall be construed as affecting the distribution of livestock grazing revenues to local governments under the Granger-Thye Act (64 Stat. 85, 16 U.S.C. 580h), under the

Act of May 23, 1908 (35 Stat. 260, as amended; 16 U.S.C. 500), under the Act of March 4, 1913 (37 Stat. 843, as amended; 16 U.S.C. 501), and under the Act of June 20, 1910 (36 Stat. 557).

REPEAL OF LAWS RELATING TO HOMESTEADING AND SMALL TRACTS

Sec. 702. Effective on and after the date of approval of this Act, the following statutes or parts of statutes are repealed except the effective date shall be on and after the tenth anniversary of the date of approval of this Act insofar as the listed homestead laws apply to public lands in Alaska:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Homesteads:				
Revised Statute 2289				161, 171.
Mar. 3, 1891	561	5	26:1097	161, 162.
Revised Statute 2290				162.
Revised Statute 2295				163.
Revised Statute 2291				164.
June 6, 1912	153		37:123	164, 169, 218
May 14, 1880	89		21:141	166, 185, 202, 223.
June 6, 1900	821		31:683	166, 223.
Aug. 9, 1912	280		37:267	
Apr. 6, 1914	51		38:312	167.
Mar. 1, 1921	90		41:1193	
Oct. 17, 1914	325		38:740	168.
Revised Statute				169.
Mar. 31, 1881	153		21:511	
Oct. 22, 1914	335		38:766	170.
Revised Statute 2292				171.
June 8, 1880	136		21:166	172.
Revised Statute				173.
Mar. 3, 1891	561	6	26:1098	
June 3, 1896	312	2	29:197	
Revised Statute 2288				174.
Mar. 3, 1891	561	3	26:1097	
Mar. 3, 1905	1424		36:991	
Revised Statute 2296				175.
Apr. 28, 1922	155		42:502	
May 17, 1900	479	1	31:179	179.
Jan. 26, 1901	180		31:740	180.
Sept. 5, 1914	294		38:712	182.
Revised Statute 2300				183.
Aug. 31, 1918	166	8	40:957	
Sept. 13, 1918	173		40:960	
Revised Statute 2302				184, 201.
July 26,1892	251		27:270	185.
Feb. 14, 1920	76		41:434	186.
Jan. 21, 1922	32		42:358	
Dec. 28, 1922	19		42:1067	
June 12, 1930	471		46:580	
Feb. 25, 1925	326		43:081	187.
June 21, 1934	690		48:1185	187a.
May 22, 1902	821	2	32:203	187b.
June 5, 1900	716		31:27	188, 217.
Mar. 3, 1875	131	15	18:420	189.
July 4, 1884	180	Only last paragraph of sec. 1.	23: 96	190.
Mar. 1, 1933	160	1	47:1418	190a.

The following words only: "Provided, That no further allotments of lands to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homesteads be made in said county under the Act of July 4, 1884 (23 Stat. 96; U.S.C. title 48, sec. 190)."

Revised Statutes 2310, 2311				191.
June 13, 1902	1080		32:384	203.
Mar. 3, 1879	191		20:472	204.
July 1, 1879	60		21:46	205.
May 6, 1886	88		24:22	206.
Aug. 21, 1916	361		39:518	207.
June 3, 1924	240		43:357	208.
Revised Statute 2298				211.
Aug. 30, 1890	837		26:391	212.

The following words only: "No person who shall after the passage of this act, enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but his limitation shall not operate to curtail

the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry or settlement, is validated by this act:"

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 3, 1891	561	17	26: 1101	

The following words only: "and that the provision of 'An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes,' which reads as follows, viz: ' No person who shall after the passage of this act enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws,' shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not to include lands entered or sought to be entered under mineral land laws."

Apr. 28, 1904	1776		33:527	213.
Aug. 3, 1950	521		64:398	
Mar. 2, 1889	381	6	25:854	214.
Feb. 20, 1917	98		39:925	215.
Mar. 4, 1921	162	1	41:1433	216.
Feb. 19, 1909	160		35:639	218.
June 13, 1912	166		37:132	
Mar. 3, 1915	84		38:953	
Mar. 3, 1915	91		38:957	
Mar. 4, 1915	150	2	38:1163	
July 3, 1916	220		39:344	
Feb. 11, 1913	39		37:666	218, 219.
June 17, 1910	298		36:531	219.
Mar. 3, 1915	91		38:957	
Sept. 5, 1916	440		39:724	
Aug. 10, 1917	52	10	40:275	
Mar. 4, 1915	150	1	38:1162	220.
Mar. 4, 1923	245	1	42:1445	222.
Apr. 28, 1904	1801		33:547	224.
Mar. 2, 1907	2527		34:1224	
May 29, 1908	220	7	35:466	
Aug. 24, 1912	371		37:499	
Aug. 22, 1914	270		38:704	231.
Feb. 25, 1919	21		40:1153	
July 3, 1916	214		39:341	232.
Sept. 29, 1919	64		41:288	233.
Apr. 6, 1922	122		42:491	233, 272, 273.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 2, 1889	381	3	25:854	234.
Dec. 29, 1894	14		28:599	
July 1, 1879	63	1	21:48	235.
Dec. 20, 1917	6		40:430	236.
Jult 24, 1919	126	Next to last paragraph only.	41:271	237.
Mar. 2, 1932	69		47:59	237a.
May 21, 1934	320		48:787	237b.
May 25, 1935	135		49:286	237c.
Aug. 19, 1935	560		49:659	237d.
Mar. 31, 1938	57		52:149	
Apr. 20, 1936	239		49:1235	237e
July 30, 1956	778	1, 2, 4	70:715	237f,g,h.
Mar. 1, 1921	102		41:1202	238.
Apr. 7, 1922	125		42:492	
Revised Statute				239.
June 16, 1898	458		30:473	240.
Aug. 29, 1916	420		39:671	
Apr. 7, 1930	108		46:144	243.
Mar. 3, 1933	198		47:1424	243a.
Mar. 3, 1879	192		20:472	251.
Mar. 2, 1889	381	7	25:855	252.
June 3, 1878	152		20:91	253.
Revised Statute 2294				254.
May 26, 1890	355		26:121	
Mar. 11, 1902	182		32:63	
Mar. 4, 1904	394		33:59	
Feb. 23, 1923	105		42:1281	
Revised Statute 2293				255.
Oct. 6, 1917	86		40:391	
Mar. 4, 1913	149	Only last paragraph of section headed "Public Land Service."	37:925	256.
May 13, 1932	178		47:153	256a.
June 16, 1933	99		48:274	
June 26, 1935	419		49:504	
June 16, 1937	361		50:303	
Aug. 27, 1935	770		49:909	256b.
Sept. 30, 1890	J. Res. 59		26:684	261.
June 16, 1880	244		21:287	263.
Apr. 18, 1904	25		33:589	
Revised Statute 2304				271.
Mar. 1, 1901	674		31:847	271, 272.
Revised Statute 2305				272.
Feb. 25, 1919	37		40:1161	272a.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Dec. 28, 1922	19		42:1067	
Revised Statute 2306				274.
Mar. 3, 1893	208		27:593	275.

The following words only: "And provided further: That where soldier's additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land: but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate."

Aug. 18, 1894	301	Only last paragraph of section headed "Surveying the Public Lands."	28:397	276.
Revised Statute 2309				277.
Revised Statute 2307				278.
Sept. 21, 1922	357		42:990	
Sept. 27, 1944	421		58:747	279-283.
June 25, 1946	474		60:308	279.
May 31, 1947	88		61:123	279, 280, 282.
June 18, 1954	306		68:253	279, 282.
June 3, 1948	399		62:305	283, 284.
Dec. 29, 1916	9	1 - 8	39:862	291-298.
Feb. 28, 1931	328		46:1454	291.
June 9, 1933	53		48:119	291.
June 6, 1924	274		46:469	292.
Oct. 25, 1918	195		40:1016	293.
Sept. 29, 1919	63		41:287	294, 295.
Mar. 4, 1923	245	2	42:1445	302.
Aug. 21, 1916	361		39:518	1075.
Aug. 28, 1937	876	3	50:875	1181c.
2. Small tracts:				
June 1, 1938	317		52:609	682a-e.
June 8, 1954	270		68:239	
July 14, 1945	298		59: 467	

REPEAL OF LAWS RELATED TO DISPOSAL

Sec. 703. (a) Effective on and after the tenth anniversary of the date of approval of this Act, the statutes and parts of statutes listed below as "Alaska Settlement Laws," and effective on and after the date of approval of this Act, the remainder of the following statutes and parts of statutes are hereby repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Sale and Disposal laws:				
Mar. 3, 1891	561	9	26: 1099	671.
Revised Statute 2354				673.
Revised Statute 2355				674.
May 18, 1898	344	2	30:418	675.
Revised Statute 2365				676.
Revised Statute 2357				678.
June 15, 1880	227	3, 4	21:238	679-680.
Mar. 2, 1889	381	4	25:854	681.
Mar. 1, 1907	2286		34:1052	682.
Revised Statute 2361				688.
Revised Statute 2362				689.
Revised Statute 2363				690.
Revised Statute 2368				691.
Revised Statute 2366				692.
Revised Statute 2369				693.
Revised Statute 2370				694.
Revised Statute 2371				695.
Revised Statute 2374				696.
Revised Statute 2372				697.
Feb. 24, 1909	181		35:645	
May 21, 1926	353	The 2 provisos only.	44:591	

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statute 2375				698.
Revised Statute 2376				699.
Mar. 2, 1889	381	1	25:854	700.
2. Townsite Reservation and Sale:				
Revised Statute 2380				711.
Revised Statute 2381				712.
Revised Statute 2382				713.
Aug. 24, 1954	904		68:792	
Revised Statute 2383				714.
Revised Statute 2384				715.
Revised Statute 2386				717.
Revised Statute 2387				718.
Revised Statute 2388				719.
Revised Statute 2389				720.
Revised Statute 2391				721.
Revised Statute 2392				722.
Revised Statute 2393				723.
Revised Statute 2394				724.
Mar. 3, 1877	113	1, 3, 4	19:392	725-727.
Mar. 3, 1891	561	16	26:1101	728.
July 9, 1914	138		38:454	730.
Feb. 9, 1903	531		32:820	731.
3. Drainage Under State Laws:				
May 20, 1908	181	1-7	35:171	1021-1027.
Mar. 3, 1919	113		40:1321	1028.
May 1, 1958	P.L. 85-387		72:99	1029-1034.
Jan. 17, 1920	47		41:392	1041-1048.
4. Abandoned Military Reservation:				
July 5, 1884	214	5	23:104	1074.
Aug. 21, 1916	361		39:518	1075.
Mar. 3, 1893	208		27:593	1076.

The following words only: “Provided, That the President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of any abandoned military reservation not exceeding twenty acres in one place.”

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Aug. 23, 1894	314		23:491	1077, 1078.
Feb. 11, 1903	543		32:822	1079.
Feb. 15, 1895	92		28:664	1080, 1077.
Apr. 23, 1904	1496		33:306	1081.
5. Public Lands; Oklahoma:				
May 2, 1890	182	Last paragraph of sec. 18 and secs. 20, 21, 22, 24, 27.	26:90	1091-1094, 1096, 1097.
Mar. 3, 1891	543	16	26:1026	1098.
Aug. 7, 1946	772	1,2	60:872	1100-1101.
Aug. 3, 1955	498	1-8	69:445	1102-1102g.
May 14, 1890	207		26:109	1111-1117.
Sept. 1, 1893	J. Res. 4		28:11	1118.
May 11, 1896	168	1,2	29:116	1119.
Jan. 18, 1897	62	1-3, 5, 7	29:490	1131-1134.
June 23, 1897	8		30:105	
Mar. 1, 1899	328		30:966	
6. Sales of Isolated Tracts:				
Revised Statute 2455				1171.
Feb. 26, 1895	133		28:687	
June 27, 1906	3554		34:517	
Mar. 28, 1912	67		37:77	
Mar. 9, 1928	164		45:253	
June 28, 1934	865	14	48:1274	
July 30, 1947	383		61:630	
Apr. 24, 1928	428		45:457	1171a.
May 23, 1930	313		46:377	1171b.
Feb. 4, 1919	13		40:1055	1172.
May 10, 1920	178		41:595	1173.
Aug. 11, 1921	62		42:159	1175.
May 19, 1926	337		44:566	1176.
Feb. 14, 1931	170		46:1105	1177.
7. Alaska Special Laws:				
Mar. 3, 1891	561	11	26:1099	732.
May 25, 1926	379		44:629	733-736.
May 29, 1963	P.L. 88-34		77:52	
July 24, 1947	305		61:414	738.
Aug. 17, 1961	P.L.87-147		75:384	270-13.
Oct. 3, 1962	P.L. 87-742		76:740	
July 19, 1963	P.L. 86-66		77:80	687b-5.
May 14, 1898	299	1	30:409	270.
Mar. 3, 1903	1002		32:1028	
Apr. 29, 1950	137	1	64:94	
Aug. 3, 1955	496		69:444	270, 687a-2
Apr. 29, 1950	137	2-5	64:95	270-5, 260-6, 270-7, 687a-1.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
July 11, 1956	571	2	70:529	270-7.
July 8, 1916	228		39:352	270-8, 270-9.
June 28, 1918	110		40:632	270-10, 270-14.
July 11, 1956	571	1	70:528	
8. Alaska Settlement Laws:				
Mar. 8, 1922	96	1	42:415	270-11.
Aug. 23, 1958	P.L. 85-725	1,4	72:730	
Apr. 13, 1926	121		44:243	270-15.
Apr. 29, 1950	134	3	64:93	270-16, 270-17.
May 14, 1898	299	10	30:413	270-4, 687a to 687a-5.
Mar. 3, 1927	323		44:1364	
May 26, 1934	357		48:809	
Aug. 23, 1958	P.L. 85-725	3	72:730	
Mar. 3, 1891	561	13	26:1100	687a-6.
Aug. 30, 1949	521		63:679	687b to 687b-4.
9. Pittman Underground Water Act:				
Sept. 22, 1922	400		42:1012	356.

(c) [43 U.S.C. 270–12, 270–12 note] Effective on and after the tenth anniversary of the date of approval of this Act, section 2 of the Act of March 8, 1922 (42 Stat. 415, 416), as amended by section 2 of the Act of August 23, 1958 (72 Stat. 730), is further amended to read:

"The coal, oil, or gas deposits reserved to the United States in accordance with the Act of March 8, 1922 (42 Stat. 415; 43 U.S.C. 270–11 et seq.), as added to by the Act of August 17, 1961 (75 Stat. 384; 43 U.S.C. 270–13), and amended by the Act of October 3, 1962 (76 Stat. 740; 43 U.S.C. 270–13), shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits or coal, oil, or gas lands in Alaska in force at the time of such disposal. Any person qualified to acquire coal, oil, or gas deposits, or the right to mine or remove the coal or to drill for and remove the oil or gas under the laws of the United States shall have the right at all times to enter upon the lands patented under the Act of March 8, 1922, as amended, and in accordance with the provisions hereof, for the purpose of prospecting for coal, oil, or gas therein, upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal, oil, or gas deposits in any such land, or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof incident to the mining and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove oil and gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided*, That the owner under such limited patent shall have the right to mine the coal for use on the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: *Provided further,* That nothing in this Act shall be construed as authorizing the exploration upon or entry of any coal deposits withdrawn from such exploration and purchase."

(d) Section 3 of the Act of August 30, 1949 (63 Stat. 679; 43 U.S.C. 687b et seq.), [43 U.S.C. 687b-2] is amended to read:

"Notwithstanding the provisions of any Act of Congress to the contrary, any person who prospects for, mines, or removes any minerals from any land disposed of under the Act of August 30, 1949 (63 Stat. 679), shall be liable for any damage that may be caused to the value of the land and tangible improvements thereon by such prospecting for, mining, or removal of minerals. Nothing in this section shall be construed to impair any vested right in existence on August 30, 1949."

REPEAL OF WITHDRAWAL LAWS

Sec. 704. (a) Effective on and after the date of approval of this Act, the implied authority of the President to make withdrawals and reservations resulting from acquiescence of the Congress (U.S. v. Midwest Oil Co., 236 U.S. 459) and the following statutes and parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Oct. 2, 1888	1069		25: 527	662.

Only the following portion under the section headed U.S. Geological Survey: The last sentence of

the paragraph relating to investigation of irrigable lands in the arid region, including the proviso at the end thereof.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 3,1891	561	24	26: 1103	16 U.S.C. 471.
Mar. 1, 1893	183	21	27: 510	33 U.S.C. 681.
Aug. 18, 1894	301	4	28: 422	641.

Only that portion of the first sentence of the second paragraph beginning with "and the Secretary of the Interior" and ending with "shall not be approved."

May 14, 1898	299	10	30: 413	687a-4.

Only the fifth proviso of the first paragraph.

June 17, 1902	1093	3	32: 388	416.

Only that portion of section three preceding the first proviso.

Apr. 16, 1906	1631	1	34: 116	561.

Only the words "withdraw from public entry any lands needed for townsite purposes", and also after the word "case", the word "and."

June 27, 1906	3559	4	34: 520	561.

Only the words "withdraw and."

Mar. 15, 1910	96		36: 237	643.
June 25, 1910	421	1, 2	36: 847	141,142,16 U.S.C. 471(a).

All except the second and third provisos.

June 25, 1914	431	13	36: 858	148.
Mar. 12, 1914	37	1	38: 305	975b.

Only that portion which authorizes the President to withdraw, locate, and dispose of lands for townsites.

Oct. 5, 1914	316	1	38: 727	569(a).
June 9, 1916	137	2	39: 219	

Under "Class One," only the words "withdrawal and."

Dec. 29, 1916	9	10	39:865	300.
June 7, 1924	348	9	43:655	16 U.S.C. 471.
Aug. 19, 1935	561	"Sec. 4"	49:661	22 U.S.C. 277c.

In "Sec. 4," only paragraph "c" except the proviso thereof.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 3, 1927	299	4	44: 1347	25 U.S.C. 389d.

Only the proviso thereof.

May 24, 1928	729	4	45: 729	49 U.S.C. 214.
Dec. 21, 1928	42	9	45: 1063	617h.
Mar. 6, 1946	58		69: 36	617h.

First sentence only.

June 16, 1934	557	"Sec. 40(a)"	48: 977	30 U.S.C. 229a.

The proviso only.

May 1, 1936	254	2	49: 1250	
May 31, 1938	304		52: 593	25 U.S.C. 497.
July 20, 1939	334		53: 1071	16 U.S.C. 471b.
May 28, 1940	220	1	54: 224	16 U.S.C. 552a.

All except the second proviso.

Apr. 11, 1956	203	8	70: 110	620g.

Only the words "and to withdraw public lands from entry or other disposition under the public land laws."

Aug. 10, 1956	Chapter 949	9772	70A: 588	10 U.S.C. 4472, 9772.
Aug. 16, 1952	P.L. 87-590	4	76:389	616c.

Only the words "and to withdraw public lands from entry or other disposition under the public land laws."

(b) The second sentence of the Act of March 6, 1946 (60 Stat. 36; 43 U.S.C. 617(h)), [43 U.S.C. 617h] is amended by deleting "Thereafter, at the direction of the Secretary of the Interior, such lands" and by substituting therefor the following: "Lands found to be practicable of irrigation and reclamation by irrigation works and withdrawn under the Act of March 6, 1946 (43 U.S.C. 617(h))."

REPEAL OF LAW RELATING TO ADMINISTRATION OF PUBLIC LANDS

Sec. 705. (a) Effective on and after the date of approval of this Act, the following statutes or parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1.Mar. 2,1895	174		28:744	176.
2. June 28,1934	865	8	48:1272	315g.
June 26, 1936	842	3	49:1976, title I	
June 19, 1948	548	1	62:533	
July 9, 1962	P.L.87-524		76:140	315g-1.
3.Aug. 24, 1937	744		50:748	315p.
4.Mar. 3, 1909	271	2d proviso only.	35:845	772.
June 25, 1910	J.Res. 40		36:884	
5. June 21, 1934	689		48:1185	871a.
6. Revised Statute 2447				1151.
Revised Statute 2448				1152.
7.June 6, 1874	223		18:62	1153; 1154.
8.Jan. 28, 1879	30		20:274	1155.
9. May 30, 1894	87		28:84	1156.
10. Revised Statute 2471				1191.
Revised Statute 2472				1192.
Revised Statute 2473				1193.
11. July 14, 1960	P.L. 86-649	101-202(a) ,203-204(a), 301-303.	74:506	1361, 1362, 1363-1383.
12. Sept. 26, 1970	P.L. 91-429		84:885	1362a.
13. July 31, 1939	401	1,2	53:1144	

REPEAL OF LAWS RELATING TO RIGHTS-OF-WAY

Sec. 706. (a) Effective on and after the date of approval of this Act, R.S. 2477 (43 U.S.C. 932) is repealed in its entirety and the following statutes or parts of statutes are repealed insofar as they apply to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statute 2339				661.

The following words only: "and the right-of-way for the construction of ditches and canals for the purpose herein specified is acknowledged and confirmed: but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damages shall be liable to the party injured for such injury or damage."

Revised Statute 2340				661.

The following words only: ", or rights to ditches and reservoirs used in connection with such water rights,"

Feb. 26, 1897	335		29: 599	664.
Mar. 3, 1899	427	1	30: 1233	665, 958, (16 U.S.C. 525).

The following words only: "that in the form provided by existing law the Secretary of the Interior may file and approve surveys and plots of any right-of-way for a wagon road, railroad, or other highway over and across any forest reservation or reservoirs site when in his judgment the public interests will not be injuriously affected thereby."

Mar. 3, 1875	152		18:482	934-939.
May 14, 1898	299	2-9	30:409	942-1 to 942-9.
Feb. 27, 1901	614		31:815	943.
June 26, 1906	3548		34:481	944.
Mar. 3, 1891	561	18-21	26:1101	946-949.
Mar. 4, 1917	184	1	39:1197	
May 28, 1926	409		44:668	
Mar. 1, 1921	93		41:1194	950.
Jan. 13, 1897	11		20:484	952-955.
Mar. 3, 1923	219		42:1437	
Jan. 21, 1895	37		28:635	951, 956, 957.
May 14, 1896	179		29:120	
May 11, 1898	292		30:404	
Mar. 4, 1917	184	2	39:1197	
Feb. 15, 1901	372		31:790	959 (16 U.S.C. 79, 522).

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 4, 1911	238		36:1253	951 (16 U.S.C. 5, 420, 523).

Only the last two paragraphs under the subheading "Improvement of the National Forests" under the heading "Forest Service."

May 27, 1952	338		66: 95	
May 21, 1896	212		29: 127	962-965.
Apr. 12, 1910	155		36: 296	966–970.
June 4, 1897	2	1	30: 35	16 U.S.C. 551.

Only the eleventh paragraph under Surveying the public lands.

July 22, 1937	517	31, 32	50:525	7 U.S.C. 1010-1012.
Sept. 3, 1954	1255	1	68:1146	931c.
July 7, 1960	Public Law 86-608.		74:363	40 U.S.C. 345c
Oct. 23, 1962	Public Law 87-852.	1-3	76:1129	40 U.S.C 319-319c.
Feb. 1, 1905	288	4	33:628	16 U.S.C. 524.

(b) Nothing in section 706(a), [43 U.S.C. 1701 note] except as it pertains to rights-of-way, may be construed as affecting the authority of the Secretary of Agriculture under the Act of June 4, 1897 (30 Stat. 35, as amended, 16 U.S.C. 551); the Act of July 22, 1937 (50 Stat. 525, as amended, 7 U.S.C. 1010–1212); or the Act of September 3, 1954 (68 Stat. 1146, 43 U.S.C. 931c).

SEVERABILITY

Sec. 707. If any provision of this Act [43 U.S.C. 1701 note] or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94–1163 accompanying H.R. 13777 (Comm. on Interior and Insular Affairs) and No. 94–1724 (Comm. of Conference).

SENATE REPORT No. 94–583 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976): Feb. 23, 25, considered and passed Senate. July 22, considered and passed House, amended, in lieu of H.R. 13777. Sept. 30, House agreed to conference report. Oct. 1, Senate agreed to conference report.

PL 94-579, 1976 S 507

Remembering Eleanor Schwartz

(1912–2000)

Commemoration of the 25th anniversary of the passage of FLPMA would be incomplete without also celebrating the life and contributions of a woman who helped legislators craft the bill that would fundamentally change the way our public lands are managed. Eleanor Schwartz, who worked with the Bureau of Land Management (BLM) until her death in December 2000 at age 88, was head of the BLM's Office of Legislative and Regulatory Management for many years, including the period during which FLPMA was initially conceived, drafted, and eventually passed.

Schwartz, an attorney who joined the Department of the Interior in 1962, was instrumental in assisting legislators on the technical and legal aspects of the Act. Her work ethic and ability to assimilate into what was then a male-dominated agency paid off when she became the first woman GS-15 in BLM history.

Throughout her tenure at Interior, she remained active in the field of Equal Employment Opportunity, serving as the Federal Women's Coordinator for the BLM. She was honored twice with Interior's highest commendation, the Distinguished Service Award, which recognized, among other accomplishments, her work on the Federal Land Policy and Management Act.

In her passing, the BLM not only lost a devoted worker but also an institutional memory that can not be replaced.

BLM Photo

Eleanor Schwartz receives a Federal Women's Award from Boyd Rasmussen (BLM Director 1966–1971).

A Capsule Examination of the Legislative History of the Federal Land Policy and Management Act of 1976

Eleanor R. Schwartz*

Eleanor Schwartz, A Capsule Examination of the Legislative History of the Federal Land Policy and Management Act (FLPMA) of 1976, 21 ARIZ. L. Rev. 285 (1979). Copyright © 1979 by the Arizona Board of Regents. Reprinted by permission.

The "organic act" originally proposed by the Administration in 1971 for the Bureau of Land Management (BLM) was a relatively simple document.[1] The proposed legislation would have repealed several hundred outdated and duplicative laws, provided BLM with broad policy guidelines and management tools, and given BLM disposal and enforcement authority. However, by the time the Federal Land Policy and Management Act (FLPMA) was passed in 1976, it had become a lengthy, complex document, much more than an organic act.[2] In addition to broad management guidelines and authority, FLPMA provides legislative direction to numerous specific interests and areas of management.

Perhaps in recognition of the importance of the Act, particularly to the western states and because of its complex origins, the Senate Committee on Energy and Natural Resources in 1978 published a committee print, Legislative History of the Federal Land Policy and Management Act of 1976.[3] Prefacing the document is a memorandum in which Senator Henry M. Jackson, Chairman, summarizes for fellow committee members the background and need for the Act. He concludes with this statement:

> The Federal Land Policy and Management Act of 1976 represents a landmark achievement in the management of the public lands of the United States. For the first time in the long history of the public lands, one law provides comprehensive authority and guidelines for the administration and protection of the Federal lands and their resources under the jurisdiction of the Bureau of Land Management. This law enunciates a Federal policy of retention of these lands for multiple use management and repeals many obsolete public land laws which heretofore hindered effective land use planning for and management of public lands. The policies contained in the Federal Land Policy and Management Act will shape the future development and conservation of a valuable national asset, our public lands.[4]

Much has been written about the significance of the Federal Land Policy and Management Act, its meaning and impact, and its relationship to the report, *One Third of the Nation's Land*, issued in June 1970 by the Public Land Law Review Commission. This Article will discuss briefly the legislative history of the policies and provisions set forth in the Act.

Curiously, recreation was the subject of the first piece of public land legislation that might be considered a predecessor of FLPMA. In February 1970, Senators Jackson and Moss introduced into the 91st Congress a bill designed to improve outdoor recreation activities on the public lands administered by the Bureau of Land Management. The bill, S.3389, was passed by the Senate on

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* Chief, Office of Legislation and Regulatory Management, Bureau of Land Management, Department of the Interior. B.A. 1931, Hunter College; J.D. 1937, New York University. Member of the New York Bar.

1. *See* S. 2401, 92d Cong., 1st Sess., 117 CONG. REC. 28956, 28957 (1971).
2. *See* 43 U.S. C. __ 1701-1782 (9176).
3. SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES, 95TH CONG., 2D SESS., LEGISLATIVE HISTORY OF THE FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976 (1978).
4. *Id*. at vi.

October 7, 1970,[5] about four months after the report by the Public Land Law Review Commission was released. The Senate committee's report on S.3389 acknowledged that the bill embodied some of the recommendations made by the Public Land Law Review Commission. The report identified needs of the public lands and shortcomings of management:

> Years of neglect have created many problems on the public lands administered by the Bureau of Land Management. Lack of regulations and enforcement authority have resulted in wanton vandalism and destruction of resources. Lack of sanitation facilities has created health hazards. Littering, overuse, and neglect have created unsightly blights on the landscape. Lack of public access has locked up millions of acres of public land for the private use of but a few, and many outstanding hunting, fishing, and other recreation opportunities are not available. As a result of the lack of enforcement authority and interpretive and restoration work, irreplaceable archeological values have been lost.[6]

S. 3389 recognized that the public lands administered by BLM are vital national assets that contain a wide variety of natural resource values, including outdoor recreation value, which should be developed and administered "for multiple use and sustained yield of the several products obtainable therefrom for the maximum benefit of the general public."[7] The bill contained a definition of multiple use,[8] which in substantial parts is the same as the definition in FLPMA,[9] and a definition of sustained yield[10] also similar to that in FLPMA.[11]

S. 3389 would have given the Secretary of the Interior the authority to acquire lands or interests necessary to provide access by the general public to public lands for outdoor recreational purposes. It also would have authorized allocation of Land and Water Conservation Fund money for this purpose.[12] Of more interest perhaps is the fact that S. 3389 would have provided comprehensive enforcement authority to the Bureau of Land Management. It made violations of public land laws and regulations of the Secretary relating to the protection of the public lands a violation punishable by a fine of not more than $500 or imprisonment for not more than six months or both.[13] It also provided that the Secretary could authorize BLM personnel to make arrests for violations of laws and regulations.[14]

No action was taken on S. 3389 by the House of Representatives.

In the 92d Congress, the Interior and Insular Affairs Committees of both the House and the Senate reported out bills relating to the management of the public lands. The Senate committee had before it two bills: Senators Jackson, Anderson, Cranston, Hart, Humphrey, Magnuson, Metcalf, and Nelson co-sponsored a bill, S. 921, "[t]o provide for the management, protection, and development of the national resource lands, and for other purposes."[15] At the same time, Senators Jackson and Allott co-sponsored at the Administration's request S. 2401 "[to provide for the management, protection and development of the national resource lands, and for other purposes."[16]

As its title indicated, S. 921 addressed not only the management of the public lands but also the disposal of federally owned minerals. Title II of

5. S. 3389, 91st Cong., 2d Sess., 116 CONG. REC. 35401 (1970).
6. S. REP. No. 91-1256, 91st Cong., 2d Sess. 2 (1970).
7. S. 3389, 91st Cong., 2d Sess. § 2, 116 CONG. REC. 35401 (1970).
8. *Id* § 3(b), 116 CONG. REC. at 35402.
9. 43 U.S. C. § 1702(c) (1976).
10. S. 3389, 91st Cong., 2d Sess § 3(c), 116 CONG. REC. 35401, 35402 (1970).
11. 43 U.S.C. § 1702(h) (1976).
12. S. 3389, 91st Cong., 2d Sess § 4(b), 116 CONG. REC. 35401, 35402 (1970).
13. *Id*. § 5, 116 CONG. REC. at 35402.
14. *Id*. § 6, 116 CONG. REC. at 35402.
15. S. 921, 92d Cong., 1st Sess., 117 CONG. REC. 3558-61 (1971).
16. S. 2401, 92d Cong., 1st Sess., 117 CONG. REC. 28956 (1971). S. 2401 referred to the lands administered by the Bureau of Land Management as "national resource lands." This term was being used at the time by the Bureau and the Department of the Interior in an effort to establish a more representative and mission-oriented identification for the lands than the less specific expression "public lands."

that bill would have been cited as the "Federal Land Mineral Leasing Act of 1971." It would have replaced and repealed both the Mining Law of 1872 and the Mineral Leasing Act of 1920, as well as several other mineral-related laws. Since S. 2401 was the Administration's proposal, it will be described in somewhat more detail than other forerunners of FLPMA. This fuller analysis will afford a basis for comparison between what the Administration sought as an organic act for the Bureau of Land Management and what Congress finally enacted.

S. 2401 had a short two-paragraph declaration of Congressional policy: (1) that the national interest would best be served by retaining the national resource lands in federal ownership except where the Secretary of the Interior determined that disposal of particular tracts was consistent with the purposes, terms, and conditions of the Act, and (2) that the lands be managed under principles of multiple use and sustained yield in a manner which would, "using all practicable means and measures," protect the environmental quality of those lands to assure their continued value for present and future generations.[17]

The bill prohibited the use, occupancy, or development of the national resource lands contrary to any regulation issued by the Secretary or to any order issued under a regulation.[18] S. 2401 also specified that an inventory of all national resource lands and their resources be maintained and that priority be given to areas of critical environmental concern.[19] Development and maintenance of land use plans would be required and management of the lands would be in accordance with these plans. Specific guidelines were provided. These included, among others, a requirement for land reclamation as a condition of use and revocation of permits upon violation of secretarial regulations or state and federal air or water quality standards and implementation plans. Also included was a requirement for prompt development of regulations for the protection of areas of critical environmental concern.[20]

Another provision of S. 2401 authorized the Secretary to sell public lands if he found that the sale would lead to significant improvement in the management of national resource lands or if he found that it would serve important public objectives which could not be achieved prudently and feasibly on land other than national resource lands. Sales were to be made at not less than fair market value.[21] Generally, conveyances of title were to reserve minerals to the United States, together with the right to develop them. However, the Secretary could grant full fee title if he found there were no minerals on the land or that reservation of mineral rights would interfere with or preclude development of the land and that such development was a more beneficial use of the land than mineral development. The Secretary would also have been required to insert in document of conveyance terms and conditions he considered necessary to ensure proper land use, environmental integrity, and protection of the public interest. In the event an area which the Secretary identified as an area of critical environmental concern was conveyed out of federal ownership, the Secretary would be required to provide for the continued protection of the area in the patent or other document of conveyance.[22] Liberal acquisition and exchange authority was provided by the bill.[23]

S. 2401, as introduced, would have made violations of regulations adopted to protect national resource lands, other public property and public health, safety and welfare a misdemeanor punishable by a fine of not more than $10,000 or imprisonment for not more than one year or both. It would have allowed the Secretary to designate employees as special officers authorized to make arrests or serve citations for violations committed on the public lands.[24] The bill also provided for

17. S. 2401, 92d Cong., 1st Sess., § 3 (1971).
18. *Id.* § 4.
19. *Id.* § 5.
20. *Id.* § 7.
21. *Id.* § 8.
22. *Id.* § 9.
23. *Id.* § 10.
24. *Id.* § 11.

public hearings, where appropriate, to give federal, state, and local governments and the public an opportunity to comment on "the formulation of standards and criteria in the preparation and execution of plans and programs and in the management of the national resource lands."[25] It specifically required that any proposed "significant change in land use plans and regulations pertaining to areas of critical environmental concern be the subject of a public hearing."[26] Finally, the bill authorized the appropriation of such sums "as are necessary to carry out the purposes of this Act"[27] and repealed a long list of prior laws.[28]

As reported out by the Senate Committee on Interior and Insular Affairs, S. 2401 contained a few significant changes and additions. Specific examples of areas of critical environmental concern were deleted, leaving only a short definition of the term. The statement of congressional policy was expanded, and the fine for violation of a regulation was reduced to $1,000. There was a requirement that the Director of the Bureau of Land Management be appointed by the President, with the advice and consent of the Senate. The Director would have to possess a broad background and experience in public land and natural resources management.[29] There was no provision for repeal of any public land laws.[30]

Eight members voted for and four against reporting S. 2401 out of the Senate Committee on Interior and Insular Affairs. The minority statement of Senators Hansen, Fannin, Hatfield, and Bellmon expressed agreement with the comment of President Nixon in his 1972 Environmental Message that this type of legislation was "something which we have been without for too long."[31] However, these Senators felt that the legislation had been the subject of too little discussion by the Committee. They noted that the bill granted broad authority to the Secretary of the Interior, but just how broad this authority was had never been discussed. Their view was that the legislation was too important to deal with in a hasty manner, and that the Committee should have the opportunity to study and analyze the legislation during the next session of Congress.[32] As a matter of fact, the Committee studied, discussed, and analyzed the legislation for two more Congresses before an organic act was enacted into law. The full Senate did not consider S. 2401 in the 92d Congress. As will be seen, many provisions of S. 2401 considered by the 92d Congress were enacted in the Federal Land Policy and Management Act of 1976, sometimes with only subtle changes or differences in emphasis.

The Interior and Insular Affairs Committee of the House of Representatives followed a different approach in the 92d Congress. That committee did not consider the Administration proposal but considered and reported out instead H.R. 7211,[33] a bill that had been introduced by Chairman Wayne Aspinall on behalf of himself and Congressmen Baring, Taylor, Udall, and Kyl. Although as introduced, H.R. 7211 would have been cited as the "Public Land Policy Act of 1971," when it was reported out its title was changed to "National Land Policy, Planning, and Management Act of 1972." The reported bill was a comprehensive piece of legislation designed to reflect as many as possible of the policies and recommendations of the Public Land Law Review Commission.[34] Included was an extensive statement of findings, goals, and objectives.[35]

The stated objective of H.R. 7211 was to provide for an overall land use planning effort on the part of all public land management agencies and to

25. *Id.*
26. *Id.* § 15.
27. *Id.* § 18.
28. *Id* § 19.
29. *Id*
30. S. REP. No. 92-1163, 92d Cong., 2d Sess. § 19, at 5 (1972).
31. *Id.* at 51.
32. *Id.*
33. H.R. 7211, 92d Cong., 2d Sess., 118 CONG. REC. 27179 (1972).
34. *See* PUBLIC LAND LAW REVIEW COMMISSION, ONE THIRD OF THE NATION'S LAND (1970).
35. H. R. 7211, 92d Cong., 2d Sess. § 101, 118 CONG. REC. 27179 (1972).

strengthen management by providing statutory guidelines applicable to all agencies having jurisdiction over the public lands. The goal was management practices that would be more uniform, more easily administered, and more easily understood by the public.[36] Title II of the bill, "National Land Use Planning," provided for federal grants to eligible states to be used in developing comprehensive land use planning. The bill contained detailed descriptions of the requirements to be met, specific provision as to how and for what the funds allotted could be expended, specifications for financial record keeping, and provisions for termination or suspension of the grants if the Secretary found that the state's comprehensive land use planning process no longer met the requirements of the bill or that the state was making no substantial progress toward the development of a comprehensive land use planning process.[37]

Title III of H.R. 7211 addressed "Coordination of Land Use Planning and Policy." It would have established within the Department of the Interior an Office of Land Use Policy and Planning to administer the grant-in-aid program under Title II and to coordinate between Title II programs with the planning responsibilities of the federal government spelled out in Title IV. The Committee report on H.R. 7211 stated: "To insure the absence of any mission-orientation in such administration and coordination, the Office is separate from any existing bureau or agency in the Department."[38] The bill as reported out of Committee also would have established a complex advisory system that included a National Land Use Policy and Planning Board,[39] land use policy coordinators appointed by the Board members,[40] Departmental Advisory Committees,[41] and local advisory councils.[42]

Title IV of H.R. 7211 was "Public Land Policy and Planning." The term "public lands" was defined as "any lands owned by the United States without regard to how the United States acquired ownership, and without regard to the agency having responsibility for management thereof."[43] Excluded were lands held in trust for the Indians, Aleuts, and Eskimos and certain lands acquired by the General Services Administration and other federal agencies.[44] Thus, the coverage of H.R. 7211 was far broader than had been proposed in any other of the public land bills before the Congress. Because many of the lands encompassed by its definition were covered by existing statutes, the bill declared specifically that the policies therein were supplemental to and not in derogation of the purposes for which units of the National Park System, National Forest System, and National Wildlife Refuge System were established and administered and for which public lands were administered by departments other than Agriculture and the Interior in the fulfillment of their statutory obligations.[45]

Title IV of H.R. 7211 contained sixteen declarations of policy that were based generally on recommendations of the Public Land Law Review Commission. The House Committee in its report recognized that each of the declarations would require additional legislative and administrative action.[46] An anticipated five to ten years would be required for the Congress to consider all the recommendations of the Commission and to develop the specific and detailed statutory language necessary to implement the recommendations that Congress agreed to. H.R. 7211 was designed to establish a "policy framework" within which the legislation to implement each policy could be

36. H.R. REP. No. 1306, 92d Cong., 2d Sess. 39 (1972).
37. H.R. 7211, 92d Cong., 2d Sess. tit. II, 118 CONG. REC. 27179 (1972).
38. H.R. REP. No. 92-1306, 92d Cong., 2d Sess. 30 (1972).
39. H.R. 7211, 92d Cong., 1st Sess. § 303, 118 CONG. REC. 27179 (1972).
40. *Id.* § 304, 118 CONG. REC. at 27179.
41. *Id.* § 306, 118 CONG. REC. at 27179.
42. *Id.* § 307, 118 CONG. REC. at 27179.
43. *Id.* § 503(n), 118 CONG. REC. at 27179.
44. *Id.* § 503(n)(3), 118 CONG. REC. at 27179.
45. *Id.* § 401, 118 CONG. REC. at 27179.
46. H.R. REP. No. 92-1306, 92d Cong., 2d Sess. 35 (1972).

contained, so that future congressional action could be on a coordinated basis.[47]

The sixteen statements of policy are interesting as a reflection of the recommendations of the Public Land Law Review Commission and in the light of the legislation finally enacted by Congress. Stated briefly, as they appear in the report of the House Committee, these recommended policies are:

(1) Public lands generally be retained in federal ownership;

(2) public land classifications be reviewed to determine the type of use that will provide maximum benefit for the general public in accordance with overall land use planning goals;

(3) Executive withdrawals be reviewed to ascertain if they are of sufficient extent, adequately protected from encroachment, and in accordance with the overall land use planning goals of the Act, with a view toward securing a permanent statutory base for units of the National Park, Forest, and Wildlife Refuge Systems;

(4) Congress exercise withdrawal authority generally and establish specific guidelines for limited Executive withdrawals;

(5) public land management agencies be required to establish and adhere to administrative procedures;

(6) statutory land use planning guidelines be established providing for management of the public lands generally on the basis of multiple use and sustained yield;

(7) public lands be managed for protection of quality of scientific, scenic, historical, ecological, and archeological values; for preservation and protection of certain lands in their natural conditions; to reconcile competing demands; to provide habitat for fish and wildlife; and to provide for outdoor recreation;

(8) fair market value generally be received for the use of the public lands and their resources;

(9) equitable compensation be provided to users if use is interrupted prior to the end of the period for which use is permitted;

(10) an equitable system be devised to compensate state and local governments for burdens borne by reason of the tax immunity of the federal land;

(11) when public lands are managed to accomplish objectives unrelated to protection or development of public lands, the purpose and authority therefore be provided expressly by statute; Scope

(12) administration of public land programs by various agencies be similar; Consistancy

(13) uniform procedures for disposal, acquisition, and exchange be established by statute;

(14) regulations for protection of areas of critical environmental concern be developed; and that authorizations for use of the public lands provide for revocation upon violation of applicable regulations;

(15) persons engaging in extractive or other activities "likely to entail significant disturbance" be required to have a land reclamation plan and a performance bond guaranteeing such reclamation; and

(16) the public lands be administered uniformly as to use and contractual liability conditions, except when otherwise provided by law.[48]

In addition to the extensive declaration of policy, Title IV of H.R. 7211 contained provisions relating to inventory, planning, public land use, management directives, and executive withdrawals. The bill also provided enforcement authority to land managing agencies and made violations of regulations issued by an agency head with reference to public lands administered by him punishable by fine or imprisonment or both. Title V of H.R. 7211 contained appropriation authorization, the repeal of many prior public land laws, and a series of definitions of terms used.

Time did not permit consideration of H.R. 7211 by the full House before the 92d Congress ended.

47. *See id.* at 36.
48. *Id.* at 36-39.

Local Government retains a zoning and notification interest, exhibing local control and authority.

In the 93d Congress, the Senate had before it S. 424,[49] which Senator Jackson introduced on behalf of himself and Senators Bennett, Church, Gurney, Haskell, Humphrey, Inouye, Metcalf, Moss, Pastore, and Tunney. The Senate also had the Administration's proposal, S. 1041.[50] On July 8, 1974, S. 424 was passed by the Senate by a vote of 71 to 1, with 28 members not voting.[51] S. 424, with very few changes, was reintroduced in the 94th Congress as S. 507.[52] The new bill applied only to national resource lands—those lands administered by the Bureau of Land Management except the Outer Continental Shelf.

S. 507 contained these basic provisions relating to land management:

(1) management of the national resource lands under principles of multiple use and sustained yield;

(2) a return of fair market value to the federal government for the use or sale of lands;

(3) inventory;

(4) emphasis on planning;

(5) authority to issue regulations;

(6) public participation;

(7) advisory boards;

(8) annual reports;

(9) general management authority with specific guidelines;

(10) sales authority;

(11) expanded exchange authority;

(12) authority to convey reserved mineral interests;

(13) reenactment of the Public Land Administration Act of 1960 to put all land managing authorities into one statute;

(14) authority to issue recordable disclaimers of interest and to issue and correct patents;

(15) to afford an opportunity to zone or otherwise regulate the use of land, a requirement to notify states and local governmental units with zoning authority of any proposal to convey lands;

(16) authority to acquire land;

(17) creation of a working capital fund;

(18) enforcement authority;

(19) authority in the Secretary to cooperate with state and local governments in the enforcement of state and local laws on national resource lands;

(20) special provisions for cadastral survey operations and resource protection;

(21) special provisions for long-range planning for the "California Desert Area";

(22) provisions for oil shale revenues;

(23) a complete consolidation and revision of the authority to grant rights-of-way; and

(24) repeal of disposal, rights-of-way, and other statutes which this law was replacing.

S. 507, as passed by the Senate in the 94th Congress on February 25, 1976,[53] had these additional provisions that were not in S. 424 in the 93d Congress:

(1) provisions for disposal of "omitted" lands;

(2) amendments to the Mineral Leasing Act of 1920 to increase the percentage of revenues paid to states;

(3) provision for mineral impact relief loans; and

(4) provisions for recordation of mining claims and a conclusive presumption that any recorded claim for which the claimant did not make application for a patent within ten years after recordation is abandoned and therefor void.

There were two points of particular interest in the Senate floor debate on S. 507. The first point involved an amendment by Senator McClure that would have deleted from the provisions relating to

49. S. 424, 93d Cong., 1st Sess., 119 CONG. REC. 1339 (1973).
50. S. 1041, 93d Cong., 1st Sess., 119 CONG. REC. 5741 (1973).
51. 120 CONG. REC. 22296 (1974).
52. S. 507, 94th Cong., 1st Sess., 121 CONG. REC. 1821 (1975).
53. 122 CONG. REC. 4423 (1976).

mining claims the requirement that application for patents for mining claims be made within ten years.[54] The second point of particular interest involved grazing fees. Senator Hansen introduced an amendment that incorporated a formula for establishing a fee for grazing of domestic livestock on the public lands. The issue was vigorously debated on February 23 and again on the 25th. The grazing fee was opposed by Senators Jackson and Metcalf and by the National Wildlife Federation and the American Forestry Association, all of whose letters of opposition appear in the Congressional Record.[55] The amendment was also opposed by the Administration and eventually was rejected 36 to 53.[56] On February 25, after this amendment was rejected, S. 507 was passed by the Senate 78 to 11, with 11 members not voting.[57]

During the 93d and 94th Congresses, the Interior and Insular Affairs Committee of the House of Representatives was taking a different approach to public land legislation. Under the leadership of Representative John Melcher as Chairman, the Subcommittee on Public Lands held a series of meetings during which the members discussed and debated what they believed should be included in a bill. The Committee staff put proposed provisions into legislative language as the sessions went along. Committee prints were prepared and circulated for comment. By the end of the 93d Congress, eight prints had been prepared. Congressman John Dellenback had prepared a series of correcting amendments to the last print, but Congress adjourned before all the amendments could be incorporated into a bill. Two bills were actually introduced – H.R. 16676 and then H.R. 16800, a clean bill which corrected some errors discovered in the earlier bill.

During the 94th Congress, the Public Lands Subcommittee of the House Interior Committee conducted additional work sessions that culminated in the introduction of H.R. 13777.[58] This bill as reported out by the Committee not only granted management and enforcement authorities to the Bureau for public lands under its jurisdiction but also applied to public domain lands in the National Forest System. Some of the provisions relating to the Forest Service System were deleted when the bill was debated on the floor of the House. Passed by the House on July 22, 1976,[59] H.R. 13777 contained all the now familiar provisions of previous bills plus many new ones. The new provisions included:

(1) a grazing fee formula applicable to BLM-administered lands and lands in the National Forest System;

(2) provisions relating to duration of grazing leases applicable to BLM and National Forest System lands;

(3) requirements for grazing advisory boards, applicable to both BLM and Forest Service;

(4) provisions relating to wild horses and burros, also applicable to both BLM and Forest Service;

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54. Senator Haskell and Senator McClure debated the issue briefly. On the calling of the question, Senator Haskell noted the absence of a quorum. This led Senator McClure to withdraw his amendment saying:

> Mr. President, I know that the Senate as a whole will probably follow the lead of the committee. If we have a roll call on this, I would anticipate that the majority of them walking through these doors would never have heard of this question before and would be very apt to follow the lead of the committee under those circumstances. Under those circumstances, I think it is likely that the result can be forecast.
>
> In the expectation that this matter might be considered somewhat differently in the other body and with the full confidence that we can move forward on a comprehensive bill, perhaps before this bill has been passed and becomes law, I am suggesting, therefore, it might be varied by subsequent legislation or conference between the Senate and the other body on the Organic Act, and I will withdraw the amendment at this time.

112 CONG. REC. 4053 (1976). As Senator McClure anticipated, the provision was not in S. 507 as it passed the House. The conferees did not adopt the provision, and it is not in the Act.

55. 122 CONG. REC. 4419 (1976).

56. *Id*. at 4422.

57. *Id*. at 4423.

58. H.R. 13777, 94th Cong., 2d Sess., 122 CONG. REC. 13815 (1976).

59. 122 CONG. REC. 23483 (1976).

(5) amendment of what is frequently called the Unintentional Trespass Act;[60]

(6) provisions relating to the "California Desert Conservation Areas;" and

(7) the "King Range National Conservation Areas."[61] After the House passed H.R. 13777, S. 507 was considered, amended to read as H.R. 13777 did, and passed.[62]

As expected, the Senate disagreed to the amendments of the House and requested a conference. On July 30, 1976, Senate conferees were appointed: Jackson, Church, Metcalf, Johnston, Haskell, Bumpers, Hansen, Hatfield, and Fannin. Senator Fannin was replaced later by Senator McClure. Conferees from the House were Representatives Melcher, Johnson (California), Seiberling, Udall, Phillip Burton, Santini, Weaver, Steiger (Arizona), Clausen and Young (Alaska). At an organizational meeting held on August 30, 1976, Congressman Melcher was elected chairman. The conferees determined that because of all the primaries scheduled for early September, the first working session of the conferees could not be held until September 15. Staff were instructed to study the Senate and House versions of S. 407, identify areas of virtual agreement, outline areas of disagreement, and recommend alternatives for resolving those areas of disagreement.

The first difference in text addressed by the conferees was the short title of the Act. The title of the House amendment was "Federal Land Policy and Management Act of 1976." The title of the Senate amendment was "National Resource Lands Management Act." The Senate staff deferred to the House staff on the title, and the conferees concurred. The second issue involved the term to be used in referring to lands administered by the Bureau of Land Management. The conferees adopted the term used by the House—public lands—although they recognized, as the staff pointed out, that in the past that had been a confusing term, referring sometimes to public domain lands and other times to acquired lands. And so it went. During four sessions, on September 15, 20, 21, and 22 and spanning more than twelve hours, the conferees had extensive discussions but relatively little problem agreeing to language to be incorporated into the Act—with four major exceptions. These exceptions almost killed the Act.

The House version of the Act contained a grazing fee formula and a provision for ten-year grazing permits.[63] It also provided for grazing district advisory boards, as distinct from the multiple use advisory councils.[64] The Senate conferees, particularly Senator Metcalf, objected to these provisions. The Senate version of the Act contained a provision that required mining claimants to make application for patent within ten years after the date of recordation of the claim. If the claimant failed to do so, the claim would be conclusively presumed to be abandoned and would be void.[65] The House conferees, particularly Congressman Santini, objected to this.

These issues of grazing and mining were debated extensively on September 22nd. Before the end of that five-hour session, Senator Metcalf offered a "package compromise."[66] The proposed compromise required:

(1) that the grazing fee provisions be deleted from the bill—in effect that the House would accede to the Senate on Section 401;

(2) that the Senate agree with the House on the already adopted Metcalf/Santini amendment that all grazing leases be for ten years;

(3) that the conferees accept the grazing advisory boards with their functions limited to expenditure of range improvement fees;[67] and

60. 43 U.S. C. __ 1431-1435 (1976).
61. These add-ons have sometimes been called the "Christmas-tree amendments."
62. 122 CONG. REC. 23508 (1976).
63. H.R. 13777, 94th Cong., 1st Sess. __ 210, 211, 122 CONG. REC. 23447-48 (1976).
64. *Id* § 212, 122 CONG. REC. at 23448.
65. S. 507, 94th Cong., 1st Sess., § 207, 122 CONG. REC. 23497 (1976).
66. The proposal actually was brought to the conferees by D. Michael Harvey, Staff Counsel, because Senator Metcalf was at a meeting of the Committee on Committees.
67. Mr. Harvey noted that this was as far as Senator Metcalf would go on an individual basis, but as part of the package he would add to the functions of the grazing advisory boards the development of the management allotment plans.

(4) with respect to the Senate language on mining claims, that the language be applicable only to mining claims filed after enactment of the Act, not pre-existing claims.

The conferees could not agree on the compromise that day but did agree to meet again on September 23rd just in advance of the Conference on the National Forest Management Act of 1976 that was due to start at 1:30 p.m. Several of the conferees on S. 507 were also on the Forest Act conference. The conferees convened at 1:10 p.m. on September 23rd. Congressman Santini offered a substitute compromise that would knock out advisory boards, have five-year leases in return for keeping grazing fees, and knock out the patent provisions. Senator Metcalf countered with a proposal to accept the first three amendments he had offered and knock out the Senate language on mining. This was rejected by the Senate conferees and at 1:20 p.m., the Conference was adjourned by Chairman Melcher who said he saw no point in prolonging the meeting. For the moment, hopes dimmed for passage of an Organic Act for the Bureau of Land Management. The 94th Congress was in its last-minute rush before adjournment. But as with many pieces of landmark legislation, a compromise was reached at the eleventh hour, reportedly as a result of behind-the-scenes lobbying by interested private parties.[68]

On September 28, Congressman Melcher made a last minute effort to reach a compromise and get a public land management act in the 94th Congress. He called a meeting of the Conference Committee to commence at 5:30 p.m. that evening. The meeting was held in a very small room in the Congress. Very few persons, other than conferees and staff, were permitted in the room. Dozens of interested persons filled the halls and corridors leading to the meeting room. Within a few minutes of coming together, the conferees took a thirty-minute break.

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68. The struggle to achieve an acceptable middle ground was reported in the October 7, 1976, issue of *Public Land News: How the BLM Organic Act came back from the grave in five days*

The final, fateful meeting of the House-Senate conference committee that revived the BLM Organic Act pitted two unyielding antagonists—Sen. Lee Metcalf (D-Mont.) And Rep. James Santini (D-Nev.).

Simply put, Santini wanted a statutory grazing fee he co-authored to stay in the bill. Metcalf didn't.

So, on September 23, the conference deadlocked over the grazing fee when the House refused by a 5-5 vote to give up the provision. At the same time, the Senate conferees refused to allow the grazing fee to stay in. The bill was effectively dead for 1976 . . . or so the conferees said.

The deadlock began to give way the following day when the mining industry, principally the American Mining Congress, realized the Senate would give up its provision on requiring patent in 10 years. But only if the House dropped the grazing fee. The mining industry abhors the patent requirement.

So, the mining industry started pressuring the ranching industry to ask its Congressional allies to yield on the grazing fee, said sources in the cattle industry.

And Rep. John Melcher (D-Mont.)—chief sponsor of the House bill, candidate for the U.S. Senate—continued to push for a further compromise.

Pressure was applied primarily to Reps. Don Young (R-Alaska) and Don Clausen (R-Calif.), *PLNews* sources said.

Then on Tuesday morning (September 28) a meeting was held among the House supporters of the statutory grazing fee. They decided to yield on the grazing fee, reasoning that a freeze was better than no bill at all.

With that a meeting of the full conference was held in room S 224 of the Capitol at 5:30 p.m, just minutes after a compromise timber management bill had been hammered out in conference down the hall.

The last BLM conference, with only a half dozen attendees other than Congressmen and their staff, started badly. Metcalf and Santini, almost shouting at times, argued forcefully that each had already compromised too much. But Santini eventually offered a compromise on the grazing fee. It called for a statutory grazing fee for two years while a study was conducted. The Senate conferees refused to even consider it.

Then Clausen offered a compromise calling for freezing the present grazing fee, developed administratively by BLM and the Forest Service, for two years while a study was conducted. Again, the Senate refused to consider it.

Then the conferees, with no one in particular sponsoring it, agreed to consider a one-year freeze with study. Santini asked for and received a 30-minute break.

During the break, *PLNews* talked to representatives of the American National Cattlemen's Association and the Public Lands Council. They said, resignedly, the one-year freeze plus study was the most they could hope for, given the Senate conferees adamant opposition to anything else.

Finally, at 7 p.m. on September 28, the conferees reassembled and Melcher asked for a show of hands from the House members. He, Rep. James Johnson (R-Colo.), Rep. Harold T. Johnson (D- Calif.), Clausen, and Santini voted for the compromise. Melcher said Reps. Mo Udall (D-Ariz.), Jim Weaver (D-Ore.), and John Seiberling (D-Ohio) also would have agreed to the compromise if they had been present.

Word spread among the assembled crowd that the meeting was going badly. However, when the conferees reassembled at 7 p.m., those present voted almost immediately for the compromise that had been suggested earlier. The conferees and staff walked quickly out of the conference room. As they made their way down the corridor, they received the quiet congratulations of the very interested group of people who had waited to hear the final outcome of the session.

In keeping with its somewhat stormy and cliff-hanger history, the conference report was passed by the House on September thirtieth, and by the Senate on October first, just hours before the 94th session ended. The Act was signed by the President on October 21, 1976, and became Public Law 94-579, 90 Stat. 2743.

The Senate members present—Metcalf, Floyd Haskell (D-Colo.), and Frank Church (D-ID)—also agreed without a formal vote.

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Terry D'Erchia, Chief (303-236-6547)

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Lee Barkow, Director
National Science & Technology Center
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Denver, Colorado 80225-0047

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