The original documents are located in Box 68, folder "10/21/76 S507 National Land Policy and Management Act of 1976 (2)" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94-1163

ESTABLISHING PUBLIC LAND POLICY; ESTABLISHING GUIDELINES FOR ITS ADMINISTRATION; PROVIDING FOR THE MANAGEMENT, PROTECTION, DEVELOPMENT, AND ENHANCEMENT OF THE PUBLIC LANDS; AND FOR OTHER PURPOSES

MAY 15, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. HALEY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

together with

SEPARATE, SUPPLEMENTAL, AND DISSENTING VIEWS

[To accompany H.R. 13777]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 13777) 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, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

From the beginnings of the Republic, the public lands have played a key role in the development of the economy and institutions of the United States. In directing the role that the public lands have played, the Congress has enacted thousands of public land laws. More than 3,000 remain on the books today. These laws represented and effectuated Congressional policies needed when they were passed. Many of them are still viable and applicable today under present conditions. However, in many instances they are obsolete and, in total, do not add up to a coherent expression of Congressional policies adequate for today's national goals.

The Executive Branch of the Government has tended to fill in missing gaps in the law, not always in a manner consistent with a system balanced in the best interests of all the people. A major weakness which has arisen under these circumstances is instability of national policies.

50-061

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94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94–1724

PROVIDING FOR THE MANAGEMENT, PROTECTION, AND DEVELOPMENT OF THE NATIONAL RESOURCE LANDS, AND OTHER PURPOSES

SEPTEMBER 29, 1976.—Ordered to be printed

Mr. MELCHER, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 507]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

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57–006 O

TITLE I—SHORT TITLE, DECLARATION OF POLICY, AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "Federal Land Policy and Management Act of 1976".

DECLARATION OF POLICY

SEC. 102. (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 decisionmaking;

(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 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 stautory 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. 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 non-renewable 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 rulemaking, decisionmaking, 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.

(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 Administration 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.

TITLE II—LAND USE PLANNING; LAND ACQUISITION AND DISPOSITION

INVENTORY AND IDENTIFICATION

SEC. 201. (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. (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 approved 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, and 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, 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.

(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 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. (a) A tract of the public lands (except land in units of the National Wilderness Preservation System, National Wild and Scenic Rivers System, 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 consummation of the sale would not be consistent with this Act or other applicable law.

WITHDRAWALS

SEC. 204. (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 date 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 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 idividual 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 resloution, 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, in-

cluding 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;

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

(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;

(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 thousad 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 Interior and Insular Affairs of either the House of Representatives or the Senate 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 the Committees on Interior and Insular Affairs of the Senate and the House of Representatives. 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 Committees on Interior and Insular Affairs of the House of Representatives and the Senate.

(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)).

(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 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 too 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. (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, land or intersts 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) 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, became National Forest System lands subject to all the laws, rules, and regulations applicable thereto.

EXCHANGES

SEC. 206. (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 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 shall try to reduce the amount of the payment of money to as small an amount as possible.

(c) Lands acquired by exchange under this section by the Secretary which are within the 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 to the National Forest System. Lands acquired by exchange by the Secretary under this section which are within the boundaries of National Park, Wildlife Refuge, Wild and Scenic Rivers, Trails, or any other System established by Act of Congress may be transferred to the appropriate agency head for administration as part of such System and in accordance with the laws, rules, and regulations applicable to such System.

QUALIFIED CONVEYEES

SEC. 207. 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. 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. (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 nonmineral development of the land and that such development is a more beneficial use of the land than mineral development.

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

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

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

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

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

COORDINATION WITH STATE AND LOCAL GOVERNMENTS

SEC. 210. 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. 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, 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 areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255. 1262) and/or title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4) 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 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. 869–4), 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 roadside 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 phrase "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. (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 afer 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 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.

TITLE III—ADMINISTRATION

BLM DIRECTORATE AND FUNCTIONS

SEC. 301. (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 of 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 estabilshed 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, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter 3 of chapter 53 of such title 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. (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 provision 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 manufacturng 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 terms 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.

ENFORCEMENT AUTHORITY

SEC. 303. (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 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 with 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. (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 subsection "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, the 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.

DEPOSITS AND FORFEITURES

SEC. 305. (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 Sec-

retary; 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.

WORKING CAPITAL FUND

SEC. 306. (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), 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.

STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS

SEC. 307. (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.

CONTRACTS FOR SURVEYS AND RESOURCE PROTECTION

SEC. 308. (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. (a) The Secretary is authorized to 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 of 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. 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. (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 Committees on Interior and Insular Affairs of the House and Senate 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. 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. (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. (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, or 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. (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 quitclaim deed from the United States

CORRECTION OF CONVEYANCE DOCUMENTS

SEC. 316. 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 document of conveyance which have heretofore been issued by the Federal Government to dispose of public lands.

MINERAL REVENUES

SEC. 317. (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, 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, 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 from lands within the naval petroleum reserves shall be deposited in the Treasury as 'miscellaneous reecipts', 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 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.

(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. Such loans shall be confined to the uses specified for the 50 per centum of mineral revenues to be received by such States and subdivisions pursuant to section 35 of such Act. All loans shall bear interest at a rate not to exceed 3 per centum and shall be for such amounts and durations as the Secretary shall determine. The Secretary shall limit the amounts of such loans to all States except Alaska to the anticipated mineral revenues to be received by the recipients of said loans and to Alaska to 55 per centum of anticipated mineral revenues to be received by it pursuant to said section 35 for any prospective 10-year period. Such loans shall be repaid by the loan recipients from mineral revenues to be derived from said section 35 by such recipients, as the Secretary determines.

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

(3) Loans under this subsection shall be subject to such terms and conditions as the Secretary determines necessary to assure that the purpose of this subsection will be achieved. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

APPROPRIATION AUTHORIZATION

SEC. 318. (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, 1978, 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 the date of approval of this Act 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, 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. (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 in 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 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 Forest in the eleven 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), is hereby repealed. All distributions of moneys made under section 401(b)(1) of this Act shall be in addition to distributions made under section 10 of the Taylor Grazing Act and shall not apply to distribution of moneys made under section 11 of that Act. 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, 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.

C.402, H.211

GRAZING LEASES AND PERMITS

SEC. 402. (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 eleven 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.***

(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 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, with the exceptions authorized in subsection (e) of this section, on and after October 1, 1988, may incorporate an allotment management plan developed by the Secretary concerned in consultation with the lessees or permittees involved. Prior to that date, allotment management plans shall be incorporated in grazing permits and leases when they are completed. The Secretary concerned may revise such plans from time to time after such consultation.

(e) Prior to October 1, 1988, or thereafter, in 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 condition 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 contrued 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. (a) For each Bureau district office and National Forest headquarters office in the eleven 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 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.

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

(f) 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.

(g) 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. 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.".

TITLE V—RIGHTS-OF-WAY

AUTHORIZATION TO GRANT RIGHTS-OF-WAY

SEC. 501. (a) The Secretary, with respect to the public lands 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-of-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 Power Commission under the Federal Power Act of 1935 (49 Stat. 847; 16 U.S.C. 791);

(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 Systems; 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-of-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.

COST-SHARE ROAD AUTHORIZATION

SEC. 502. (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 that 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 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 ex-

pended 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. 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. (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 pub-

lic 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 for 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.

(g) The holder of a right-of-way shall pay annually in advance the fair market value thereof as determined by the Secretary granting, issuing, or renewing such right-of-way: Provided, That when the annual rental is less than $100, the Secretary concerned may require advance payment for more than one year at a time: Provided further, That the Secretary concerned may waive rentals where a right-of-way is granted, issued, or renewed in reciprocation for a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder. 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 profitmaking 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.

(h) (1) The Secretary concerned shall promulgate regulations specifying the extent to which holders of rights-of-way under this title 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. 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 resource 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. 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. (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. 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. (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 appurtenent 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. (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 prac-

tices 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.

COORDINATION OF APPLICATIONS

SEC. 511. 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. (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 extermely 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 intiated 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), 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. (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 Geological Survey and the Bureau of Mines 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 the date of approval of this Act: 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 apropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review unles 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 as wilderness, the provisions of the Wilderness Act 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, and mineral development, access, exchange of lands, and ingress and egress for mining claimants and occupants.

TITLE VII—EFFECT ON EXISTING RIGHTS; REPEAL OF EXISTING LAWS; SEVERABILITY

EFFECT ON EXISTING RIGHTS

SEC. 701. (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 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;

(6) as a limitation upon any State crimindl 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.

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

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

(i) Nothing in this Act shall be construed as affecting the distribution of livestock grazing revenues to local governments under the Granger-Thye (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 2280				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	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	326		38: 740	168.
Revised Statute 2297				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 2301				173.
Mar. 3, 1891	561	6	26: 1089	
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	175		40: 960	
Revised Statute 2302				184, 201.
July 26, 1892	251		27: 270	185.
Feb. 14, 1920	76		41: 434	186.
Jan. 21, 1922	52		42: 358	
Dec. 28, 1922	19		42: 1067	
June 12, 1930	471		46: 580	
Feb. 25, 1925	326		43: 981	187.
June 21, 1934	690		48: 1185	187a.
May 22, 1902	821	2	32: 203	187b.
June 5, 1900	716		31: 270	188, 217.
May 3, 1875	151	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 15, 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 this 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
1. *Homesteads*—Continued				
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 of 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. 5, 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; 1353*	*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*	*2, 8, 218.*
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, 1925	*545*	*1*	*43: 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: 1155*	
July 3, 1916	*214*		*39: 341*	*232.*
Sept. 29, 1919	*64*		*41: 288*	*233.*
Apr. 6, 1922	*122*		*42: 491*	*233, 272, 273.*
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: 450*	*236.*
July 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 22, 1935	*135*		*49: 286*	*237c.*
Aug. 19, 1935	*560*		*49: 659*	*237d.*
Mar. 31, 1938	*67*		*52: 149*	
Apr. 20, 1936	*239*		*49: 1235*	*237e.*
July 30, 1956	*778*	*1, 2, 4*	*70: 157*	*237 f, g, h.*
Mar. 1, 1921	*102*		*41: 1202*	*238.*
Apr. 7, 1922	*125*		*42: 498*	
Revised Statute 2308				*239.*
June 16, 1898	*488*		*30: 473*	*240.*
Aug. 29, 1916	*430*		*39: 671*	
Apr. 7, 1930	*108*		*46: 144*	*243.*
Mar. 31 1933	*198*		*47: 1424*	*243a.*
Mar. 3, 1879	*192*		*20: 472*	*251.*
May 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	*188*		*32: 63*	
Mar. 4, 1904	*394*		*33: 59*	
Feb. 25, 1925	*105*		*43: 1281*	
Revised Statute 2295				*255.*
Oct. 6, 1917	*86*		*40: 391*	
Mar. 4, 1915	*149*	*Only last paragraph of section headed "Public Land Service."*	*37: 925*	*256.*
May 15, 1933	*178*		*47: 153*	*256a.*
June 16, 1933	*99*		*48: 274*	
June 26, 1936	*819*		*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: 817*	*271, 272.*

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. *Homesteads*—Continued				
Revised Statute 2305				*272.*
Feb. 25, 1919	*37*		*40; 1161*	*272a.*
Dec. 28, 1922	*19*		*42: 1067*	
Revised Statute 2306				*274.*
Mar. 3, 1893	*208*		*27: 595*	*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 if 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: 125*	*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	*288*		*46: 1454*	*291.*
June 9, 1933	*58*		*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, 1925	*545*	*2*	*43: 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: 259*	
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*	
Revised Statute 2375				*698.*
Revised Statute 2376				*699.*
Mar. 2, 1889	*381*	*1*	*25: 854*	*700.*

Act of	Chapter	Section	Statute at Large	43 U.S. Code
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	158		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."				
Aug. 23, 1894	314		28: 491	1077, 1078.
Feb. 11, 1903	545		32: 822	1079.
Feb. 15, 1895	98		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	153		28: 687	
June 27, 1906	3554		34: 517	
Mar. 28, 1912	67		37: 77	
Mar. 9, 1928	164		45: 253	
June 28, 1934	866	14	48: 1274	
July 30, 1947	383		61: 650	
Apr. 24, 1928	488		45: 457	1171a.
May 25, 1950	318		46: 377	1171b.
Feb. 4, 1919	18		40: 1065	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. 88-54		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. 88-66		77: 80	687b–5.
May 14, 1898	299	1	30: 409	270.
Mar. 3, 1903	1002		32: 1028	
Apr. 29, 1950	157	1	64: 94	
Aug. 3, 1955	496		69: 444	270, 687a–2.
Apr. 29, 1950	157	2–5	64: 95	270–5, 270–6, 270–7, 687a–1.
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	

Act of	Chapter	Section	Statute at Large	43 U.S. Code
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	15	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) *Effective on an 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.), 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.				
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	687 a–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: 257	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, 1910	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	157	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.				
Mar. 3, 1927	299	4	44: 1347	25 U.S.C. 398d.
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)), is amended by deleting "Therefore, 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	8	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	225		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), 501–503.	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 Statutes 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 Statutes 2340				661.
The following words only: ", or rights to ditches and reservoirs used in connection with such water rights,"				
Feb. 26, 1897	355		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 reservoir 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: 1457	
Jan. 21, 1895	37		28: 635	951, 956, 957.
May 14, 1896	179		20: 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).
Mar. 4, 1911	238		36: 1253	961 (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."				

Act of	Chapter	Section	Statute at Large	43 U.S. Code
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, 58	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: 1120	40 U.S.C. 319–319c.
Feb. 1, 1905	288	4	33: 628	16 U.S.C. 524.

(b) Nothing in Section 706 (a), 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 or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the bill insert the following:

> 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.

And the House agree to the same.

JOHN MELCHER,
HAROLD T. JOHNSON,
MORRIS UDALL,
PHILLIP BURTON,
JOHN F. SEIBERLING,
JIM SANTINI,
JAMES WEAVER,
DON H. CLAUSEN,
DON YOUNG,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
LEE METCALF,
J. BENNETT JOHNSTON,
FLOYD K. HASKELL,
DALE BUMPERS,
MARK O. HATFIELD,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

JOINT STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes, submit this joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying conference report.

MAJOR PROVISIONS

1. The Senate bill provided an organic act for the Bureau of Land Management, and also addressed a number of resource related problems. The House amendments, in addition, addressed a number of other major BLM resource-related problems of current concern and to the extent these problems and organic provisions dealt with subject matter where Bureau of Land Management and Forest Service programs interfaced, the House amendments made them applicable to national forest lands. Where the interfacing is limited geographically, the applicability of the provisions is adjusted accordingly.

The conferees adopted the House approach but modified or deleted certain provisions as noted below. Consistent with this, the conferees adopted the short title of the bill contained in the House amendments instead of the Senate's "National Resource Lands Management Act."

2. The declarations of policy in the Senate bill and the House amendments were essentially the same. The House amendments expressed the policies in more specific detail in some instances. With minor changes, the conferees adopted the House amendments.

3. The conferees, with some editorial changes, adopted the definitions in the Senate bill and the House amendments except as follows:

(*a*) The conferees retained the traditional use of the term "public lands" (hereinafter referred to as BLM lands) in referring to the bulk of the lands administered by BLM. However, this does not prevent the Secretary of the Interior from continuing to use the term "national resource lands" in official as well as unofficial references to the public lands. It was made clear that the definition of "public lands" and other terms in S. 507 do not change the meaning of the terms in statutes enacted prior to the approval of S. 507.

(*b*) The conferees deleted the definition of "lands in the National Forest System," preferring to retain the definition of that term as it appears in the Humphrey-Rarick Act.

4. The Senate bill and the House amendments both had similar provisions for the inventory and identification of, and land use planning for, BLM lands. The House amendments had some additional provi-

sions which the conferees acted upon as follows; in addition to consolidating and making editorial improvements in the adopted text:

(*a*) The conferees adopted the House provisions that the Forest Service shall coordinate its land use plans with those of Indian tribes.

(*b*) The conferees adopted the House requirement that BLM land use planning provide for compliance with, rather than consideration of, both State and Federal pollution standards or implementation plans.

(*c*) The conferees adopted a consolidation of the Senate and House provisions for coordination of BLM land use planning with Federal, State, local governments, and Indian tribes, with revisions making clear that the ultimate decision as to determining the extent of feasible consistency between BLM plans and such other plans rests with the Secretary of the Interior. This affirmed the need to maintain the integrity of governing Federal laws and Congressional policies.

(*d*) The conferees adopted the House provisions for referral to Congress and possible veto of certain management decisions excluding public lands from one or more principal uses. As to this and other veto provisions of the House amendments, the conferees revised the House amendments to require adverse actions by concurrent resolution. They also adopted procedures for facilitating consideration of such resolutions when introduced.

5. The Senate bill and the House amendments both had similar provisions for sales of public lands. The House amendments had some additional provisions which the conferees, in addition to consolidating and making editorial improvements in the adopted text, acted upon as follows:

(*a*) The conferees did not adopt the Senate provision barring sales of tracts which would cause needless degradation of the lands. They adopted elsewhere in S. 507 provisions giving the Secretary of the Interior general authority to prevent needless degradation of the public lands.

(*b*) The conferees adopted the House provision forbidding sales of land designated as "wilderness" and broadened the prohibition to lands designated as national wild and scenic rivers and as national trails.

(*c*) The conferees adopted a revised version of the House provision for referring proposed sales of tracts of more than 2500 acres to Congress for review and possible veto.

6. The Senate bill contained no provisions relating to authority for withdrawals of public lands. The conferees adopted the House amendments with the following changes:

(*a*) A provision permitting the Secretary of the Interior to publish notice of a proposed withdrawal prior to his noting his records of the proposal. This is to minimize possible nuisance filings on lands proposed for withdrawal.

(*b*) The conferees extended time periods in the House amendments as follows:

1. Two-year segregative period (instead of one),
2. Twenty-year terms for withdrawals (instead of ten),
3. Three years for emergency withdrawals (instead of one),
4. Fifteen year for withdrawal review (instead of ten).

(*c*) Lands added to wildlife refuges by the Secretary under the terms of the bill cannot be excluded from the refuge except by Act of Congress. The one-House veto provision does not apply to wildlife refuges. The bill requires review of such withdrawals toward the end of their nominal terms; however, if the Secretary determines that extension is not in the public interest, he must extend the term of the withdrawal but can suggest legislation to revoke the withdrawal.

7. The Senate bill and House amendments had similar provisions for acquisition of lands and interests in land by BLM. The conferees adopted the additional House provision granting the Forest Service authority to acquire lands outside the national forest boundaries for the purpose of gaining access to national forest lands.

8. The Senate bill and House amendments had similar provisions for exchanges. The conferees took the following actions where provisions of the two bills differed:

(*a*) The conferees adopted the Senate criterion for weighing the values and public advantages of lands proposed to be disposed of in an exchange and the lands proposed to be acquired in that exchange, together with the House criterion.

(*b*) The conferees agreed upon an upper limit of 25 percent in balancing monetary values in exchanges by use of cash. The Senate bill had permitted 30 percent while the House amendments had a 20 percent limit.

(*c*) The conferees adopted the House provisions for extension of criteria for exchanges and cash equalization to national forest exchanges.

9. The conferees adopted the House provision that only citizens and corporations subject to the laws of any State or the United States are qualified to acquire title to public lands under the Act.

10. The Senate bill and the House amendments had similar provisions for reservation and conveyance of minerals. The conferees acted on the difference by:

(*a*) Deleting the Senate's reference to term convenants since specific reference is not necessary, and

(*b*) Adopting the Senate's provision for permitting applicants to conduct the required exploratory programs.

11. The conferees consolidated the provisions of the Senate bill and the House amendments with respect to coordination of sales with State and local governments.

12. The conferees adopted the Senate bill's provisions with respect to omitted lands. The House amendments had no comparable provisions, except as to certain features in the section on sales of public lands, contributions for surveys and in amendments to the Recreation and Public Purposes Act.

13. The conferees adopted the House amendments provisions for revision of the Recreation and Public Purposes Act. The Senate bill did not have any comparable provisions except as to omitted lands.

14. The conferees adopted the House amendments provision for amendment of the National Forest Townsite Act with one change. The conference amendment limits the application of the amended act to Alaska and in the 11 western contiguous States where the most serious problems of restricted community expansion exist. The Senate bill did not have a comparable provision.

15. The Senate bill had no provisions for amendment of the Unintentional Trespass Act of 1968. The conferees adopted the House amendment with changes in the appraisal date and Congressional reference.

16. Both the Senate bill and the House amendment require the Director of BLM to be hereafter appointed by the President with the advice and consent of the Senate. The House amendments had additional language to maintain the continuity of BLM operations after enactment of S. 507, unless specifically revised by the bill. The conferees adopted the House amendments.

17. The Senate bill and House amendments differed as to relation of BLM and the Forest Service management to State hunting and fishing laws. The conferees authorize the two Bureaus to ban hunting and fishing for reasons of public safety, administration, and compliance with applicable law. The word "administration" authorizes exclusion of hunting and fishing from an area in order to maintain supervision. It does not authorize exclusions simply because hunting and fishing would interfere with resource-management goals.

18. The Senate bill had a provision directing the Secretary of the Interior to require appropriate land reclamation as a condition of use likely to entail significant disturbances to or alteration of the public lands. The conferees did not adopt this provision.

19. Both the Senate bill and the House amendments had similar provisions for law enforcement with some marked differences. The conferees acted on the differences as follows:

(*a*) The conferees adopted the Senate mandatory requirement for law enforcement regulations.

(*b*) The conferees adopted the House provisions that violation of relations must be "knowing and willful" to invoke criminal penalties.

(*c*) The conferees accepted the policy in the House amendments that the Secretary of the Interior seek maximum feasible reliance in his discretion upon local law enforcement officials in enforcing Federal laws and regulations. The Secretary is expected to keep this goal in mind, as well as his authority to assist local law enforcement officials in enforcing local laws and regulations, as he carries out his primary responsibility of assuring adequate law enforcement for the public land areas.

(*d*) The conferees adopted the Senate's specific reference to the authority to carry firemans.

In granting the right to bear firearms, the conferees acted upon the full expectation that the Department of the Interior would retain as no less than its minimum standards those spelled out in Chapter 446.2 (dated December 20, 1974) of the Department of the Interior Manual. Those standards are as follows:

2. *Standards.* The following standards will be incorporated into all bureau/office law enforcement programs, and shall be applied in all decision-making, administrative procedures and program development activities:

A. All contracts for law enforcement services shall require contractor to maintain the same standards that are required of programs operated directly by the Department.

B. Each law enforcement officer shall be specially identified as such and shall be individually authorized to make arrests and to carry firearms, and only employees assigned duties as law enforcement officers shall be authorized to carry firearms and to make arrests, except where firearms are necessary in the performance of other game management or resource protection duties.

C. Uniforms, when worn, will positively identify the wearer as a law enforcement officer. Badge, name plate and bureau patch must be visible at all times. Uniforms of all nonenforcement personnel shall be plainly distinguishable from the uniforms of law enforcement officers.

D. Except in firearms training, each time a firearm is used for law enforcement purposes a report shall be filed with the superior of the officer who used the weapon. Whenever use of a weapon results in serious injury or death of any person, the officer shall be placed on administrative leave, or be assigned to strictly administrative duties, pending a thorough investigation of all circumstances surrounding the incident.

E. Each bureau shall require its officers to maintain their shooting proficiency and fire for record at least twice a year at a recognized and approved firearms practice course. Firearms will not be issued to enforcement personnel until each has demonstrated his ability to properly use the weapon.

F. Each bureau shall specify the type of firearms, ammunition and auxiliary equipment to be used by the law enforcement officers of that bureau.

(*e*) The conferees adopted the House's specific reference to search and seizures.

(*f*) The conferees adopted the Senate bill's declaration that use, occupancy, or development of public lands contrary to applicable regulations is unlawful and prohibited. This declaration does not expand the Secretary's authority to establish criminal penalties but will support his effort for injunctive and other restraining action to prevent continuing violation of laws and regulations.

20. The Senate bill's and the House amendments' provisions for service charges differed in certain respects. The conferees acted on the differences as follows:

(*a*) They adopted the House amendments' use of the adjective "reasonable" to modify charges and costs; the adjective is implicit in the Senate bill except where the adjective "extraordinary" was used. The conferees substituted "reasonable" for "extraordinary," giving the Secretary of the Interior greater policy leeway in determining whether reimbursement of costs will be required at both the lower and upper levels of charges.

(*b*) They agreed to eliminate direct appropriation of moneys paid for reimbursement of costs.

(*c*) They agreed to mention specifically the "reasonable costs" of doing special studies and preparing environmental impact statements as was done in the Senate bill. The conferees wrote into the bill factors to be considered by the Secretary in determining whether charges are in fact reasonable.

21. Both the Senate bill and the House amendments permitted the Secretary of the Interior to establish advisory boards or councils subject to the Federal Advisory Committee Act. The conferees accepted the House version of the authority with an amendment reducing the mandatory number of meetings to one annually. The conferees retained the House provision that each board must have at least one elected official of general purpose government.

22. Both the Senate bill and the House amendments provided for an annual report by the Secretary. The conferees adopted the House language with one amendment. It placed the responsibility for developing the structure of the reports with a Secretary of the Interior after consultation with the Interior and Insular Affairs Committees.

23. The conferees adopted the House amendments relating to search and rescue and to "sunshine in government." There were no comparable Senate provisions.

24. Both the Senate bill and House amendments provided for recordation of mining claims and for extinguishment of abandoned claims. The conferees adopted the more specific House amendments with one perfecting amendment.

25. The Senate bill (but not the House amendments) contained a provision for requiring application for patent within 10 years of recordation. The conferees did not adopt this provision.

26. Both the Senate bill and the House amendments had provisions relating to distribution of revenues to States from Mineral Leasing Act (MLA) operations.

(*a*) The Senate bill would have increased the distribution to the States (other than Alaska) from 50 percent to 60 percent. The House amendments would have retained the present 50 percent. The conferees did not accept the Senate increase.

(*b*) The Senate amendment would have permitted the States (other than Alaska) to use all the funds they receive for any purpose the State legislatures directed, provided priority was given to subdivisions impacted by development of leased minerals. The House amendments would have retained existing law requiring use of 75 percent of the total revenues for schools and roads and the remaining 25 percent as the legislatures directed, subject to the priority mentioned. The conferees adopted the Senate revision.

(*c*) The Senate bill (but not the House amendments) revised the dates for delivery of the States' share of mineral revenues to coincide with the new fiscal year. The conferees adopted the new dates.

(*d*) The conferees adopted an amendment to make clear that Alaska is to continue to get 90 percent of the mineral revenues from lands in that State, all of which is to be used as the State legislature directs.

(*e*) The Senate bill, but not the House amendments, authorized a loan program to the States to relieve social and economic impacts caused by mineral development under the leasing act. The 3 percent loans would be, in effect, a prepayment of anticipated State receipts for their share of mineral revenues under the MLA. The conferees adopted the Senate bill's provision, with revisions that place a maximum on loans amounting to the 50 percent of total Federal revenues which the States receive from MLA operations.

27. The Senate bill authorized all sums needed to carry out the purposes and provisions of S. 507. The House amendments required, with minor exceptions and starting with fiscal year 1979, specific authorizations for all BLM programs. The House amendments also permitted BLM to use Land and Water Conservation Fund moneys for acquisition of lands necessary for proper management of public lands which are primarily of value for outdoor recreation purposes. The conferees adopted the House amendments with a further amendment to require quadrennial requests for authorizations rather than biennial.

28. The Senate bill had no provisions relating to grazing on public and national forest lands. The House amendments dealt with grazing fees, range management funds, terms of grazing leases and permits, and grazing advisory boards.

The House amendments established a mandatory formula for determining grazing fees. The conferees did not accept this amendment.

In lieu of the House provision, the Conferees added a subsection requiring the Secretaries of Agriculture and of the Interior to make a study of the value of grazing on public lands and lands in National Forests in the eleven contiguous Western States and to report to the Congress within one year showing the results of the study, together with recommendations to implement a reasonable grazing fee schedule based on the study. The provision forbids an increase in the grazing fee for the 1977 grazing year and thereafter until the required report and recommendations are submitted to the Congress. The Conferees expect the study to be in such form and content as to furnish a basis for evaluating the grazing fee formula included by the House in its amendments.

29. The House amendments also provided that 50 percent of grazing fees be used for on-the-ground range betterment installations. The conferees adopted this provision.

30. The House amendments spelled out the terms and conditions either in general or specific terms that the Secretaries may or must place in grazing leases or permits. The conferees adopted the House amendments with revisions. They revised the House proposal to make a distinction between allotment management plans and other approaches to management of livestock grazing. The revision authorizes the Secretaries to require allotment management plans, where appropriate, in all leases and permits. After October 1, 1988, in the absence of an allotment management plan in a lease or permit the Secretaries must incorporate other provisions for proper management of the range.

The conferees also included a statement in S. 507 that preserves existing law relating to the creation of right, title, interest or estate in and to Federal lands by issuance of grazing permits and leases.

The provisions in S. 507 declaring that the annual distributions and use of range-betterment funds are not to be considered to be a major Federal action under the National Environmental Policy Act and requiring 10-year leases and permits do not affect that Act's applicability to other aspects of grazing operations of BLM and the Forest Service. The conferees are aware of BLM's current program for environmental impact statements approved by the Court. Nothing in S. 507 is intended to interfere with that program. The bill, if enacted, does negate the Court's order barring issuance of 10-year leases and

permits in the absence of a specific showing that such action could lead to a significant adverse impact on the human environment.

A cancellation in part as used in section 401 of the bill does not refer to reductions in use where lands are not excluded from a lease or a permit. Where lands are excluded from a lease or permit, a reduction in use of the remaining lands also is not a cancellation in part.

The requirements of the bill for two years' notice prior to cancellation are satisfied if two years elapse after notice of intention to cancel, even though final cancellation may be delayed for a longer period because of appeals or related proceedings.

The bill does not diminish the authority of the Secretaries under the Taylor Grazing Act or other existing law to specify terms and conditions of grazing use when such use is permitted nor to decide whether grazing use will be permitted to continue during the term of a lease or permit or thereafter.

31. The House amendments mandated local grazing advisory boards for the public lands and the national forests in the 11 western states. The conferees adopted this provision with amendments limiting the functions of, and representation on, the boards.

32. The Senate bill did not contain any provisions relating to wild horses and burros. The House amendments amended the Wild Horse and Burro Act with respect to the disposal of excess animals and the use of motorized vehicles by the Secretaries of the Interior and Agriculture.

The conferees did not accept the provisions relating to disposition of excess animals. It approved the grant of authority for the use of helicopters and, for the purpose of transporting captured animals, motor vehicles. This grant does not deprive the Secretaries of their current authority to use aircraft and motor vehicles in wild horse and burro management where harassment of animals cannot result. Examples are use of any aircraft for surveillance or use of motor vehicles for transportation of personnel and equipment.

33. With the exceptions noted below, the Senate bill and the House amendments had practically identical provisions relating to rights-of-way over, upon, under, and through the public lands. The conferees took the following actions with respect to significant differences in addition to clarifying certain parts of the text:

(*a*) The conferees accepted the House amendments which made the rights-of-way provisions applicable to national forest lands.

(*b*) The conferees accepted the House provisions excluding lands designated as wilderness, allowing the provisions of the National Wilderness Preservation System Act to control.

(*c*) The conferees did not adopt the House disclaimer as to authority for granting rights for purposes ancillary or complementary to rights-of-way granted under S. 507. Such disclaimer was not necessary in the light of the provisions adopted by the conferees. The conferees also excepted from the terms of S. 507 transportation facilities constructed and maintained in connection with commercial recreation facilities over National Forest lands.

(*d*) The conferees did not adopt the Senate provision for direct appropriation of funds reserved for reimbursement of costs. The House authorization for appropriation of such funds was retained.

(*e*) The conferees adopted the House provisions requiring compliance by right-of-way grantees with State air and water quality standards but not with the House provisions for compliance with siting provisions of State laws without any exception. They did adopt the House reqquirements with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance of rights-of-way for similar purposes of those standards are more stringent than applicable Federal standards.

(*f*) The conferees adopted the Senate provision requiring consent of the head of the department or agency concerned before the Secretary of the Interior could terminate or otherwise limit a grant of right-of-way to such head.

(*g*) The House amendments permitted the Secretaries to waive a limited number of requirements of S. 507 in connection with rights-of-way involved in realignment of railroad lines. They also established time limits of action on applications for such rights-of-way. The conferees adopted these amendments but eliminated provisions permitting the automatic vesting of grants and requiring reports to the Congress. The conferees recognized the need for prompt action on rights-of-way.

S. 507 protects all valid rights existing on the date of its approval, including grants under the railroad right-of-way act of 1875 which will have attached prior to that approval date.

34. The Senate bill and the House amendments had almost identical provisions for the California Desert Conservation Area. The conferees agreed to change the final date for the desert plan to September 30, 1980, in conformance with provisions of the Senate bill and with the new fiscal year dates. The conferees also accepted the House amendments affecting the principles of multiple use and permitting regulation of mining operations in the Conservation Area.

35. The House amendments (but not the Senate bill) contained a revision of the boundaries of the King Range National Conservation Area. The conferees agreed to this revision.

36. Both the Senate bill and the House amendments provided for wilderness studies and inclusion of appropriate wilderness areas in the National Wilderness Preservation System. The House amendments provided specific detail for the conduct of studies, inclusion of lands in the Wilderness Preservation System, and exclusion of lands from the study provisions of S. 507. The conferees adopted the House amendments with further amendments. One affirms the right of the Secretary of the Interior to withdraw lands in study areas from the Mining Law of 1872 for reasons other than preservation of their wilderness character. Another struck out the procedures for excluding lands from study areas.

37. Both the Senate bill and the House amendments had a series of different disclaimer clauses. The conferees accepted all of these clauses and added two in addition. One forbids judicial review of the adequacy of reports required by S. 507. The adequacy of such reports is a matter for resolution between the Congress and the President. The other protects current distribution of national forest grazing receipts.

In specifying the substance to be included in reports to be submitted to the Congress or its committees, the bill establishes the general areas of subject matter. Details to be included in the reports will be worked out between the committees and the departments. The committees have authority ot waive the supplying of required information whenever they determine that it will serve no legislative purpose.

38. S. 507 is not to be construed as repealing any prior legislation by implication.

39. The Senate bill (but not the House amendments) provided for immediate repeal of the Alaska settlement laws. The conferees provided for termination of those laws ten years after the date of approval of S. 507.

40. The House amendments (but not the Senate bill) provided for repeal of practically all existing executive withdrawal authority. The conferees agreed to this repeal to the extent provided for by the House.

JOHN MELCHER,
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Managers on the Part of the Senate.

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Calendar No. 561

94TH CONGRESS
1st Session

SENATE

REPORT
No. 94-583

NATIONAL RESOURCE LANDS MANAGEMENT ACT

DECEMBER 18 (legislative day, DECEMBER 15,) 1975.—Ordered to be printed

Mr. HASKELL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 507]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 507), to provide for the management, protection, and development of the national resource lands, and for other purposes, having considered the same, reports favorably thereon with an amendment to the text and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following language:

That (a) this Act may be cited as the "National Resource Lands Management Act".

(b) TABLE OF CONTENTS.—

SEC. 2. DEFINITIONS.—As used in this Act:

(a) "The Secretary" means the Secretary of the Interior.

(b) "National resource lands" means all lands and interests in lands (including the renewable and nonrenewable resources thereof) now or hereafter administered by the Secretary through the Bureau of Land Mangement, except the Outer Continental Shelf.

(c) "Multiple use" means the management of the national resource 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 recreation and scenic 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) "Sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of land without permanent impairment of the quality and productivity of the land or its environmental values.

(e) "Areas of critical environmental concern" means areas within the national resource lands where special management attention is required to protect important historic, cultural, or scenic values, or natural systems or processes, or life and safety as a result of natural hazards.

(f) "Right-of-way" means an easement, lease, permit, or license to occupy, use, or traverse national resource lands granted for the purposes listed in title IV.

(g) "Holder" means any State or local governmental entity or agency, individual, partnership, corporation, association, or other business entity receiving or using a right-of-way under title IV.

SEC. 3. DECLARATION OF POLICY.—(a) The Congress hereby declares that—

(1) the national resource lands are a vital national asset containing a wide variety of natural resource values;

(2) sound, long-term management of the national resource lands is vital to the maintenance of a livable environment and essential to the well-being of the American people;

(3) the national interest will be best realized if the national resource 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; and

(4) except where disposal of particular tracts is made in accordance with title II, the national interest will be best served by retaining the national resource lands in Federal ownership.

(b) The Congress hereby directs that the Secretary shall manage the national resource lands under principles of multiple use and sustained yield in a manner which will, using all practicable means and measures: (i) assure the environmental quality of such lands for present and future generations; (ii) provide for, but not necessarily be limited to, such uses as provision of food and habitat for wildlife, fish and domestic animals, minerals and materials production, supplying the products of trees and plants, human occupancy and use, and various forms of outdoor recreation; (iii) include scientific, scenic, historical, archeological, natural ecological, air and atmospheric, water resource, and other public values; (iv) continue certain areas in their natural condition; (v) balance various demands on such lands consistent with national goals; (vi) assure payment of fair market value by users of such lands; and (vii) provide maximum opportunity for the public to participate in decisionmaking concerning such lands.

SEC. 4. RULES AND REGULATIONS.—The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the Administrative Procedure Act (60 Stat. 237), as amended. Prior to the promulgation of such rules and regulations, the national resource lands shall be administered under existing rules and regulations concerning such lands.

SEC. 5. PUBLIC PARTICIPATION.—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 national resource lands

SEC. 6. ADVISORY BOARDS AND COMMITTEES.—In providing for public participation in the planning for and management of the national resource lands, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, may establish and consult such advisory boards and committees as he deems necessary to secure full information and advice on the execution of his responsibilities. The membership of such boards and committees shall be representative of a cross section of groups interested in the management of the national resource lands and the various types of use and enjoyment of such lands.

SEC. 7. ANNUAL REPORT.—The Secretary shall prepare an annual report which he shall make available to the public and submit to Congress no later than 120 days after the close of each fiscal year. The report shall describe, in appropriate detail, activities relating or pursuant to this Act for the fiscal year just ended, any problems which may have arisen concerning such activities, and other pertinent information which will assist the accomplishment of the provisions and purposes of this Act. The report shall contain a detailed list and description of all transfers of national resource lands out of Federal ownership for the fiscal year just ended. It shall include such tables, graphs, and illustrations as will adequately reflect the fiscal year's activities, historical trends, and future projections relating to the national resource lands.

SEC. 8. DIRECTOR.—Appointments made on or after the date of the enactment of this Act to the position of the Director of the Bureau of Land Management, within the Department of the Interior, shall be made by the President, by and with the advice and consent of the Senate. The Director shall have a broad background and experience in public land and natural resource management.

SEC. 9. APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act.

TITLE I—GENERAL MANAGEMENT AUTHORITY

SEC. 101. MANAGEMENT.—The Secretary shall manage the national resource lands in accordance with the policies and procedures of this Act and with any land use plans which he has prepared pursuant to section 103, except to the extent that other applicable law provides otherwise. Such management shall include:

(1) regulating, through permits, licenses, leases, or such other instruments as the Secretary deems appropriate, the use, occupancy, or development of the national resource lands not provided for by other laws: *Provided, however,* That no provision of this Act shall be construed as authorizing the Secretary to require any Federal permit to hunt or fish on the national resource lands;

(2) requiring appropriate land reclamation as a condition of use, and

requiring performance bonds or other security guaranteeing such reclamation in a timely manner from any person permitted to engage in an extractive or other activity likely to entail significant disturbance to or alteration of the national resource lands;

(3) inserting in permits, licenses, leases, or other authorizations to use, occupy, or develop the national resource lands, provisions authorizing revocation or suspension, after notice and hearing, of such permits, licenses, leases, or other authorizations, upon final administrative finding of a violation of any applicable regulations issued by the Secretary under any Act applicable to the national resource lands or upon final administrative finding of a violation on such lands of any applicable State or Federal air or water quality laws or regulations: *Provided*, That any such suspension shall be terminated no later than the date upon which 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 public 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 national resource lands, the specific provisions of such law shall prevail; and

(4) the prompt development of regulations for the protection of areas of critical environmental concern.

SEC. 102. INVENTORY.—(a) The Secretary shall prepare and maintain on a continuing basis an inventory of all national resource lands, and their resource and other values (including outdoor recreation and scenic values), giving priority to areas of critical environmental concern. Areas containing wilderness characteristics as described in section 2(c) of the Act of September 3, 1964 (78 Stat. 890, 891), shall be identified within five years of enactment of this Act. The inventory shall be kept current so as to reflect changes in conditions and in identifications of 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 in the management or use of national resource lands.

(b) As funds and manpower become available, the Secretary shall provide (i) means of public identification of national resource lands, including signs and maps, and (ii) State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in the proximity of national resource lands.

SEC. 103. LAND USE PLANS.—(a) The Secretary shall, with public participation, develop, maintain, and, when appropriate, revise land use plans for the national resource lands consistent with the terms and conditions of this Act and coordinated so far as he finds feasible and proper, or as may be required by the enactment of a national land use policy or other law, with the land use plans, including the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended, of State and local governments and other Federal agencies.

(b) In the development and maintenance of land use plans, the Secretary shall:

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

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

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

(4) consider present and potential uses of the lands;

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

(6) weigh long-term public benefits; and

(7) consider the requirements of applicable pollution control laws including State or Federal air or water quality standards, noise standards, and implementation plans.

(c) Wherever any proposed change in the permitted uses on any national resource lands would affect authorization for use of such lands, persons holding leases, licenses, or permits concerning the use to be affected and State and local governments with jurisdiction in the affected area shall be given written notice by the Secretary of such proposed change sufficiently in advance to permit such persons to initiate such administrative review processes available to them under the authorization before such change is put into effect.

(d) Areas identified pursuant to section 102 as having wilderness characteristics shall be reviewed within fifteen years of enactment of this Act pursuant to the procedures set forth in subsections 3(c) and (d) of the Act of September 3, 1964 (78 Stat. 890, 892–893): *Provided, however*, That such review shall not, of itself, either change or prevent change in the management or use of the national resource lands.

TITLE II—CONVEYANCE AND ACQUISITION AUTHORITIES

SEC. 201. AUTHORITY TO SELL.—Except as otherwise provided by law, and subject to the requirements of section 3 of this Act, the Secretary is authorized to sell national resource lands. Any tract of the national resource lands may be sold if the Secretary, in accordance with the guidelines he has established for sale of national resource lands and after preparation pursuant to section 103 of a land use plan which includes such tract, determines that the sale of such tract will not cause needless degradation of the environment and meets the disposal criteria of section 202.

SEC. 202. DISPOSAL CRITERIA.—(a) Except as to conveyances under sections 208, 213, and 214, a tract of national resource lands may be transferred out of Federal ownership under this Act only where, as a result of land use planning required under section 103, the Secretary determines that—

(1) such tract, because of its location and other characteristics, is difficult to manage as part of the national resource lands and is not suitable for management by another Federal 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 objectives which cannot be achieved prudently or feasibly on land other than such tract and which outweigh all public objectives and 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) is of agricultural value and is desert in character, such land shall be conveyed either under the sale authority of section 201 or in accordance with existing law.

SEC. 203. SALES AT FAIR MARKET VALUE.—Sales of national resource lands under this Act shall be at not less than the appraised fair market value as determined by the Secretary.

SEC. 204. SIZE OF TRACTS.—The Secretary shall determine and establish the size of tracts of national resource 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.

SEC. 205. COMPETITIVE BIDDING PROCEDURES.—Except as to sales under sections 208 and 214, sales of national resource lands under this Act shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper (i) to assure equitable distribution among purchasers of national resource lands, or (ii) to recognize equitable considerations or public policies, including but not limited to a preference to users, he is authorized to sell national resource lands with modified competitive bidding or without competitive bidding.

SEC. 206. RIGHT TO REFUSE OR REJECT OFFER OF PURCHASE.—Until the Secretary has accepted an offer to purchase, he may refuse to accept any offer or may withdraw any land or interest in land from sale under this Act when he determines that consummation of the sale would not be consistent with this Act or other applicable law. The Secretary shall accept or reject, in writing, any offer to purchase made through competitive bid at his invitation no later than thirty days after the submission of such offer.

SEC. 207. RESERVATION OF MINERAL INTERESTS.—All conveyances of title issued by the Secretary under this Act, except conveyances under section 213, 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: *Provided*, That, where prospecting, mining, or removing minerals reserved to the United States would interfere with or preclude the appropriate use or development of such land, the Secretary may (1) enter into covenants at the time of conveyance of such land or thereafter which provide that such activities shall not be pursued for a specified period, or (2) convey the minerals in the conveyance of title in accordance with the provisions of section 208(a) (1) and (2).

SEC. 208. CONVEYANCE OF RESERVED MINERAL INTERESTS.—(a) The Secretary may convey mineral interests owned by the United States where the surface is in non-Federal ownership, regardless of which Federal agency may have administered the surface, if he finds (1) that there are no mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate nonmineral development of the land and that such development is a more beneficial use of the land than mineral development.

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

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

(1) 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

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

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

SEC. 209. TERMS OF PATENT.—The Secretary shall insert in patents or other documents of conveyance he issues under this Act such terms, covenants, conditions, and reservations which he deems to be essential to insure proper land use and protection of the public interest: *Provided*, That such terms, covenants, conditions, and reservations shall not require or permit the land conveyed to be used in conflict with Federal or State law or State land use plans.

SEC. 210. CONFORMING CONVEYANCES TO STATE AND LOCAL PLANNING.—At least ninety days prior to a sale or other conveyance of national resource 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 or bodies 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.

SEC. 211. AUTHORITY TO ISSUE AND CORRECT DOCUMENTS OF CONVEYANCE.—Consistent with his authority to dispose of national resource lands, the Secretary is authorized to issue deeds, patents, and other indicia of title, and to correct such documents where necessary. In addition, the Secretary is authorized to make corrections on any documents of conveyance which have heretofore been issued on lands which would, at the time of their conveyance, have met the description of national resource lands.

SEC. 212. RECORDABLE DISCLAIMERS OF INTERESTS IN LAND.—(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 (2) the lands lying between the meander line shown on a plat of survey approved by the Bureau of Land Management 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 of disclaimer shall be issued pursuant to this section unless the applicant therefor has filed with the Secretary an application in writing, 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 the applicant has paid to the Secretary the administrative costs of issuing the disclaimer, as determined by the Secretary. All receipts shall be credited to the 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 quitclaim deed from the United States.

SEC. 213. ACQUISITION AND EXCHANGE OF LAND.—(a) The Secretary is authorized to acquire, by purchase, exchange, or donation, lands or interests therein where necessary for proper management of the national resource lands: *Provided*, That lands or interests in land may be acquired pursuant to this title by eminent domain only if necessary in order to secure access to national resource lands: *Provided further*, That any such lands or interests acquired by eminent domain shall be confined to as narrow a corridor as is necessary to serve such purpose.

(b) Acquisitions pursuant to this Act shall be consistent with applicable land use plans prepared by the Secretary under section 103.

(c) In exercising the exchange authority granted by subsection (a) of this section, the Secretary may accept title to any non-Federal lands or interests therein and in exchange therefor he may convey to the grantor of such lands or interests any national resource lands or interests therein which are located in the same State as the non-Federal land to be acquired, and (1) which he finds proper for transfer out of Federal ownership pursuant to section 202, or (2) the values of which and the objectives which such lands or interests may serve if retained in Federal ownership he finds to be outweighed by the values of the non-Federal lands or interests and the public objectives they could serve if acquired. The values of the lands or interests so exchanged either shall be equal, of if they are not equal, shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require: *Provided*, That such payment shall not exceed 30 per centum of the total value of the lands or interests transferred out of Federal ownership.

(d) Lands or interests in lands acquired purusant to this section or section 301(c) shall, upon acceptance of title, become national resource lands, and, for the administration of public lands not repealed by this Act, shall become public lands. If such acquired lands or interests are located within the exterior boundaries of a grazing district established pursuant to section 1 of the Taylor Grazing Act (48 Stat. 1269), as amended, they shall become a part of that district.

(e) Lands or interests in lands acquired under this section or section 301(c) which are within the boundaries of the national forest system may be transferred to the Secretary of Agriculture for administration as part of, and in accordance with, the laws, rules, and regulations applicable to, the National Forest System. Such transfer shall not result in the reduction in the percentage of in-lieu payments receivable by State and local governments. Lands or interests in lands acquired under this section or section 301(c) which are within the boundaries of the National Park, Wildlife Refuge, Wild and Scenic Rivers, or Trails Systems, or any other system established by Act of Congress, may be transferred to the appropriate agency head for administration as part of, and in accordance with the laws, rules, and regulations applicable to, such system.

SEC. 214. 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, 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, 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) and/or title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4) 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 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, as defined in the Act of August 17, 1974 (88 Stat. 480), 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), as amended, and the Act of May 31, 1962 (76 Stat. 89) or any other Act authorizing the sale of specific omitted lands.

TITLE III—MANAGEMENT IMPLEMENTING AUTHORITY

SEC. 301. STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS.—(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 national resource lands.

(b) The Secretary may enter into contracts or cooperative agreements involving the management, protection, development, acquisition, and conveying of the national resource 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 national resources 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 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.

SEC. 302. SERVICE CHARGES, REIMBURSEMENT PAYMENTS, AND EXCESS PAYMENTS.—(a) Notwithstanding any other provision of law, the Secretary may establish filing fees, service fees and charges, and commissions with respect to applications and other documents relating to national resource 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 extraordinary costs with respect to applications and other documents relating to national resource lands. The moneys received for extraordinary costs under this subsection shall be deposited with the Treasury in a special account and are hereby appropriated and made available until expended. As used in this subsection, "extraordinary 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.

(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 the national resource 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.

SEC. 303. WORKING CAPITAL FUND.—(a) There is hereby established a working capital fund for the management of national resource 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, and regulations promulgated thereunder, supplies and equipment services in support of Bureau of Land Management 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 Bureau of Land Management.

(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 of Land Management, 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 not to exceed $3,000,000 as initial capital of the fund.

SEC. 304. DEPOSITS AND FORFEITURES.—(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 national resource lands, shall be credited to a separate account in the Treasury and are hereby 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 the national resource lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement.

(b) The Secretary may require a user or users of roads, trails, lands, or facilities under the jurisdiction of the Bureau of Land Management to maintain such roads, trails, lands, or facilities in a satisfactory condition commensurate with the particular use requirements and the use made by each user, the extent of such maintenance to be shared by the users in proportion to such use or, if such maintenance cannot be so provided, to deposit sufficient money to enable the Secretary to provide such maintenance. Such deposits shall be credited to a separate account in the Treasury and are hereby appropriated and made available until expended, as the Secretary may direct, to cover the cost to the United States of the maintenance of any roads, trails, lands, or facilities under the jurisdiction of the Bureau of Land Management: *Provided*, That nothing in this subsection shall be construed to require a user to provide maintenance or deposits to repair any damages attributable to general public use rather than the specific use of such user.

(c) Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (50 Stat. 874), as amended, shall be expended for the benefit of such lands only.

(d) If any portion of a deposit or amount forfeited under this section is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the amount in excess shall be transferred to miscellaneous receipts.

SEC. 305. CONTRACTS FOR CADASTRAL SURVEY OPERATIONS AND RESOURCE PROTECTION.—(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 of Land Management. 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.

SEC. 306. UNAUTHORIZED USE.—The use, occupancy, or development of any portion of the national resource lands contrary to any regulation of the Secretary or other responsibile authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

SEC. 307. ENFORCEMENT AUTHORITY.—(a) Any violation of regulations which the Secretary issues with respect to the management, protection, development, acquisition, and conveying of the national resource lands and property located thereon and which the Secretary identifies as being subject to this section shall be punishable by a fine of not more than $1,000 or imprisonment for not 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 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 using, occupying, or developing the national resource lands in violation of laws or regulations relating to lands or resources managed by the Secretary.

(c) For the specific purpose of enforcing any law or regulation relating to lands or resources managed by the Secretary, the Secretary may designate any employee to (1) carry firearms; (2) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; and (3) make arrests without warrant or process for a misdemeanor the employee 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.

SEC. 308. COOPERATION WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—In the administration and regulation of the use, occupancy, and development of the national resource lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof. 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 the use, occupancy, and development of national resource lands.

SEC. 309. CALIFORNIA DESERT AREA.—(a) The Congress finds that—

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, and educational resources which are unique and irreplaceable;

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

(3) the 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;

(4) because of the proximity of the California desert to the rapidly growing population centers of southern California, these threats are certain to intensify;

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

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

(b) It is the purpose of this section to provide for the immediate and future protection, development, and management of the California desert within the framework of a balanced program of multiple use, sustained yield and maintenance of environmental quality as provided in this Act.

(c)(1) For the purpose of this section, the "California desert area" is the area generally depicted on a map entitled "California Desert Area—Proposed", dated April 1974, and on file in the Office of the Director of the Bureau of Land Management.

(2) As soon as practicable after this Act takes effect, the Secretary shall file a map and a legal discription of the California desert area with the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and 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 103, shall prepare and implement a comprehensive, long-range plan for the management, use, and protection of the national resource lands within the California desert area. Such plan shall be completed and implementation thereof initiated on or before June 30, 1980.

(e) During the period beginning on the date of enactment 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 and protect the national resource lands, and their resources now in danger of destruction, in the California desert area, provide for the public use of such lands in an orderly and reasonable manner, and establish a uniformed desert ranger force.

(f)(1) The Secretary, within sixty days of enactment of this Act, shall establish a California Desert Area Advisory Committee (hereinafter referred to as "advisory committee") in accordance with the provisions of section 6.

(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.

(g) The Secretary shall administer the national resource lands in the California desert area in accordance with the provisions of this Act and such other Acts as may be applicable. The Secretaries of Agriculture and Defense shall manage lands within their respective jurisdictions located in or adjacent to the California desert area, in accordance with the laws relating to such lands and wherever practicable in a manner consonant with the purpose of this section. The Secretaries of the Interior, Agriculture, and Defense are authorized and encouraged to consult among themselves and take cooperative actions to implement this subsection.

(h) The Secretary shall report to the Congress no later than two years after the enactment of this Act, and annually thereafter in the report required in section 7 of this Act, 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.

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

SEC. 310. MINERAL REVENUES.—(a) Section 35 of the Act of February 25, 1920 (41 Stat. 437, 450), as amended, is further amended by—

(1) deleting "52½ per centum thereof shall be paid into, reserved" and inserting in lieu thereof: "30 per centum thereof shall be paid into, reserved"; and

(2) inserting after "direct;" and before "and" the following language: "an additional 22½ per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after December 31 and June 30 of each year to the State within the boundaries of which the leased lands or deposits are or were located; said additional 22½ per centum of all moneys paid to any State 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 (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services;".

(b)(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. Such loans shall be confined to the uses specified for the 22½ per centum of mineral revenues to be received by such States and subdivisions pursuant to section 35 of such Act. All loans shall bear interest at a rate not to exceed 3 per centum and shall be for such amounts and durations as the Secretary shall determine. The Secretary shall limit the amounts of such loans to the portion of the 22½ per centum of anticipated mineral revenues to be received by the

recipients of said loans pursuant to said section 35 for any prospective 10-year period. Such loans shall be repaid by the loan recipients from that portion of the 22½ per centum of mineral revenues to be derived from said section 35 by such recipients, as the Secretary determines.

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

(3) Loans under this subsection shall be subject to such terms and conditions as the Secretary determines necessary to assure that the purpose of this subsection will be achieved. The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this subsection.

SEC. 311. RECORDATION OF MINING CLAIMS.—(a) Each mining claim under the Mining Law of 1872, as amended (Revised Statutes 2318–2352; 30 USC 22), shall be recorded by the claimant with the Secretary within two years after the date of enactment of this Act or within thirty days of location of the claim, whichever is later. Any claim not so recorded shall be conclusively presumed to be abandoned and shall be void.

(b) Any claim recorded pursuant to subsection (a) for which the claimant has not made application for patent within ten years after the date of recordation of the claim shall be conclusively presumed to be abandoned and shall be void: *Provided, however*, That upon a showing that a mineral survey cannot be completed within said ten-year period, the filing of an application for a mineral survey, which states on its face that it was filed for the purpose of proceeding to patent, shall be acceptable for the patent application purpose of this subsection if all other applicable requirements under the general mining laws have been met and if the applicant subsequently prosecutes diligently his application for patent to completion.

(c) Such recordation or application shall not render valid any claim which was not valid on the date of enactment of this Act, or which becomes invalid thereafter.

TITLE IV—AUTHORITY TO GRANT RIGHTS-OF-WAY

SEC. 401. AUTHORIZATION TO GRANT RIGHTS-OF-WAY.—(a) The Secretary is authorized to grant, issue, or renew rights-of-way over, upon, or through the national resource lands for—

(1) reservoirs, canals, ditches flumes, laterals, pipes, pipelines, tunnels, and other facillties 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 oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, or water, 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 Power Commission under the Act of June 10, 1920 (41 Stat. 1063), as amended;

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

(6) roads, trails, highways, railroads, canals, tramways, airways, livestock driveways, or other means of transportation; and

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

(b)(1) The Secretary is authorized to provide for the acquisition, construction, and maintenance of roads within and near the national resource 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 and the other resources thereof. Financing of such roads may be accomplished (A) by the Secretary using appropriated funds, (B) by requirements on purchasers of timber and other products from the national resource lands, including provisions for amortization of road costs in contracts, (C) by cooperative financing with other public agencies and with private agencies or persons, or (D) by a

combination of these methods: *Provided*, That where roads of a higher standard than those 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 the national resource lands shall not 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 it is understood that when timber is offered with the condition that the purchaser thereof will build 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.

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

(3) Whenever the agreement under which the United States has obtained for the use of, or in connection with, the national resource 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.

(c)(1) The Secretary shall require, prior to granting, issuing, or renewing a right-of-way pursuant to this title that the applicant submit and disclose any or all plans, contracts, agreements, or other information or material reasonably related to the use, or intended use, of the right-of-way which the Secretary deems 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 such right-of-way.

(2) If the applicant is a partnership, corporation, association, or other business entity, the Secretary, prior to granting, issuing, or renewing a right-of-way pursuant to this title, shall require the applicant to disclose the identity of the participants in the entity. Such disclosure shall include, where applicable: (1) the name and address of each partner in the entity; (2) the name and address of each shareholder owning 3 per centum or more of the shares of such entity, together with the number and percentage of any class of voting shares which such shareholder is authorized to vote; and (3) 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.

SEC. 402. RIGHTS-OF-WAY CORRIDORS.—(a) In accordance with section 28 (s) of the Mineral Leasing Act of 1920 (41 Stat. 437, 449) as amended by the Act of November 16, 1973 (87 Stat. 576, 582), and the report submitted by the Secretary pursuant thereto, the Secretary shall, consistent with applicable land use plans, designate transportation and utility corridors on national resource lands and, to the extent practical and appropriate, require that rights-of-way be confined to them. In designating such corridors and in determining whether to require that rights-of-way be confined to them, the Secretary 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 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.

(b) In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way across national resource lands, the use of rights-of-way in common shall be required to the extent practical, and each right-of-way granted, issued, or renewed pursuant to this title shall reserve to the Secretary the right to grant additional rights-of-way for compatible uses on or adjacent to such right-of-way.

SEC. 403. GENERAL PROVISIONS.—(a) The Secretary shall specify the boundaries of each right-of-way granted, issued, or renewed pursuant to this title as precisely as is practicable. Each right-of-way shall be limited to the ground which the Secretary 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 required for the operation or maintenance of the project, and (3) to be necessary to protect the environment or public safety. The Secretary 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) The Secretary shall determine the duration of each right-of-way or other authorization to be granted, issued, or renewed pursuant to this title. In determining the duration the Secretary shall take into consideration, among other things, the cost of any facility placed on the right-of-way and its useful life.

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

(d) The Secretary, 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 imposed or with regulations issued by the Secretary. The Secretary shall issue regulations or impose stipulations which shall include, but shall not be limited to: (1) requirements to insure that activities on the right-of-way will not violate applicable air and water quality standards or applicable transmission, powerplant, and related facility siting standards established by or pursuant to law; (2) requirements designed to control or prevent (A) damage to the environment (including damage to fish and wildlife habitat), (B) damage to public or private property, and (C) hazards to public health and safety; and (3) requirements to protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes. Such regulations shall be regularly revised. 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.

(e) Mineral and vegatative materials, including timber, within or without a right-of-way granted, issued, or renewed pursuant to this title 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.

(f) No right-of-way shall be granted, issued, or renewed pursuant to this title for less than the fair market value thereof as determined by the Secretary. The Secretary 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 such costs need not be reimbursed in any cooperative cost share right-of-way program between the United States and the holder of the right-of-way: *Provided further,* That rights-of-way may be granted, issued, or renewed to State or local governments or agencies or instrumentalities thereof, or to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profitmaking corporations or business enterprises, for such lesser charge as the Secretary finds equitable and in the public interest.

(g)(1) The Secretary shall promulgate regulations specifying the extent to which holders of rights-of-way granted, issued, or renewed pursuant to this title shall be liable to the United States for damage or injury incurred by the United States in connection with 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 arising in connection with 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.

(h) Where he deems it appropriate, the Secretary may require a holder of a right-of-way granted, issued, or renewed pursuant to this title to furnish a bond, or other security, satisfactory to the Secretary 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.

(i) The Secretary shall grant, issue, or renew a right-of-way pursuant to 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.

SEC. 404. TERMS AND CONDITIONS.—Each right-of-way granted, issued, or renewed pursuant to this title shall contain such terms and conditions as the Secretary deems necessary to (1) carry out the purposes of this Act and rules and regulations hereunder; (2) protect the environment; (3) protect Federal property and monetary interests; (4) manage efficiently national resource lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the national resource lands adjacent to or traversed by said right-of-way; (5) protect lives and property; (6) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; and (7) protect the public interest in the national resource lands.

SEC. 405. SUSPENSION OR TERMINATION OF RIGHTS-OF-WAY.—Abandonment of a right-of-way granted, issued, or renewed pursuant to this title or noncompliance with any provision of this title, condition of the right-of-way, or applicable rule or regulation of the Secretary 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 an appropriate administrative proceeding pursuant to section 554 of title 5, United States Code, the Secretary 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 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 shall give written notice to the holder of the ground or 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: *Provided, however,* 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 is not required to commence proceedings to suspend or terminate the right-of-way.

SEC. 406. RIGHTS-OF-WAY FOR FEDERAL AGENCIES.—(a) The Secretary may reserve for the use of any department or agency of the United States a right-of-way over, upon, or through national resource lands, subject to such terms and conditions as he may impose. The provisions of this title shall be applicable to any such right-of-way.

(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.

SEC. 407. CONVEYANCE OF LANDS.—If under applicable law the Secretary decides to transfer out of Federal ownership, by patent, deed, or otherwise, any national resource 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), the lands may be conveyed subject to the right-of-way; however, if the Secretary 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 national resource lands protected, he shall (1) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (2) 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.

SEC. 408. EXISTING RIGHTS-OF-WAY.—Nothing in this title shall have the effect of terminating any rights-of-way or rights-of-use heretofore issued, granted, or permitted by the Secretary. However, the Secretary may cancel such a right-of-way or right-of-use with the consent of the holder thereof and in its stead issue a right-of-way pursuant to the provisions of this title.

SEC. 409. STATE STANDARDS.—The Secretary shall take into consideration and, to the extent practical, comply with State standards for rights-of-way construction, operation, and maintenance if those standards are for similar purposes as, and more stringent than, applicable Federal standards and if the national resource lands are adjacent to lands to which such State standards apply.

SEC. 410. EFFECT ON OTHER LAWS.—(a) After the date of enactment of this Act, no right-of-way for the purposes listed in this title shall be granted, issued, or renewed over, upon, or through national resource lands except under and subject to the provisions, limitations, and conditions of this title: *Provided*, That any application for a right-of-way filed under any other law prior to the date of enactment of this Act may, at the applicant's option, be considered as an application under this title or the Act under which the application was filed. The Secretary 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 national resource lands for highway purposes pursuant to sections 107 and 317 of title 23, United States Code.

SEC. 411. INTERAGENCY COORDINATION.—Applicants before any Federal agency other than the Department of the Interior seeking a license, certificate, or other authority for a project which will involve national resource lands shall simultaneously apply to the Secretary for the appropriate authority to use national resource lands and submit to the Secretary all information furnished to such other Federal agency.

TITLE V—CONSTRUCTION OF LAW, PRESERVATION OF VALID EXISTING RIGHTS, AND REPEAL OF LAWS

SEC. 501. CONSTRUCTION OF LAW.—(a) Except as provided in section 410; the authority conferred upon the Secretary by this Act is in addition to all other authority vested in him by law, and nothing in this Act shall be deemed to repeal any such other authority by implication.

(b) 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 national resource 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;

(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;

(7) as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national resource lands; or

(8) as amending, limiting, or infringing the existing laws providing grants of lands to the States.

SEC. 502. VALID EXISTING RIGHTS.—All actions by the Secretary under this Act shall be subject to valid existing rights.

SEC. 503. REPEAL OF LAWS RELATING TO DISPOSAL OF NATIONAL RESOURCE LANDS.—(a) The following statutes or parts of statutes are repealed:

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.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
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 2297				169.
Mar. 3, 1881	153		21: 511	
Oct. 22, 1914	335		38: 766	170.
Revised Statute 2292				171.
June 8, 1880	136		21: 166	172.
Revised Statute 2301				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		33: 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: 981	187.
June 21, 1934	690		48: 1185	187a.
May 22, 1902	821	2	32: 203	187b.
June 5, 1900	716		31: 270	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 43, 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 this 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."				

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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	223, 272, 273.
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.
July 24, 1919	26	Next to last paragraph only.	41: 271	237.
Mar. 2, 1932	69		47: 59	237a.
May 21, 1934	320		48: 787	237b.
May 22, 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	237 f,g,h.
Mar. 1, 1921	102		41: 1202	238.
Apr. 7, 1922	125		42: 492	
Revised Statute 2308				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.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
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	
July 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.
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, or 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. 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.

Act of	Chapter	Section	Statute at Large	43 U.S. Codes
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.
June 1, 1938	317		52: 609	682a–e.
July 14, 1945	298		59: 467	
June 8, 1954	270		68: 239	
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 two provisos only.	44: 591	
Revised Statute 2375				698.
Revised Statute 2376				699.
Mar. 2, 1889	381	1	25: 854	700.
3. 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	722.
July 9, 1914	138		38: 454	730.
Feb. 9, 1903	531		32: 820	731.
4. Drainage Under State Laws:				
May 20, 1908	181	1–7	35: 171	1021–1027.
May 1, 1958	P.L. 85-387		72: 99	1029–1034.
Jan. 17, 1920	47		41: 392	1041–1048.
5. 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."				
Aug. 23, 1894	314		28: 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.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
6. 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	
7. 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.
8. 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.
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, 270–5.
July 11, 1956	571	2	70: 529	270–6, 270–7, 687a–1.
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	
Mar. 8, 1922	96	1	42: 415	270–11.
Aug. 23, 1958	P.L. 85-725	1, 4	72: 730	
Aug. 17, 1961	P.L. 87-147		75: 384	270–13.
Oct. 3, 1962	P.L. 87-742		76: 740	
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.
July 19, 1963	P.L. 88-66		77: 80	687b–5.
9. Pittman Underground Water Act:				
Sept. 22, 1922	400		42: 1012	356.

(b) Section 7 of the Taylor Grazing Act (48 Stat. 1269, 1272), as amended by section 2 of the Act of June 26, 1936 (49 Stat. 1976), is further amended to read as follows:

"The Secretary of the Interior is authorized, in his discretion to examine and classify any lands withdrawn or reserved by Executive order of November 26, 1934 (numbered 6910), and amendments thereto, and Executive order of February 5, 1935 (numbered 6964), or within a grazing district, which are more valuable or suitable for any other use than for the use provided for under this Act, or proper for acquisition in satisfaction of any outstanding lieu, exchange or land grant, and to open such lands to disposal in accordance with such classification under applicable public land laws. Such lands shall not be subject to disposition until after the same have been classified and opened to disposal.".

(c) 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), as added to by the Act of August 17, 1961 (75 Stat. 384), and amended by the Act of October 3, 1962 (76 Stat. 740), 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.".

(e) Section 3 of the Act of August 30, 1949 (63 Stat. 679), 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.".

SEC. 504. REPEAL OF LAWS RELATING TO ADMINISTRATION OF NATIONAL RESOURCE LANDS.—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: 864	
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 2450				1161.
Feb. 27, 1877	69	1	19: 244	
The following words only; "Section twenty-four hundred and fifty is amended by striking out in the fourth line the words 'Secretary of the Treasury' and inserting the words 'Secretary of the Interior' ".				
Revised Statute 2451				1162.
Feb. 27, 1877	69	1	19: 244	
The following words only; "Section twenty-four hundred and fifty-one is amended by striking out, in the first and second lines, the words 'Secretary of the Treasury' and inserting the words 'Secretary of the Interior' ".				
Revised Statute 2456				1163.
Sept. 20, 1922	350		42: 857	
The words ". . . and sections 2450, 2451, and 2456 be amended to read as follows;" and all words following in the Act.				
Revised Statute 2457				1164.
11. Mar. 3, 1891	561	7	26: 1098	1165.
12. Revised Statute 2471				1191.
Revised Statute 2472				1192.
Revised Statute 2473				1193.
13. July 14, 1960	P.L. 86-649	101-202(a), 203-204(a), 310-303.	74:506	1361, 1362, 1363-1383.
14. Sept. 26, 1970	P.L. 91-429		84: 885	1362a.
15. July 31, 1939	401	1, 2	53: 1144	

SEC. 505. REPEAL OF LAWS RELATING TO RIGHTS-OF-WAY.—(a) The following statutes or parts of statutes are repealed insofar as they apply to national resource lands:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statutes 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 damage shall be liable to the party injured for such injury or damage."				
Revised Statutes 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 plats of any right-of-way for a wagon road, railroad, or other highway over and across any forest reservation or reservoir 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		29: 484	952-955.
Mar. 3, 1923	219		42: 1437	

Act of	Chapter	Section	Statute at Large	U.S. Code
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).
Mar. 4, 1911	238		36: 1253	961 (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.

(b) Notwithstanding the provisions of subsection (a) of this section, the following statute is repealed in its entirety:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statute 2477				43 U.S.C. 932.

I. PURPOSE OF S. 507, AS ORDERED REPORTED

The purpose of S. 507, as ordered reported, the National Resource Lands Management Act, is to provide the first comprehensive, statutory statement of purposes, goals, and authority for the use and management of about 448 million acres of federally-owned lands administered by the Secretary of the Interior through the Bureau of Land Management.

These lands—designated as "national resource lands" in S. 507—constitute the largest system of Federal lands—comprising 20 percent of America's land base and 60 percent of all federally-owned property. Over the years, the Congress has established statutory bases for the management of other, smaller Federal land systems: the National Forest, National Park, and National Wildlife Refuge Systems. No similar legislative foundation exists for the national resource lands.

While the Nation has come to regard the national resource lands as a permanent national asset which, for the most part, should be retained and managed on a multiple use, sustained yield basis, the only management tools available for this purpose remain some 3,000 public land laws which have accumulated over the last 170 years. Most of these statutes were written at a time when Federal ownership of the national resource lands was expected to be shortlived and, consequently, the Federal Government was regarded as only a temporary custodian of those lands. In comparison with the organic acts of the other Federal land management agencies, these laws are often conflicting, on occasion truly contradictory, and, to a serious extent, incomplete and inadequate. S. 507, as ordered reported, would consolidate these laws, remove conflicts, and provide missing authority.

II. SUMMARY OF MAJOR PROVISIONS

The introductory sections of S. 507, as ordered reported, establish the basic management policies; Titles I, II, III, and IV provide the tools to implement those policies; and Title V repeals a number of the 3,000 public land laws which either are obsolete or conflict with the provisions of S. 507, as ordered reported.

The introductory sections require that the national resource lands be managed in accordance with the principles of multiple use and sustained yield and define these principles. In addition, they establish the policy that, except where disposal is consistent with the purposes and conditions of the Act, the national resource lands will be retained in Federal ownership. Among other policies elucidated in these sections are a fair return to the United States for the use of the national resource lands; full public participation, including hearings and the use of advisory boards, in decisionmaking concerning those lands; and coordination of the decisionmaking with State and local land use planning.

Title I provides the general management authority. It directs the Secretary of the Interior to prepare and maintain an inventory of the national resource lands, review those lands for potential wilderness areas, develop land use plans, and manage the lands in accordance with the plans.

Title II provides the basic authority and guidelines for both conveying and acquiring national resource lands or interest in lands. Consistent with the retention policy, the guidelines for disposal of national resource lands limit such disposals to instances in which the public interest to be served by disposal clearly outweighs the interest to be served by retention. (Disposals could still occur under certain other statutes such as the Desert Land Act (10 Stat. 377), the Recreation and Public Purposes Act (44 Stat. 741), and the various laws providing for grants of lands to the States. (The title requires that, with certain exceptions, lands to be conveyed must be sold at fair market value, under competitive bidding, and with the mineral interest retained in Federal ownership. Authority is provided to sell reserved mineral interests when the reservation interferes with nonmineral development which constitutes a more beneficial use of the land than mineral development. The Secretary of the Interior is required to notify the appropriate State and local governments to permit them to plan for and zone or otherwise regulate lands to be conveyed out of Federal ownership. The Secretary is also authorized to insert in the patents of conveyed lands conditions to insure proper land use and protection of the public interest. A specific program is established to survey and convey to State and local governments for public purposes so-called "omitted lands"—lands erroneously or fraudulently omitted from original public land surveys. Title II also provides authority to issue documents of disclaimer when the United States has no interest in certain lands and to correct documents of conveyance. Finally, the title provides guidelines for the exchange of national resource lands for non-Federal lands and for the acquisition of additional national resource lands, but sharply circumscribes acquisition by condemnation to the single purpose of providing access to national resource lands.

Title III provides a number of specific management and enforcement authorities and makes selective changes in the General Mining Law of 1872 (17 Stat. 91), as amended, and the Mineral Leasing Act of 1920 (41 Stat. 437), as amended. In part, this title reenacts the Public Land Administration Act (74 Stat. 506), omitting provisions

which are obsolete. It contains provisions concerning studies; investigations; cooperative agreements; contributions of money, services, or property; service charges; reimbursement payments; and excess payments. Perhaps, the most important management provisions provide for the establishment of a working capital fund; the posting of bonds or other security by resource developers or permittees to insure compliance with contracts or regulations and to protect national resource lands; and the maintenance, or payment for maintenance, of roads, trails, lands, or facilities by their users. In addition, Title III establishes a specific management program for one of the most fragile and heavily used areas of the national resource lands: the California desert. A particularly difficult and chronic land management problem for all public lands subject to mining concerns "stale claims" under the 1872 Mining Law and the lack of a central record keeping system for claims and patents. Title III contains a provision which would remove the stale claims and establish that record keeping system. The enforcement provisions include criminal penalties for violation of national resource lands regulations; arrest authority for departmental personnel to enforce laws and regulations relating to lands or resources managed by the Secretary of the Interior; and authority for the Secretary to contract with State and local officials to provide more general law enforcement on the national resource lands. Finally, title III would amend the 1920 Mineral Leasing Act by providing States and local governments with an additional share of mineral revenues from public lands to be used by those governments for the full range of governmental services. As these services are normally required in advance of the payment of the mineral revenues, title III also establishes a program of loans to State and local governments based upon prospective payments of those revenues.

Title IV provides uniform and comprehensive authority to the Secretary to grant rights-of-way on the national resource lands for such purposes as roads, trails, canals, and powerlines. It is patterned after the Act of November 16, 1973 (87 Stat. 576); but it does not provide new authority to grant rights-of-way for oil and gas pipelines as this authority is contained in that Act. The title contains provisions concerning, among other things, rights-of-way corridors and the granting of rights-of-way in common; terms and conditions of rights-of-way, including extent of liability of rights-of-way holders and the Federal Government; divulgence of information by rights-of-way applicants; suspension or limitation of rights-of-way; and grants of rights-of-way to other Federal agencies. In addition, this title permits the Secretary to establish a cost-share roadbuilding program for timber harvesting on national resource lands similar to the program which the Forest Service administers under the National Forest Roads and Trails System Act (78 Stat. 1089).

Title V contains a list of laws to be repealed or amended. It explicitly preserves rights existing under these laws at the time of enactment of S. 507, as ordered reported. In addition, it contains a series of savings clauses to insure that water rights and water resources projects, interstate compacts, State criminal statutes and police power, and State wildlife and fish responsibilities are not affected by the bill.

The list of laws to be repealed is specific. The bill would not repeal or modify any law or segment of law not specifically contained in that

list. For example, S. 507, as ordered reported, does not repeal the Desert Land Act (19 Stat. 377), the Recreation and Public Purposes Act (44 Stat. 741), the Color of Title Act (45 Stat. 1069), the grazing provisions of the Taylor Grazing Act (48 Stat. 1269), laws affecting the reverted Oregon and California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands, the mining laws, the Outer Continental Shelf Lands Act (67 Stat. 462), or laws concerning other Federal land systems such as the National Forest, Wildlife Refuge, Park, Wild and Scenic Rivers, and Wilderness Preservation Systems.

III. BACKGROUND AND NEED

A. The Public Domain Lands: Their Acquisition, Disposal, and Retention

Throughout most of our Nation's history the national resource lands have been called the "public domain." The public domain is the "landed estate" of the American people. Originally including practically all the land with the boundaries of the first 48 States except Texas and the 13 Colonies, it has always constituted the largest system of Federal lands.

Wallace Stegner, the noted man of letters and historian, has admirably summarized the public domain's early history:

> As a fact, the public domain dates from October 30, 1779, when Congress requested the states to relinquish in favor of the federal government all claims to the unsettled country between the Appalachians and the Mississippi. As a problem, it dates from the Act of Congress of May 18, 1796, which authorized the appointment of a surveyor-general and the survey of the Northwest Territory. As the responsibility of a special branch of government, it was created with the General Land Office in April, 1812, eight and a half years after Jefferson's Louisiana Purchase has superimposed mystery upon wilderness, and added unmeasured millions of acres, unrealized opportunities, and unpredictable headaches to the national inheritance.[1]

Federal landownership actually antedates the establishment of the United States as a nation. The original colonies received land grants of varying character from European kings. Although the boundaries of grants to six of the colonies were capable of definition, the grants to the other seven colonies were of such vast size or so ill-defined (Virginia's grant was "from sea to sea") as to permit those colonies to lay claim to extensive and often unspecified amounts of western lands. Led by Maryland and its refusal to become a signatory of the Articles of Confederation until the western land claims were relinquished, the Continental Congress made the October 30, 1779, appeal for relinquishment. Between 1781 and 1802, 237 million acres of land (including that within the borders of eleven present-day States) were transferred by the seven original states to the central government to become the public domain. These massive cessions of western land claims were promptly followed by the purchase of the five-hundred million acre

[1] W. Stegner, *Beyond the Hundredth Meridian: John Wesley Powell and the Second Opening of the West*, Boston (1954), p. 212.

Louisiana Territory in 1803 and Spanish cession of Florida in 1819. From 1845 to 1853, the United States acquired over 780 million acres of land through the Treaty of Guadalupe Hidalgo, the Oregon Compromise, the Gadsden Purchase, and the admittance of Texas to the Union. In 1867 the purchase of the more than 375 million acres of Alaska from Russia constituted the last major addition of lands to the public domain. In little over three generations, the Federal government had become the proprietor of over 1.8 billion acres of land of which more than 1.6 billion acres were added to the original public domain created out of the western cessions.[2]

No sooner had the public domain been established with the first cession of western land claims by Virginia in 1781, than a policy of disposal of public domain lands was initiated. This policy of conveying Federal lands out of Federal ownership was pursued simultaneously with the land acquisition initiatives of the nineteenth century and continued as the dominant public land policy well into the twentieth century. In the century and a half during which this policy held sway, 1.1 billion acres or more than half of the public domain was sold or granted to States and private owners—both business entities and individuals. In the contiguous forty-eight States, over 70 percent of the land once in public domain was transferred to private or State ownership. These land conveyances did not occur under a single, coherent, planned disposal program; however, three general stages can be discerned: sales for revenue; grants to States and corporations for internal improvements, and to individuals for services to the government; and alienation through the various homestead acts.

Although the desire for revenue had not been a strongly motivating force in shaping most of the land policies of the Colonies, the Continental Congress, unable to pass tax legislation acceptable to all the States and powerless to secure other significant sources of revenue, anticipated that revenues from the public domain, when acquired, would be used to discharge the national debt.[3] Under pressure to gain those revenues and to retire military bounty land warrants which had accumulated during the Revolution, shortly after the Virginia cession, the Congress of the Confederation passed the first and certainly the most important national land law—the Land Ordinance of 1785. It required the survey and division of the newly established public domain into six-mile square townships composed of thirty-six one square mile sections and the offering of the surveyed land for sale at public auctions. The rectangular system of land survey and recordation has been retained in the national land system ever since and the method of sale provided in the Ordinance remained the principal mechanism for the disposal of Federal land in the early 19th century. This first law was rapidly followed by numerous other statutes opening additional areas for, and altering the terms of, sale.

When Ohio, utilizing the procedures developed under the Northwest Ordinance of 1787, gained admission to the Union in 1802 (2 Stat. 173), it was given one section out of each township for the support of its common schools. From this beginning, Federal land grants to States

[2] Unless otherwise stated, figures cited in this report are derived from Bureau of Land Management, Department of the Interior, *Public Land Statistics, 1974*, Washington, D.C. (1975).

[3] P. Gates, *History of Public Land Law Development*, Washington, D.C. (1968), p. 61.

became increasingly larger and were extended to numerous other purposes. The States have received a total of 328,424,871 acres for: common schools (78 million acres); other schools, such as land grant colleges (17 million acres); other institutions, such as mental health facilities (5 million acres); railroads (37 million acres); wagon roads (3 million acres); canals and rivers (6 million acres); miscellaneous improvements (8 million acres); swamp and overflow lands for the purpose of reclamation (64 million acres); and other uses (110 million acres).

In addition to providing the States with specific land grants for transportation purposes, the Federal government made a considerable number of grants directly to railroad companies and canal companies. Beginning with an 1852 general right-of-way act which granted to railroad corporations 100 foot rights-of-way across public land (10 Stat. 28), the government has granted over 94 million acres to western railroads, and of this total more than 88 million acres were received by four corporations—the Union Pacific, Southern Pacific (Central Pacific), Northern Pacific, and the Santa Fe.[4] The granting of military bounties grew from a relatively minor and temporary operation during the 1790's (2 million acres) to an extensive program as the Congress authorized sizable grants to veterans of the War of 1812 (5 million acres) and the Mexican War (61 million acres).

The fate of the public lands was the preoccupation of public officials and private citizens during the Nation's first century. In an 1829 debate, over whether to halt the surveying and offering of new land at auction, Senator Robert Y. Hayne of South Carolina expressed how great the prevailing interest in land questions was:

> More than half our time has been taken up with the discussion of propositions connected with the public lands; more than half of our acts embrace provisions growing out of this fruitful source. Day after day the charges are rung on this topic, from the grave inquiry into the rights of the new States to the absolute sovereignty and property in the soil, down to the grant of a preemption of a few quarter sections to actual settlers. . . . A question that is pressed upon us in so many ways; that intrudes in such a variety of shapes; involving so deeply the feelings and interests of a large portion of the Union; insinuating itself into almost every question of public policy, and tinging the whole course of our legislation cannot be put aside or laid asleep.[5]

A central issue during the debates on land conveyance policy concerned the availability of land for the landless, would-be western settler. The large land grants to States and corporations clearly placed sizable tracts of land at least temporarily out of reach of individual land purchasers of modest means. However, much of the land sold into private ownership also failed to reach the poor settler. Historians are generally agreed that many of the terms and procedures for selling public domain land—such as sales of land in relatively large tracts,

[4] T. Watkins and C. Watson, Jr., *The Land No One Knows: America and the Public Domain*, San Francisco (1975), p. 81.

[5] Register of Debates, 21st Cong., 1st sess., Jan. 19, 1830, p. 32, as cited in Gates, *History of Public Land Law Development*, pp. 10–11.

at a limited number of sites, for credit, and with no settlement requirements—resulted in much of the land being placed in the hands of speculators.[6]

During the period of large land grants and sales, however, a series of gradual modifications of the nation's land disposal policies in the interest of individual settlers could be discerned. A series of preemption acts which authorized squatters in designated areas to purchase their claims at the minimum price led to the passage of the General Preemption Act in 1841 (5 Stat. 453). The settlers' long struggle for free land won its most significant victory with the passage of the Homestead Act (12 Stat. 392). Caught up in the slavery issue and the threat of creating additional free States which the South perceived to be posed by homestead legislation, homestead bills had died in every session of Congress from 1851 until the election of Lincoln and southern secession. President Lincoln finally signed the Homestead Act into law on May 20, 1862. On that occasion, he stated, "I am in favor of settling the wild lands into small parcels so that every poor man may have a home".[7]

The Homestead Act failed, however, to meet this goal. The terms of the Act—160 acres of land, nearly free of cost, to any person who would live on it for five years and make a few modest improvements—were far better adopted to the more humid eastern states than the arid and treeless western areas that remained open for settlement after 1862. Many entrymen—ranchers and lumbermen, in particular—found the acreage too small and the credit too scarce without title. A somewhat sardonic, but perhaps more realistic, assessment of the Homestead Act was provided by Senator William E. Borah, "The government bets 160 acres against the entry fee . . . that the settler can't live on the land for five years without starving to death." [8]

Numerous additional special measures were passed to provide whatever additional lands and privileges were considered necessary to remove that Act's deficiencies and encourage private ownership of the public domain by settlers and others for agricultural purposes, livestock grazing, and mineral exploration and development. The Mining Law of 1872 (17 Stat. 91), Timber Culture Act of 1873 (17 Stat. 605), Desert Land Act of 1877 (19 Stat. 377), Timber and Stone Act and Free Timber Act of 1878 (20 Stat. 89, 20 Stat. 113), Carey Act of 1894 (28 Stat. 422), Kincaid Act of 1904 (33 Stat. 547), Enlarged Homestead Act of 1909 (35 Stat. 639), Three-Year Homestead Act of 1912 (37 Stat. 106), and Stock-Raising Homestead Act of 1916 (39 Stat. 862) are the more prominent examples of these laws. Although few of these laws could be considered entirely successful, they did result in the transfer of a significant portion of the public domain into private ownership (the homestead laws, 288 million acres; timber and stone laws, 14 million acres; timber culture laws, 11 million acres; and desert land laws, 11 million acres).

By the third quarter of the 19th Century, the numerous excesses involved in the conveyance of public domain laws, the serious problems which developed on the transferred lands, particularly overgrazing and crude and careless cultivation, and the first stirrings of the conservation movement and its "gospel of efficiency" [9] led to demands that some public lands be preserved and maintained in Federal ownership. The first major, permanent Federal land reservation was the Yellowstone National Park, established in 1872 (17 Stat. 326). Although the concept of a national park system was given life with the passage of the National Park Service Act in 1916 (39 Stat. 535), the first system for permanently retaining Federal land was established with the provision of authority to the President in 1891 to withdraw forest lands and prevent their disposal (26 Stat. 1095).

Despite these early initiatives to retain Federal lands, in 1934 there remained approximately 166 million acres of "unreserved and unappropriated public domain" lands in the 48 States, and another 350 million acres in Alaska, subject to disposal under a wide variety of land laws. In that same year, however, the land disposal era was abruptly terminated by the enactment of the Taylor Grazing Act (48 Stat. 1269). That Act and its 1936 amendment called for withdrawal of 142 million acres of the public domain remaining open to settlement in the 48 States and the administration of the withdrawn land as public grazing districts. Upon the creation of the districts, the quantity of lands eligible for disposal declined substantially and disposal policy became a matter of peripheral concern. Thus, the enactment of the Taylor Grazing Act, and its mandate to classify public lands and administer their use, marked a shift in the Federal role from land purveyor to land manager.

Although the days of major territorial acquisitions have long passed, since the turn of the century the Federal Government has initiated several land acquisition programs. In 1911, Congress enacted the Weeks Act (36 Stat. 961) which provided for the purchase of private lands to create national forests in the east. During the Great Depression of the 1930's, under authority of the Bankhead-Jones Farm Tenant Act (50 Stat. 522), the Federal Government bought several millions of acres of land—"sub-marginal lands" on which families had become stranded, unable to produce a reasonable living. In addition, the Federal Government has acquired land for national parks, military reservations, and other public uses.

By these various acquisition and disposal processes, the Federal Government has, at one time or another, been the owner of 1,442 million acres of land within the 48 contiguous States or 77 percent of their total area, and 385 million acres or virtually 100 percent of Alaska. Today, Federal landholdings total about 761 million acres, of which 705 million remain from the original public domain and 56 million have been acquired from private or other public owners. The percentage of Federal lands in western States is still high, ranging from 29.5 percent in Washington and 29.6 percent in Montana to 86.6 percent in Nevada and 95.6 percent in Alaska.[10] Of the remaining

[6] E.g. P. Gates, "The Role of the Land Speculator in Western Development," *The Public Lands: Studies in the History of the Public Domain*, Madison, Wis. (1962). A second article in that volume, " 'Profits' and the Frontier Land Speculator," by A. Bogue and M. Bogue, reviews the literature on the role of the speculator in public land sales.

[7] Watkins and Watson, *The Land No One Knows*, p. 51.

[8] Ibid., p. 89.

[9] See S. P. Hays, *Conservation and the Gospel of Efficiency: The Progressive Conservative Movement*, 1890–1920, New York (1974).

[10] The percentage of land in Federal ownership in each Western State is as follows: Alaska, 95.6 percent; Arizona, 43.9 percent; California, 44.9 percent; Colorado, 36 percent; Idaho, 63.7 percent; Montana, 29.6 percent; Nevada, 86.6 percent; New Mexico, 33.2 percent; Oregon, 52.3 percent; Utah, 66.1 percent; Washington, 29.5 percent; and Wyoming, 48.2 percent. Overall, the Federal Government owns 33.5 percent of the U.S. land base.

Federal land, 24.7 million acres have been incorporated in the National Park System, 187.3 million acres have been set aside as National Forests, and 28 million acres have been placed in the National Wildlife Refuge System. By far the largest acreage—448 million acres, nearly two-thirds of all the Federal land—is not in any established system. It is managed by the Bureau of Land Management (BLM) of the Department of the Interior. (See table 1 for a breakdown of lands under the jurisdiction of the BLM.)

TABLE 1.—PUBLIC LANDS UNDER EXCLUSIVE JURISDICTION OF THE BUREAU OF LAND MANAGEMENT, 1974

[In acres]

State	Vacant public lands [1]			Reserved lands [2]			
	Outside grazing districts	Within grazing districts	Total	LU [3]	Other	Unperfected entries pending [4]	Grand total
Alabama	3,066		3,066				3,066
Alaska					[5] 267,660,255	5,033,969	[6] 272,694,224
Arizona	1,661,029	9,935,155	11,596,184	37,072	966,897	480	12,600,633
Arkansas	1,589		1,589				1,589
California	12,370,895	2,226,790	14,597,685		992,404	1,924	15,592,013
Colorado	529,098	5,910,792	6,439,890	36,584	1,878,369		8,354,843
Florida	1,600		1,600				1,600
Idaho	446,482	11,087,708	11,534,190	72,276	361,870	46,550	12,014,886
Illinois	29		29				29
Kansas	680		680				680
Louisiana	7,088		7,088				7,088
Michigan	936		936				936
Minnesota	25,603		25,603		17,953		43,556
Mississippi	548		548				548
Missouri	200		200				200
Montana	1,158,573	4,979,017	6,137,590	1,864,620	134,626		8,136,836
Nebraska	3,687		3,687				3,687
Nevada	3,898,172	43,455,918	47,354,090	3,167	992,884	7,973	48,358,114
New Mexico	1,327,963	11,072,680	12,400,643	226,694	329,620	640	12,957,597
North Dakota	68,261		68,261			181	68,442
Ohio	120		120				120
Oklahoma	5,324		5,324			2,780	8,104
Oregon	801,887	12,583,583	13,385,470	81,542	[7] 2,274,573	569	15,742,154
South Dakota	276,010		276,010		302		276,312
Utah	691,347	20,129,744	20,821,091	18,487	1,824,194		22,663,772
Washington	302,659		302,659		2,616	346	305,621
Wisconsin	170		170				170
Wyoming	3,192,936	10,928,200	14,121,136	9,875	3,370,197	1,019	17,502,227
Total	26,775,952	132,309,587	159,085,539	2,350,317	280,806,760	5,096,431	447,339,047

[1] The following types of surveyed and unsurveyed public and ceded Indian lands are included: Areas withdrawn under the Executive orders of Nov. 26, 1934, and Feb. 5, 1935 (43 CFR 2410.0–3 et seq.); areas embraced in mineral withdrawals and classifications; areas withdrawn for resurvey; and areas restored to entry within national forests (Act of June 11, 1906, 34 Stat. 233, 16 U.S.C. 506–509), within reclamation projects (Act of June 17, 1902, 32 Stat. 388), and within power site reserves (act of June 10, 1920, 41 Stat. 1063, 16 U.S.C. 791). These lands are not covered by any non-Federal right or claim other than permits, leases, rights-of-way, and unreported mining claims.

[2] Data are incomplete.

[3] "Land Utilization Project" lands purchased by Federal Government under title III of the Bankhead-Jones Farm Tenant Act, and subsequently transferred from jurisdiction of the U.S. Department of Agriculture to the U.S. Department of the Interior and now administered by the Bureau of Land Management.

[4] Excludes reclamation and forest homesteads.

[5] Includes secretarial withdrawals under the Alaskan Native Claims Act of Dec. 18, 1971 (85 Stat. 688) Public land order No. 5418 dated Mar. 25, 1974, withdraws all unreserved lands in Alaska.

[6] Excludes approximately 23,000,000 acres in Naval petroleum reserve No. 4.

[7] Includes 2,071,997 acres O. & C. lands and 74,547 acres CBWR lands.

Source: BLM, *Public Land Statistics, 1974*, p. 31.

B. The National Resource Lands, the Bureau of Land Management, the Public Land Law Review Commission, and S. 507

These 448 million acres have been termed "public domain lands," "public lands," and "BLM lands." S. 507 uses the terms "national resource lands" to describe four principal categories of land under

BLM jurisdiction. The most sizable category of national resource lands is that which the BLM refers to as "vacant"—the unreserved and unappropriated public domain, totaling 159 million acres or 36 percent of the entire BLM land base. Approximately 83 percent of the vacant public domain, totaling 132 million acres, lies within 52 grazing districts in 10 western States (an additional 25 million acres of land in other categories is also administered by the BLM within the grazing districts).

The second category of national resource lands is the reserved public domain. The most significant lands in this category are the 267 million acres of land in Alaska withdrawn under Public Land Order No. 5418 (March 25, 1974) pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688). From these lands the Natives will select approximately 40 million acres as part of that Act's settlement of aboriginal land claims, the State will continue to select approximately 102 million acres granted to it under the Statehood Act (72 Stat. 339), and the Congress will consider the setting aside of over 80 million acres through their inclusion in the National Park, Wildlife Refuge, Wild and Scenic Rivers, and Forest Systems.

The national resource lands also include certain acquired lands—lands which are not part of the public domain but which were acquired by the government through purchase, condemnation, gift, or exchange. The largest portion of land in this category is the approximately 2.3 million acres of submarginal land purchased and retired from agricultural production under title III of the Bankhead-Jones Farm Tenant Act (Act of July 22, 1937, 50 Stat. 522) and subsequently transferred from the jurisdiction of the U.S. Department of Agriculture.

A final category of national resource lands, small in acreage but high in resource values, is the heavily-timbered 2.3 million acre "O & C" land area in western Oregon which was once public domain, granted out of Federal ownership, and then forfeited and returned to the Federal Government. Much of this land was originally granted to the Oregon Central railroad companies (later the Oregon and California Railroad Company), was forfeited, and returned to the Federal Government in 1916 by revestment of title. The remainder was granted to the State of Oregon to aid in the construction of the Coos Bay Military Wagon Road, was forfeited, and returned to U.S. ownership by reconveyance in 1919. The value of the O & C lands can be appreciated by referring to the 1974 timber production statistics. Although only 10 percent of the BLM's 23 million acres of commercial forest land, the O & C lands accounted for 1.23 million board feet and $213 million of the total 1.265 million board feet and $215 million timber production in 1974 on all of that BLM forest land.

Although many areas within the national resource lands tend to possess fewer recreational or scenic values than the lands already selected for inclusion in the national systems, our country's expanding and more mobile population has placed increasing demands for public use on these lands. In addition, our growing economy has a seemingly insatiable appetite for the minerals, timber, forage, and water resources on and under the national resource lands. Consequently, the Bureau of Land Management has fully adopted the retention philosophy and is managing those lands so as to accommodate a wide variety of uses.

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The Bureau of Land Management is the successor agency to the General Land Office. The Act of April 25, 1812 (2 Stat. 716), established the Office as a bureau of the Treasury Department. The Office was transferred to the Department of the Interior when that Department was created in 1849 (9 Stat. 395). Passage of the Taylor Grazing Act led to the establishment of the Grazing Service to manage the grazing districts authorized under the Act. In 1946, the General Land Office and the Grazing Service were combined to form the BLM (Reorganization Plan No. 3, 5 USCA app. 185 (1967)).

In addition to managing the national resource lands, the BLM has numerous other responsibilities. It supervises all laws relating to disposal of the public domain (formerly the function of the General Land Office) and has some residual management responsibilities for millions of acres withdrawn for use by other agencies, such as the U.S. Fish and Wildlife Service, the Bureau of Reclamation, and the Department of Defense. In cooperation with the Geological Survey, it administers the mineral laws on all public domain and acquired land (including land in the National Forest System and the National Wildlife Refuge System), reserved mineral interests, and the leasing of the Outer Continental Shelf. The BLM also maintains the Federal land records and does cadastral surveys for most Federal lands. Altogether, the BLM has exclusive or partial jurisdiction over approximately 765 million acres of Federal land.[11]

As noted above, however, the BLM's efforts to fulfill its myriad responsibilities, particularly its basic management responsibilities for the national resource lands, have been impeded by its dependence on a vast number of outmoded public land laws which have developed over the earlier period in American history when disposal and largely uncontrolled development of the public domain were the dominant themes. The agencies which have jurisdiction over the national systems possess modern statutory mandates which reflect changing philosophies toward management of the Federal lands. The 1897 Organic Act for the Forest Service (30 Stat. 34), as supplemented by the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215) provides that agency with a "modern" mandate. The Park Service's Organic Act of 1916 (39 Stat. 595) has been renewed through amendments and through individual Acts creating national parks. The existence of these laws makes the lack of a similar statutory base for the Bureau of Land Management more conspicuous in its absence.

The lack of a modern statutory management mandate for the BLM and the existence of a vast number of antiquated public land laws were among the reasons for Congressional recognition of a need to review and reassess the entire body of law governing Federal lands. On September 19, 1964, Congress created the Public Land Law Review Commission ("PLLRC", 78 Stat. 982). In establishing the Commission, Congress expressed its view that:

> Because the public land laws of the United States have developed over a long period of years through a series of Acts of Congress which are not fully correlated with each other and because those laws, or some of them, may be

[11] Watkins and Watson, *The Lands No One Knows*, p. 139.

> inadequate to meet the current and future needs of the American people and because administration of the public lands and the laws relating thereto has been divided among several agencies of the Federal Government, it is necessary to have a comprehensive review of those laws and the rules and regulations promulgated thereunder and to determine whether and to what extent revisions thereof are necessary.[12]

After five years of extensive investigations, the Commission completed its review and submitted its final report, entitled *One Third of the Nation's Land*; [13] to the President and the Congress on June 20, 1970. The report contains one-hundred and thirty-seven numbered, and several hundred unnumbered, recommendations designed to improve the Federal Government's custodianship of the Federal lands. Principal among these recommendations is the Commission's view that:

> The policy of large-scale disposal of public lands reflected by the majority of statutes in force today [should] be revised and * * * future disposal should be of only those lands that will achieve maximum benefit for the general public in non-Federal ownership, while retaining in Federal ownership those whose values must be preserved so that they may be used and enjoyed by all Americans.[14]

In addition, the Commission emphasized a need to develop "a clear set of goals for the management and use of public lands * * * particularly * * * lands administered by the Bureau of Land Management." [15] The Commission's report stated specifically that:

> A congressional statement of policy goals and objectives for the management and use of public lands is needed to give focus and direction to the planning process.[16]

S. 507, as ordered reported, is in accordance with over one hundred recommendations of the Public Land Law Review Commission report.

The bill designates lands administered by the Bureau of Land Management as "national resource lands" and provides a clear statement of goals and objectives by which these lands must be managed. Among the principal goals and objectives are retention of the national resource lands in Federal ownership and management of these lands under principles of multiple use and sustained yield in a manner which will assure the quality of their environment for present and future generations.

S. 507, as ordered reported, also directs the Secretary of the Interior to prepare and maintain an inventory of the national resource lands and their resources. Congressional recognition of the importance of such authority to proper management of the BLM lands has been long standing, as demonstrated by the passage of the now-expired 1964 Classification and Multiple Use Act (78 Stat. 986). According to the Public Land Law Review Commission report:

[12] Act of September 19, 1964, section 2, 78 Stat. 982.
[13] Public Land Law Review Commission, *One Third of the Nation's Land; A Report to the President and the Congress by the Public Land Law Review Commission*, Washington, D.C. (1970).
[14] *Ibid.*, p. 1.
[15] *Ibid.*, p. 41.
[16] *Ibid.*, p. 42.

> The 1964 act was a recognition by Congress that the existing pattern, by which the old goals of the traditional disposal laws had generally been subordinated to broad Secretarial discretion to nullify them on a case-by-case basis in response to individual applications, was no longer an acceptable public land policy. Hence, it provided a new approach on an interim basis until this Commission could submit its recommendations. The new authority provided the Secretary with a broad planning charter with directions to identify those factors which ought to be considered in determining whether lands should be disposed of or retained in Federal ownership.[17]

Since the authority to classify lands for retention or disposal contained in the Classification and Multiple Use Act of 1964 expired on December 23, 1970, the BLM has not had the necessary authority to properly manage the lands under its jurisdiction. The National Resource Lands Management Act will provide this agency with the authority it needs to administer a major portion of the Nation's federally owned lands.

IV. LEGISLATIVE HISTORY

Congressional attention to revision of the public land laws awaited publication of the Public Land Law Review Commission report. Once the Commission's recommendations were available, the task of assigning priorities and developing legislative proposals began. Only one bill addressing the issue of national resource lands policy was introduced during the 91st Congress: S. 3389, introduced on February 4, 1970 by Senators Jackson and Moss. This measure attempted to provide the most basic authority required by the Bureau of Land Management to improve its ability to manage the national resource lands. Although this measure was reported favorably by the Committee and passed the Senate on October 1, 1970, it was never acted on by the House.

Early in the 92d Congress, on February 23, 1971, Senator Jackson introduced S. 921, title I of which was the Public Domain Lands Organic Act. Subsequently, the Administration submitted its proposal, S. 2401, for a "National Resource Lands Management Act", which Senators Jackson and Allott introduced on August 3, 1971, by request. This measure was part of the President's environmental legislative program and the President discussed its importance in his Environmental Message to Congress delivered on February 8, 1971.

On September 18, 1972, the Committee reported S. 2401. The National Resource Lands Management Act of 1972, as amended and reported, combined the best features of both S. 2401, as it was originally introduced, and Title I of S. 921. The full Senate did not consider S. 2401 during the few months remaining in the 92d Congress. H.R. 7211, a bill which contained a number of provisions relating to the national resource lands, was reported by the House Interior Committee, but failed to receive a rule and remained lodged in the Rules Committee until the termination of the 92d Congress.

In the 93d Congress, on January 18, 1973, Senator Jackson reintroduced S. 2401, as ordered reported. It was assigned the number

[17] *Ibid.*, p. 43.

S. 424. The Administration resubmitted its bill, which was introduced as S. 1041 on February 28, 1973, by Senators Jackson and Fannin (by request).

S. 424, amended to include features of both S. 424 and S. 1041, was unanimously ordered reported to the full Committee by the Public Lands Subcommittee on December 11, 1973. S. 424 was amended again in full Committee and, on May 2, 1974, in open mark-up session, it was ordered reported favorably to the Senate on a unanimous voice vote. Section 309 of S. 424, as ordered reported, effected the basic purposes of S. 63, introduced by Senators Cranston and Tunney on January 4, 1973. Section 303 of S. 424, as ordered reported, was similar to S. 2743, submitted by the Administration and introduced by Senators Jackson and Allott on October 26, 1971. S. 2743 was reported by the Committee on April 28, 1972, and passed the Senate on May 2, 1972. No action was taken on S. 2743 by the House of Representatives during the 92d Congress, and, instead of submitting the provisions of S. 2743 as a separate bill in the 93d Congress, the Administration incorporated those provisions in S. 1041. The Senate also passed S. 1081, which would have updated the law pertaining to rights-of-way across public lands. As finally enacted (P.L. 93–153), however, the statute concerned rights-of-way for oil and gas only. The committee, thus, inserted in S. 424 the provisions of title IV to cover rights-of-way for all other uses. These provisions were similar to the provisions of S. 1081, minus the reference to oil and gas pipelines.

S. 424 was passed by the Senate on a vote of 71 to 1 on July 8, 1974, but no action on it or any counterpart measure was taken by the House of Representatives during the 93d Congress.

This Congress, Senator Haskell (on behalf of himself and Senators Jackson and Metcalf) introduced S. 507 on January 30, 1975. S. 507, as introduced, contained only minor modifications in the language of S. 424, as it passed the Senate. S. 1292, the Administration's proposal (which is also virtually identical to S. 424, as passed the Senate) was introduced by Senators Jackson and Fannin (by request) on March 21, 1975. The Subcommittee on the Environment and Land Resources held a hearing on S. 507 on March 7, 1975, and on S. 507 and S. 1292 on May 15, 1975. On September 11, 1975, the Subcommittee also held a hearing on S. 1958, introduced by Senators Stone and Chiles. The provisions in this bill appear in modified form in section 214 of S. 507, as ordered reported. The Committee held three open mark-up sessions on S. 507, on September 17, November 19, and December 2, 1975, during which time several amendments were accepted, withdrawn, or rejected without voice or tabulated votes. S. 507, as amended, was ordered reported by unanimous voice vote of a quorum present on December 2.

V. SECTION-BY-SECTION ANALYSIS

A bill to provide for the management, protection, development and sale of the national resource lands, and for other purposes.

SHORT TITLE

Section 1. This provision identifies the legislation as the "National Resource Lands Management Act" and provides a table of contents.

DEFINITIONS

Section 2. This section defines terms used in the Act.

(*a*) "Secretary" is defined as the Secretary of the Interior.

(*b*) "National resource lands" includes all lands and interests in lands (e.g. reserved mineral interests) and their renewable and nonrenewable resources which are administered by the Bureau of Land Management (except the Outer Continental Shelf). National resource lands include both public domain and acquired lands. The term therefore resolves much of the definitional difficulties that arise in connection with public land legislation.

(*c*) "Multiple use." This definition is very similar to that which appeared in the now-expired Classification and Multiple Use Act (Act of September 19, 1964, 78 Stat. 988, formerly codified at 43 U.S.C. § 1415), which related to the national resource lands, and to that which presently appears at section 4 of the Multiple-Use Sustained-Yield Act of 1960 (Act of June 12, 1960, 74 Stat. 215, 16 U.S.C. § 513) which relates to the National Forests. Two changes were made: The first change added the words "including recreation and scenic values" after "renewable and nonrenewable resources" to insure that the two values, both of which are difficult to quantify and thus to consider, are given equal weight with more quantifiable resource values in the planning and management of the national resource lands. Secondly, the words "quality of the environment" are added so as to require multiple use management decisions which will not result in permanent impairment of the quality of the natural environment. This would meet the recommendation (no. 16) of the Public Land Law Review Commission that "environmental quality should be recognized by law as an important objective of public land management". The Committee does not intend to imply by these changes that protection of scenic and recreation values is not an integral part of the multiple use mandate of the Forest Service simply because they are not explicitly mentioned in the definition of multiple use in the Multiple-Use Sustained-Yield Act (74 Stat. 215). Nor does the Committee wish the inference to be drawn that protection of environmental quality is not also a mandate of the Forest Service, implicit in the "multiple use" definition in the Multiple-Use Sustained-Yield Act, found in other laws relating to the Forest Service, and explicitly applied to that agency in title I of the National Environmental Policy Act (83 Stat. 852).

(*d*) "Sustained yield." This definition is also very similar to that which appeared in the statutes cited in the discussion of subsection (*c*) above. The minor changes in this definition would serve the same purpose as the changes in the definition of "multiple use".

(*e*) "Areas of critical environmental concern." See discussion of section 101(4).

(*f*) "Right-of-way" is defined as an easement, lease, permit, or license to occupy, use, or traverse national resource lands granted for the purposes listed in title IV. In general, title IV provides new authority for grants of all types of rights-of-way, except rights-of-way for oil and gas pipelines, new authority for which is already provided in the Act of November 16, 1973 (67 Stat. 567, see the discussion of S. 1081 in section IV, Legislative History).

(*g*) "Holder" is defined as any State or local governmental entity or agency, individual, partnership, corporation, association, or other business entity receiving or using a right-of-way under title IV.

DECLARATION OF POLICY

Section 3. Subsection (2) of this section sets forth a congressional declaration of policies toward the national resource lands. The policies enunciated are:

(1) the national resource lands are a vital national asset containing a wide variety of natural resource values;

(2) sound, long-term management of those lands is vital to the maintenance of a livable environment and essential to the well-being of the American people;

(3) the national interest will be best realized if those 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; and

(4) except where disposal of particular tracts is made in accordance with title II, the national interest will be best served by retaining the national resource lands in Federal ownership.

These policies are not radically new. For some time, the Department of the Interior has administered the national resource lands in a manner which is substantially in accord with these policies; and they were among the major policy recommendations of the Public Land Law Review Commission. However, as noted elsewhere in this report, S. 507, if enacted, would be the first statute in which these basic policies appear together and with provisions bearing the necessary authority to implement them.

To effect these policies, subsection (b) directs the Secretary to manage the national resource lands under the principles of multiple use and sustained yield. The lands must be managed to—

(1) assure the environmental quality of such lands for present and future generations.

(2) provide for, but not necessarily be limited to, such uses as provision of food, habitat for wildlife, fish and domestic animals, minerals and materials production, supplying the products of trees and plants, human occupancy and use, and various forms of outdoor recreation.

(3) include scientific, scenic, historical, archeological, natural ecological, air and atmospheric, water resource, and other public values.

(4) continue certain areas in their natural condition.

(5) balance various demands on those lands consistent with national goals.

(6) assure payment of fair market value by users of those lands.

(7) provide maximum opportunity for the public to participate in decisionmaking concerning those lands.

These seven management directives should not be considered as listed in any particular order of priorities; instead, they should be read as a whole and in conjunction with the principles of multiple use and sustained yield.

Virtually all of these policies are found in various recommendations of the Public Land Law Review Commission. Those recommendations are discussed elsewhere in this analysis.

RULES AND REGULATIONS

Section 4. This section authorizes the Secretary to promulgate rules and regulations in accordance with the Administrative Procedure Act (5 U.S.C. 553). Although "public property" is exempt from the requirements of the APA, the Committee decided to place the promulgation of rules and regulations under the APA so as to provide the public with the basic public participation and access protection which the APA offers. If this were not done, S. 507, by necessity, would be burdened by detailed public participation, hearing, and access to information provisions.

As the procedures for promulgation of rules and regulations will take time to complete; this section provides that the national resource lands will be administered under existing rules and regulations until the new ones take effect.

PUBLIC PARTICIPATION

Section 5. This section requires the Secretary to insure, by regulation, that the Federal, State and local governments and the public are afforded 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 the national resource lands and in the management of those lands. Public hearings, where appropriate, are to be held, and adequate public notice is to be given.

ADVISORY BOARDS AND COMMITTEES

Section 6. This section authorizes the Secretary to establish and consult such advisory boards and committees as he deems necessary to obtain full information and public participation in the planning for and management of the national resource lands. These advisory boards and committees would be established and operated in accordance with the guidelines set out in the Federal Advisory Committee Act (86 Stat. 770), including the requirement that the membership be representative of a cross section of groups interested in the use and management of the national resource lands.

Section 6 is not intended to replace the provisions of section 18 of the Taylor Grazing Act (43 U.S.C. 315o–1) which requires the appointment of advisory boards in each grazing district established pursuant to that Act. The Committee anticipates that the Secretary will continue the present State advisory boards and the National Advisory Board Council which are currently provided by Secretarial regulation (43 CFR, subpart 4114).

ANNUAL REPORT

Section 7. This section requires the Secretary to submit to the Congress and the public an annual report. The section requires the Secretary to discuss, in some detail, a number of items, including any conveyances of national resource lands out of Federal ownership. The

Secretary already issues annually a document entitled "Public Land Statistics" which contains an excellent compilation of statistics. Absent a full discussion of this raw data, however, the report fails to provide an adequate base for Congressional or public oversight of the Secretary's performance in managing the national resource lands. The report, in its present form, cannot provide the public and Members of Congress with sufficient information to recommend and develop, respectively, legislative solutions to existing or potential problems. The Committee believes the more detailed reporting requirements in section 7 will elicit a more comprehensive report which can be of beneficial use in the performance of oversight and legislative duties.

The requirement of a "detailed" list and description of all transfers of national resource lands out of Federal ownership is to insure that the Congress receives a physical description of each tract disposed of and the specific reasons for the disposal. The word "detailed" should not be interpreted as requiring a legal description of each tract.

DIRECTOR

Section 8. This section requires that the position of the Director of the Bureau of Land Management be filled by Presidential appointment, by and with the advice and consent of the Senate. It also requires that the Director have a broad background and experience in public land and natural resource management.

APPROPRIATIONS

Section 9. This section authorizes the appropriation of the moneys necessary to effect the purposes of S. 507, as ordered reported. It is estimated that little or no additional costs would be incurred in implementing the legislation. A number of its provisions simply restate existing authority. Where new authority is provided the result of such authority will often be more efficient, not necessarily more costly, management of the national resource lands. Of course, as pressures for the use of national resource lands increase, management of those lands will, of necessity, become more intensive and, thus, more costly; but these additional costs will occur whether or not S. 507, as ordered reported, is enacted.

TITLE I—GENERAL MANAGEMENT AUTHORITY

MANAGEMENT

Section 101. This section directs the Secretary to manage the national resource lands in accord with the policies and procedures of the Act and, in particular, the land use plans which he is to prepare pursuant to section 103. Consistent with provisions throughout the Act insuring that no law is repealed by implication, this management direction to the Secretary includes the phrase "except to the extent that other applicable law provides otherwise."

The management of national resource lands is to include the following techniques:

(1) Issuance of permits, licenses, leases, or other appropriate instruments to allow uses of land not provided for by other laws.

The Secretary could not, however, convey out of Federal ownership any land or interest in land under this authorization. Furthermore, the clause carries a proviso which insures that there can be no construing of an authority of the Secretary to require any permit to hunt or fish on the national resource lands. This proviso is reinforced by a clause in Section 501 which prevents construction of S. 507 as in any way affecting the jurisdiction or responsibilities of the States with respect to wildlife and fish in the national resource lands. In short, hunting and fishing will continue under State control and State licenses or permits. Of course, this does not foreclose the Secretary's authority to limit access to national resource lands where necessary to protect the resources or users of the lands. This includes situations where there are fire hazards or where discharge of firearms would endanger human safety.

(2) Requiring any user of national resource lands who is engaged in an extractive activity or other activity likely to alter or significantly disturb the land to reclaim it and to post a performance bond or other security guaranteeing such reclamation. This particular technique corresponds with recommendation No. 25 of the Public Land Law Review Commission:

> Those who use the public lands and resources should, in each instance, be required by statute to conduct their activities in a manner that avoids or minimizes adverse impacts, and should be responsible for restoring areas to an acceptable standard where their use has an adverse impact on the environment.

This provision is not intended to alter in any significant manner the long-established relationship between the Bureau of Land Management and purchasers of timber from the national resource lands. The Committee does expect, however, that post-sale site conditioning and other requirements placed on timber purchasers by the Forest Service and the Bureau of Land Management shall be made similar.

(3) Inserting provisions in any permit, license, lease, or other authorization which would give the Secretary the right to suspend or revoke it when the holder violates any applicable regulation of the Secretary under any law applicable to the national resource lands, or when the holder violates any applicable State or Federal air or water quality law or regulation. The holder is given protection by the requirement that before the Secretary's revocation or suspension authority may be invoked there must be notice and a hearing and a final administrative finding that a violation has occurred. Furthermore, any suspension is to be terminated on the date on which the cause of the violation has been rectified. An emergency clause. virtually identical to that contained in section 28(o)(1) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576, 580), concerning rights-of-way for oil and gas pipelines on public lands, provides that the Secretary may order an immediate, temporary suspension prior to a hearing and absent a final administrative finding of a violation if he determines that the suspension is necessary to protect

public health or safety or the environment. Finally, the clause provides that, where other applicable law contains specific provisions for suspension, revocation, or cancellation of any permit, license or other authorization, that law will prevail.

(4) Developing promptly regulations to protect areas of critical environmental concern. This directive insures that the most environmentally important and fragile lands will be given special, early attention and protection. "Areas of critical environmental concern" is a new term in relation to the national resource lands, but a term familiar to the Congress. It is found in the Land Resource Planning Assistance Act (S. 984), passed by the Senate in 1972 and 1973, and in the Clean Air Act Amendments under consideration by the Senate Public Works Committee. The concepts embodied in this term, in the section 3 policy of continuing "certain areas in their natural condition", and in the wilderness study and designation provisions of section 102(a) and 103(d), are found in three recommendations of the Public Land Law Review Commission. Recommendation No. 27 suggests that "Congress should provide for the creation and preservation of a natural area system for scientific and educational purposes"; recommendation No. 78 calls for "an immediate effort . . . to identify and protect those unique areas of national significance that exist on public lands"; and recommendation No. 18 would "require classification of the public lands for environmental quality enhancement and maintenance". The Committee wishes to emphasize that, unlike wilderness areas to be designated pursuant to section 103 (d), "areas of critical environmental concern" are not necessarily areas in which no development can occur. Quite often, limited development, when wisely planned and properly managed, can take place in these areas without unduly risking life or safety or permanent damage to historic, cultural or scenic values or natural systems or processes.

INVENTORY

Section 102. This section directs the Secretary to prepare and maintain a continuing inventory of the national resource lands and all their resources and values, giving priority to areas of critical environmental concern. Although section 103 requires the preparation of land use plans for the national resource lands, all levels of government—Federal, State, and local—have experienced the painful failure of land use plans which were drawn up in the absence of basic information about the land. Before adequate planning of a resource can be conducted, the planner must possess basic knowledge about the entire resource and all the demands—economic, social, and environmental—for its use. The purpose of section 102 is to require that that knowledge necessary for proper planning under section 103 be obtained.

As part of the inventory process, the Secretary is to identify within five years of S. 507's enactment any roadless areas of five thousand acres or more and roadless islands containing wilderness characteristics as described in section 2(c) of the Wilderness Act (Act of September 3, 1964, 78 Stat. 890, 891).

The introductory provisions of the Wilderness Act refer to all Federal lands. However, the provisions mandating a review of Federal lands by the Secretaries of the Interior and Agriculture to determine their potential as wilderness limited the review to lands within national parks, wildlife refuges, and forests. This dichotomy has resulted in a running debate as to whether the national resource lands qualify for wilderness under the Wilderness Act. The Secretary has, by administrative action, begun to set aside certain national resource lands as "primitive areas." The regulations concerning these primitive areas virtually duplicate regulations for wilderness areas designated pursuant to the Wilderness Act. However, wilderness on the national resource lands still has no affirmative, statutory base. Without such a base, the Secretary has no legal responsibility to review the national resource lands to determine whether any additional areas might qualify as wilderness, nor is there any protection by law, of areas found to have wilderness characteristics.

S. 507, as ordered reported, would provide both the mandatory review (section 102(a)) for, and the protection (section 103(d)) of, wilderness areas in the national resource lands.

These particular provisions were suggested by the Public Land Law Review Commission in the discussion of recommendation no. 78 (see the analysis of section 101(4) for the text of that recommendation):

> There is nothing in the Wilderness Act to preclude additions to the National Wilderness Preservation System of lands not previously identified for review. Accordingly, while maintaining the priority for review of the areas designated in the Wilderness Act, we believe that the initial inventory and review of other areas should be started as soon as possible. In this way it will be feasible for the public land management agencies to make recommendations to the Department heads for consideration, and for possible Executive recommendation to Congress on an orderly basis after 1974 for the inclusion in the wilderness system of any key wild areas of public domain or national forest lands that qualify under standards recommended in this report.[18]

Section 102 also contains a statement that the "preparation and maintenance of such inventory or the identification of such areas [possessing wilderness characteristics] shall not, of itself, change or prevent change in the management or use of the national resource lands." The purpose of this statement is to insure that, under no circumstances, will the pattern of uses on the national resource lands be frozen, or will uses be automatically terminated during the preparation of the inventory and the identification of areas possessing wilderness characteristics. Equity demands that activities of users not be arbitrarily terminated or that the Secretary not be barred from considering and permitting new uses during the lengthy inventory and identification processes. On the other hand, the "of itself" language is not meant to be license to continue to allow or disallow uses as if no inventory and identification processes were being conducted. The Committee fully expects that the Secretary, wherever possible, will make management decisions which will insure that no future use or

[18] PLLRC, *One Third of the Nation's Land*, p. 199.

combination of uses which might be discovered as appropriate in the inventory and identification processes—be they wilderness, grazing, recreation, timbering, etc.—will be foreclosed by any use or combination of uses conducted after enactment of S. 507, but prior to the completion of those processes.

Subsection (b) requires the Secretary to provide means of public identification of national resource lands "as funds and manpower become available". In many cases in the West, particularly where national resource lands are found in a checkerboard pattern with private lands, inadvertent trespass on national resource lands may occur because there is no indication of Federal ownership. The identification requirement of this subsection should reduce the trespass incidents. This requirement corresponds to PLLRC recommendation No. 112: "An intensified survey program to locate and mark boundaries of all public lands based upon a system of priorities, over a period of years should be undertaken as the public interest requires." The funds and personnel qualifier insures that the Secretary, together with the Congress, will be in a position to set the "priorities" and the "period of needs" for a boundary marker program in a manner that will not divert energies and funds from other equally or more important Departmental programs and activities.

Subsection (b) also requires the Secretary to provide data from the inventory to State and local governments. This will encourage a greater degree of consistency between the planning and management of the national resource lands and the planning and regulating of the uses of non-Federal lands in the vicinity of national resource lands.

LAND USE PLANS

Section 103. This section directs the Secretary to develop land use plans for the national resource lands consistent with the terms and conditions of S. 507, as ordered reported. The plans are to be developed with public participation and, wherever feasible and proper, or as may be required by a national land use policy act (such as S. 984, the Land Resource Planning Assistance Act, whose two predecessors passed the Senate in 1972 and 1973) or other law, with the land use plans (including the statewide outdoor recreation plans developed under the Land and Water Conservation Fund Act of 1965, 78 Stat. 897) of State and local governments and other Federal agencies.

The Bureau of Land Management has conducted a limited form of planning in order to "classify" the national resource lands. However, upon the expiration of the Classification and Multiple Use Act of 1964 (78 Stat. 986) in December 1970—six months after the submission of the report of the Public Land Law Review Commission—the Bureau lost its comprehensive classification authority. It has since depended on the limited classification authority provided by the Taylor Grazing Act of 1934 (48 Stat. 1269). This section would provide the Bureau with the modern planning mandate it now lacks.

This provision conforms to three of the more important PLLRC recommendations: Recommendation No. 5 suggests that all "public land agencies should be required to formulate long range, compre-

hensive land use plans . . ."; while recommendations No. 11 and 13 strongly urge public and State and local government participation in the planning process.

Subsection (b), together with section 3 and other provisions of the bill, correspond to PLLRC recommendation No. 1 that "goals should be established by statute for a continuing, dynamic program of land use planning". The subsection provides that, in preparing the plans, the Secretary will—

(1) use a systematic interdisciplinary approach.

(2) give priority to the designation and protection of areas of critical environmental concern.

(3) rely, to the extent it is available, on the inventory of the national resource lands, their resources, and other values prepared under section 102.

(4) consider present and potential uses of the lands.

(5) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of these values.

(6) weigh long-term public benefits.

(7) consider the requirements of applicable pollution control laws.

Subsection (c) is intended to provide a measure of protection to users who may find their uses affected by the planning process. It directs that whenever any proposed change in the permitted uses on any national resource lands would affect authorization for use of such lands, persons holding leases, licenses, or permits concerning the use to be affected and State and local governments with jurisdiction in the affected area are to be given written notice by the Secretary of the proposed change sufficiently in advance to permit those persons to initiate the administrative review processes available to them under the authorization before the change is put into effect. This subsection is one of several provisions in S. 507, as ordered reported, which have as their purpose the implementation of the PLLRC recommendations for procedural due process and objective administrative review of initial decisions (No. 109) and for State and local participation in public land use decisions (No. 13).

Subsection (d) concerns the areas identified in the inventory process as possessing wilderness characteristics. It provides that once these areas are identified the Secretary must study them to determine whether or not they are suitable for inclusion in the National Wilderness Preservation System and submit his recommendations to the President, who, in turn, must submit his own recommendations to the Congress. This subsection also provides that the study "shall not, of itself, either change or prevent change in the management or use of the national resource lands". For a discussion of this provision and the quoted phrase refer to the analysis of section 102(a).

Title II—Conveyance and Acquisition Authority

AUTHORITY TO SELL

Section 201. This section authorizes the Secretary to sell national resource lands. Section 3(a)(4) declares that it is the national policy to retain national resource lands; however, it is recognized that

circumstances may occur when disposal of national resource lands will serve other national policies, e.g., recreation or education in the Recreation and Public Purposes Act (44 Stat. 741). Therefore, this section provides a general disposal authority. Other disposal authorities not specifically repealed in title V will, of course, continue in force. Among the other authorities under which disposal of national resource lands may continue to be made are: the Desert Land Act (19 Stat. 377), as amended; the Color of Title Act (45 Stat. 1069), as amended; the Recreation and Public Purposes Act (44 Stat. 741), as amended; and the various laws providing grants of land to the States.

The section directs that the Secretary may sell national resource lands if he, in accordance with the sale guidelines he establishes and after he prepares a land use plan (pursuant to section 103) which includes the lands identified for sale, determines that the sale: (1) will not cause needless degradation of the environment, and (2) meets the disposal criteria of section 202.

DISPOSAL CRITERIA

Section 202. This section contains criteria of which one or more must be met before a tract of national resource lands may be sold. (In addition, the tract must meet the "not cause needless degradation of the environment" guidelines of section 201 and the requirement that it be a part of a section 103 land use plan, in which plan one or more of the disposal criteria is found to have been met.)

The disposal criteria contained in subsection (a) are as follows:

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

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

(3) disposal of the tract will serve objectives which cannot be achieved prudently or feasibly on land other than it and which outweigh all public objectives and values which would be served by maintaining it in Federal ownership.

Subsection (b) provides that when a tract is to be disposed of because it meets the third (more important objective) criterion and is of agricultural value and desert in character (criteria for disposal under the Desert Land Act (19 Stat. 377)), it is to be conveyed either under the sale authority of section 201 of S. 507, as ordered reported, or under other law. This emphasizes that the Secretary has the authority to allow entry under either S. 507 or the Desert Land Act when the land meets the criteria for disposal of both Acts.

SALES AT FAIR MARKET VALUE

Section 203. This section requires that sales of national resource lands under S. 507, as ordered reported, are to be at not less than appraised fair market value, as determined by the Secretary. This section complies with the statement of policy in section 3(b)(vi). The fair market concept is consonant with Congressional policy enunciated in the Act of August 31, 1951 (65 Stat. 290) and the statement

of the PLLRC that "lands generally be disposed of at fair market value." [19]

SIZE OF TRACTS

Section 204. This section authorizes the Secretary to determine the size of tracts to be sold. S. 507, as ordered reported, imposes no acreage limitation. The intent is not to give the Secretary unlimited powers, but to allow him the flexibility to make conveyances which are tailored to appropriate land uses. The Committee recognized that any acreage figure which would serve as a cut-off on the Secretary's sale authority would be entirely arbitrary. It also recognized that rather than limiting the size of a tract sold, an acreage figure may increase it simply because many potential purchasers may view the figure as an invitation to justify a need for all the acreage up to the limit even when they require less.

Many of the early public land disposal laws had as one of their principal purposes the fostering of the settlement of undeveloped lands. The land to be disposed of was kept in relatively small tracts and conveyed at a low price, or for free upon evidence of work upon the land, in order to encourage ownership by families intent on farming. Over time, the purpose was often ignored or evaded as corporate or individual interests employed the disposal laws to obtain large landholdings. Section 204 contains a restatement of this particular purpose of the early disposal laws in relation to the general disposal authority in S. 507. The provision states that when any tract of national resource lands "is sold for agricultural use, its size shall be no larger than necessary to support a family-sized farm."

COMPETITIVE BIDDING PROCEDURES

Section 205. This section provides for sale by competitive bidding as the general rule, but allows for exceptions to assure fair distribution or to recognize equitable considerations or public policies such as giving preference to land users or adjoining landowners.

RIGHT TO REFUSE OR REJECT OFFER OF PURCHASE

Section 206. This section authorizes the Secretary to refuse an offer of purchase until he has actually accepted the offer. However, he would be bound to consummate the sale once he has accepted the offer. The section also provides that the Secretary must act on any offer to purchase, submitted through competitive bidding at his invitation, by accepting or rejecting it, in writing, not later than thirty days after its submission. This requirement should not be construed as either providing an automatic rejection or acceptance of an offer if the Secretary fails to act within the thirty days. Rather, it provides a basis upon which a mandamus action could be brought.

RESERVATION OF MINERAL INTERESTS

Section 207. This section requires the Secretary to reserve the mineral estate in all sales under S. 507, as ordered reported, except where lands are exchanged pursuant to section 213. This complies with

[19] Ibid., p. 266.

longstanding Federal policy. An exception to this requirement may be made where prospecting, mining, or removing minerals reserved in the United States would interfere with or preclude appropriate use or development of the land. Under that circumstance, the Secretary may either enter into a covenant to provide that the activity will not be pursued for a specific period (such as the expected lifetime of the activity) or convey the minerals together with the surface in accordance with the requirements of section 208.

CONVEYANCE OF RESERVED MINERAL INTERESTS

Section 208. This section concerns situations in which the mineral estate is already severed, either presently or in the future under the requirements of section 207.

Subsections (a) and (b) authorize the Secretary to convey reserved Federal mineral interests to the owner of the surface estate for fair market value if he finds either of two situations to exist: (1) there are no mineral values in the land, or (2) the reservation of the mineral rights in the United States is interfering with or precluding appropriate nonmineral development of the land and such development is a more beneficial use of the land than mineral development.

These two subsections do represent a departure from existing Federal practice. In the past, a conveyance of a reserved mineral interest required special legislation. The Senate Interior Committee, and then the full Senate, would be required to consider each case individually. This process delayed the landowner's proposed activity and placed an unnecessarily time-consuming burden on the Congress. Accordingly, section 208 provides general legislative authority for sale of reserved minerals.

Subsection (c) requires the surface owner either to make a deposit sufficient to cover administrative costs of the conveyance of the mineral interests, including the exploratory program to determine the character and fair market value of the mineral deposits, or conduct the exploratory program himself, in accordance with standards set by the Secretary.

Subsection (d) requires that the money received by the Secretary for the administrative costs are to be paid to the agency which rendered the administrative services and deposited to the current appropriation.

TERMS OF PATENT

Section 209. This section authorizes insertion of terms, covenants, conditions and reservations in patents issued under S. 507, as ordered reported, to insure proper land use and to protect the public interest. Such provisions could include, inter alia, covenants running with the land, conditions precedent or subsequent, reverters and reversions. A proviso insures that the terms, covenants, etc. will not require or permit use of the conveyed land in conflict with Federal or State law or State land use plans. The law or plans, of course, are not only those current at the time of patenting but also those enacted or developed at any time thereafter. The Committee also wishes to make clear that the terms, covenants, etc. are to refer only to the use of or activities on the conveyed land and are not to affect the use of other land.

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This section implements three PLLRC recommendations: Recommendation No. 24 states that "Federal land administering agencies should be authorized to protect the public land environment by (1) imposing protective covenants in disposal of public lands, and (2) acquiring easements on non-Federal lands adjacent to public lands". Recommendation No. 117 proposes that ". . . covenants in Federal deeds should be used to protect public values", and recommendation No. 118 adds that "protective covenants should be included in Federal deeds to preserve important environmental values on public lands in certain situations, even where State or local zoning is in effect".

CONFORMING CONVEYANCES TO STATE AND LOCAL PLANNING

Section 210. To assist State and local governments to formulate land use policies for national resource lands to be conveyed out of Federal ownership prior to the conveyance, this section directs the Secretary to notify the Governor of the State and the head of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which the lands to be conveyed are located. This notification is to be made at least 90 days prior to the sale or conveyance. This gives the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning, the use of the lands prior to their conveyance. This section also requires the Secretary to promptly notify the same public officials of the actual issuance of the deed or patent.

The provisions of section 210 are similar to those of section 2 of the Public Land Sales Act (Act of September 19, 1964, 78 Stat. 988, 43 U.S.C. 1422). The PLLRC recommendation (No. 117) is somewhat stronger suggesting that "generally" no disposal should occur "unless adequate State or local zoning is in effect".

AUTHORITY TO ISSUE AND CORRECT DOCUMENTS OF CONVEYANCE

Section 211. This section gives the Secretary authority to issue patents, deeds and other documents of conveyance, and where necessary, to make corrections of documents issued either before or after the enactment of S. 507.

RECORDABLE DISCLAIMERS OF INTEREST IN LAND

Section 212. This section authorizes the Secretary to issue disclaimers of interest in land in three specified instances where he finds no federal interest and where there is a cloud on the title. The three instances are (1) where a record interest of the United States in lands has terminated by operation of law; or (2) where the lands lying between the meander line shown on a plat of survey approved by the Bureau of Land Management or its predecessors and the actual shoreline of a body of water are not lands of the United States; or (3) where accreted, relicted, or avulsed lands are not lands of the United States.

Under existing law, the Secretary of the Interior has no authority to issue any kind of document showing that the United States has no interest in certain lands. The disclaimer would have the same legal effect as a quitclaim deed from the United States. It would eliminate

the necessity for court action or private relief legislation in those cases where the United States asserts no ownership or interest and would thus result in a saving of time and money for both the Government and private parties.

Subsection (b) of this section contains certain procedures which must be followed by the applicant prior to the issuance of a disclaimer.

ACQUISITION AND EXCHANGE OF LAND

Section 213. Whereas the first twelve sections of Title II concern the conveying of national resource lands, this final section concerns the acquisition of additional national resource lands.

Subsection (a) authorizes the Secretary to acquire lands and interests in lands where necessary for proper management of the national resource lands. Acquisition may be by purchase, exchange, donation, or condemnation. However, condemnation may be used only if the lands to be acquired are necessary to secure access to national resource lands and the lands so acquired are to be confined to as narrow a corridor as is necessary.

In the past, the Bureau of Land Management has not had the authority to obtain land by condemnation, this despite the possession of eminent domain authority by other Federal land agencies. Instead, the Bureau had to obtain legislative permission to condemn in each case. Although, the Committee was reluctant to provide the Bureau with a blanket permission to condemn (similar to that possessed by the Forest Service), it did recognize the need for eminent domain authority where access is unavailable. The numerous grants of Federal lands to the States and railroads have resulted, in many areas, in a checkerboard pattern of ownership which has left a goodly number of tracts of national resource lands landlocked by private lands. These isolated tracts become virtual private preserves for the surrounding owners; the public—hunters, fishermen, rockhounds, recreationists, etc.—and migrating animals are excluded. (PLLRC recommendation No. 85 embodied a recognition of this problem in its suggestion that "Congress should authorize a program for acquiring and developing reasonable rights-of-way across private lands to provide a more extensive system of access for outdoor recreation and other uses of the public lands.") This and other circumstances convinced the Committee that the Bureau should have a limited authority to condemn in order to secure access.

Subsection (b) requires acquisitions under S. 507, as ordered reported, to be consistent with applicable land use plans prepared by the Secretary pursuant to section 103.

Subsection (c) provides exchange authority to the Secretary. The national resource lands or interests in lands to be exchanged must meet one or more of the disposal criteria of section 202 or meet a balancing test wherein greater public benefits are determined to accrue from acquisition of the non-Federal land than from retention of the national resource lands which are to be exchanged for the non-Federal land. A second condition of transfer is that the lands to be transferred must be in the same State as the non-Federal lands to be acquired. A final condition is that the lands exchanged must be equal in value or their values must be equalized by the payment of money. However, to insure that the exchange authority with its more liberal disposal criteria is not

used to effect a sale rather than a true land exchange, the subsection includes a requirement that the payment of money may not exceed 30 per cent of the total value of the national resource lands which are conveyed in the exchange. It is the intent of the Committee that, irrespective of the provisions of section 208, section 213 grants to the Secretary the authority to convey, as well as acquire, mineral interests through exchange. For example, it gives him the authority to convey mineral interests owned by the United States where the surface is in non-Federal ownership if he finds that the surface ownership has been conveyed through exchange and that the other party of record will reciprocate with respect to mineral rights on lands he conveyed to the Federal Government. This corresponds with PLLRC recommendation No. 125 which proposes that the exchange authority should include "all classes of real property interests" and that "cash equalization within percentage limits of the value of the transaction" should be permitted.

Subsection (d) concerns the legal status of lands and interests in lands acquired by this section or section 301(c) (donation). It states that such lands are to become national resource lands, and, for the administration of public land laws not repealed by S. 507, as ordered reported, shall become public lands. If those acquired lands or interests in lands are located within the exterior boundaries of a grazing district established pursuant to section 1 of the Taylor Grazing Act (48 Stat. 1269), as amended, they are to become a part of that district.

Subsection (e) permits lands or interests acquired by this section or section 301(c) which lie within the boundaries of national forests or grasslands to be transferred to the Secretary of Agriculture for administration as part of the National Forest System. Such transfer may not result in the reduction in the percentage of in-lieu payments to States and local governments. Furthermore, lands acquired by exchange which are within the boundaries of the National Park, Wildlife Refuge, Wild and Scenic Rivers, or Trails System, or any other national system established by Act of Congress, may be transferred to the appropriate agency head for administration as part of that system.

Section 213 replaces Section 8 of the Taylor Grazing Act (48 Stat. 1269, 1272; as amended, 43 U.S.C. 315, 315g) which is repealed by Title V of S. 507, as ordered reported. The mandatory State exchange provision of section 8 of the Taylor Grazing Act is not retained since it is not consonant with the other provisions of S. 507, as ordered reported.

OMITTED LANDS

Section 214. This section would establish a program for the surveying and conveying of omitted lands.

Omitted lands are the result of errors made in the survey of the public lands of the United States. The Land Ordinance of 1785, discussed in section III of this report, provided for the presidential appointment of surveyors general who could enter into surveying contracts with deputy surveyors. The contracts called for the survey of a given piece of unsurveyed territory over which the rectangular survey was to be extended. Since the rate of pay for each mile surveyed was set by law

and the surveyors general were pressured to complete the surveys as quickly as possible, some of the deputy surveyors willingly turned out the miles, knowing that the surveyors general would not subject their surveys to a close scrutiny. This atmosphere, coupled with the inherent inaccuracies of the surveying implements then available, resulted in some crudely executed surveys, from which irregular tracts of upland were erroneously omitted. The courts have held that the title to these erroneously omitted lands is in the United States, and that they are subject to survey and administration under the applicable public land laws.

The majority of the omitted lands are located in brushy and swampy waterfront areas which were difficult to survey and of no value to the agrarian pioneer. Although numerous omitted land surveys were executed in Florida and in the Lake States prior to the year 1900, the recent interest in this type of survey is due to a reversal of relative land values since the time of the original surveys, as well as to increased population and mobility. In the pioneer days the people were interested in agricultural lands; now they quest for lake, river and beach frontage, precisely in the areas where the erroneous surveys are most likely to be found.

The resolution of what constitutes omitted land is a vexing problem. It involves the retracing of obliterated original surveys in order to isolate the apparent omitted area. If the apparent omitted area is and always has been upland or swampland, elevated above the ordinary high water mark of the adjoining bodies of water, and if the apparent omitted area is of such shape and extent that it can be deemed a gross error in the original survey or fraud on the part of the deputy who performed the survey, only then can the land be deemed omitted land. Decisions made by the BLM as to what are and what are not considered omitted lands, are subject to appeal and ultimate litigation in the courts.

Anyone who applies for a survey of omitted land initially requests that the BLM issue a patent for excess acreage which is not shown on the original plat of survey. Without a survey a patent cannot be issued because the Bureau cannot describe the land, nor can it determine whether it is in fact omitted land. The filing of an application for the survey of alleged omitted land does not give the applicant a preference right toward its acquisition. When the applicant finds this out, and if he cannot establish a bona fide claim to the land under the various remedial statutes, he normally loses interest in the omitted land survey.

In the past, when land values were low, an applicant could have sold the omitted land along with the land he legally owned without bank and title company involvement. Today's land values are such that financial institutions will not make any commitments without title insurance, and the title insurance companies will not issue a title guarantee on land which cannot be traced back to a federal patent.

This problem cannot be solved by passage of individual private relief bills or with minor shifts in personnel in the Bureau of Land Management. Over 285,000 acres of land in the Eastern States, alone, were tentatively identified as omitted lands in a BLM office inventory conducted in 1968. The acreage in the Eastern States is as follows:

State	Acres	Percent [1]
1. Minnesota	87,900	31
2. Wisconsin	54,420	19
3. Florida	48,200	17
4. Michigan	20,960	7
5. Louisiana	18,180	6
6. Iowa	10,540	4
7. All other Eastern States	45,020	16
Total	285,220	100

[1] Omitted land in the Eastern United States.

Presently, the BLM, burdened with extensive surveying responsibilities to implement the Alaska Native Claims Settlement Act and to meet the demand for the leasing of western coal and oil shale fields, devotes 50 man-months annually to the survey and investigation of omitted land in the States listed above. It is estimated that it will require 5,000 man-months to complete the surveys, and under present funding levels it will take 100 years.

Section 214 would establish a program to resolve the omitted land problem with a minimum of cost to the Federal government in terms of manpower or expense devoted to a Federal resurvey effort. Most of the omitted lands are isolated or fragmented and would be difficult to manage as pressure for recreational and other uses of those lands increases. As these lands can often be managed more efficiently by State and local governments, section 214 would permit their conveyance to those governments to be used for public purposes. This conveyance authority, however, is discretionary and the Committee fully expects that, in accordance with the retention policy set forth in section 3(4), any omitted land which can be administered efficiently by a Federal agency within that agency's mandate will not be conveyed unless there can be shown a truly compelling public purpose which can only be served by conveyance.

Subsections (a) and (b) would authorize the Secretary to convey to State or local governments unsurveyed islands and omitted lands (defined as lands other than islands determined after survey to be public lands erroneously or fraudulently omitted from the original surveys). Such conveyances are to occur under the Recreation and Public Purposes Act with all its restrictions concerning reversion if removed from public use, reservation of mineral interest, etc., except that the limitations on the acreage which can be conveyed in any one year to a particular government would not be applicable. The islands may be conveyed without survey, although the prospective recipient of the land may donate money for a Federal survey or provide for its own survey subject to the Secretary's approval, if it so desires. The omitted lands cannot be conveyed without a survey, but, again, the prospective recipient may donate money or services in order to expedite the completion of the conditions for conveyance.

The Secretary is also authorized to convey occupied omitted lands, after survey, at fair market value plus administrative costs, to the lands' occupants. To avoid any windfall gains or appearances of fraud, however, such conveyances can only occur if (1) the land has been occupied and developed for a five-year period prior to January 1, 1975,

and (2) the Secretary determines that the conveyance is in the public interest and will serve objectives which outweigh all public objectives and values which would be served by retaining the lands in Federal ownership.

Departmental regulations (43 C.F.R. subpart 1725) require the Secretary, prior to any conveyance of land, to consider State and local planning and zoning, and encourage the careful application of planning and zoning to the land to be conveyed. To provide a statutory basis for this requirement as it relates to section 214 conveyances, subsection (c) requires the Secretary to consult with relevant State and local governments and areawide planning agencies to determine whether a proposed section 214 conveyance is consistent with applicable State and local government land use plans and programs.

In the case of omitted lands within the boundaries of units of the National Park, Wildlife Refuge, Forest, and Wild and Scenic Rivers Systems, it can be assumed that the Congress has already determined that those lands should remain in Federal ownership. Therefore, subsection (h) exempts all lands within those systems from the provisions of section 214.

Finally, subsection (i) specifically states that the provisions of section 214 are not to be construed to supersede any other Act authorizing the sale of specific omitted lands, including the Act of December 22, 1928 (45 Stat. 1069), as amended, and the Act of May 31, 1962 (76 Stat. 89).

Title III—Management Implementing Authority

Studies, cooperative agreements and conditions

Section 301. Subsection (a) authorizes the Secretary to conduct investigations, studies, and experiments regarding the management, protection, development, acquisition, and conveying of the national resource lands. It substantially reenacts section 101 of the Public Land Administration Act (Act of July 14, 1960, 74 Stat. 506, 43 U.S.C. 1362).

Subsection (b) authorizes the Secretary to enter into contracts and cooperative agreements, involving the management, protection, development, acquisition, and conveying of the national resource lands. This substantially reenacts section 102 of the Public Land Administration Act (43 U.S.C. 1363).

Subsection (c) authorizes the Secretary to accept contributions of money, services, or property, including acquisition of rights-of-way. This substantially reenacts section 103 of the Public Land Administration Act (43 U.S.C. 1364).

Service charges, reimbursement payments, and excess payments

Section 302. Subsections (a) and (c) authorize the Secretary to establish fees and charges and to refund money erroneously paid. These provisions are similar to provisions in Title II of the Public Land Administration Act (43 U.S.C. 1371–1374).

Subsection (b) authorizes the Secretary to reimburse the extraordinary administrative and other costs incurred in processing applications and other documents relating to the national resource

lands or in monitoring or other related special activities. Extraordinary costs include the costs of special studies; environmental impact statements; monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities. This requirement is similar to that imposed in section 28(l) of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended by the Act of November 16, 1973 (87 Stat. 576, 579). It is expected that the Secretary will exercise flexibility in requiring reimbursement for extraordinary costs. The Secretary should take into consideration the extent to which applicants' proposals and the Federal programs to which the applications relate (e.g. proposals and programs concerning land and easement exchanges and cost-sharing agreements) are mutually beneficial to the Federal government and provide significant public benefits.

WORKING CAPITAL FUND

Section 303. This section provides for the establishment of a working capital fund for the Bureau of Land Management. The fund would provide a more stable and flexible source of working capital than is possible through annual appropriations. This proposal is patterned after the Act of August 3, 1956 (70 Stat. 1034, as amended, 16 U.S.C. § 579b), which provides for a working capital fund for the Forest Service.

The working capital fund would afford a more efficient method of financing various programs and service operations of the Bureau of Land Management. These programs and operations require a variety of special supplies and equipment which are not readily available when needed and therefore must be purchased in advance, stored, and replenished when used. Substantial economies can be achieved if purchases and repairs can be accumulated to take advantage of quantity and seasonal purchasing. The working capital fund would also simplify bookkeeping and contractual arrangements with suppliers, which are complicated when funding is based on annual appropriations not available for obligation beyond the end of the fiscal year.

Three million dollars is authorized to provide initial capital to acquire assets and establish the fund; however, the fund would be self-sustaining thereafter. The administrative costs will be recovered from activities which receive the benefits of the fund.

DEPOSITS AND FORFEITURES

Section 304. Subsection (a) provides that money received as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill contract or permit requirements or does not comply with Departmental regulations, or money collected in claims cases, shall be used, to the extent necessary, for any rehabilitation work arising from the forfeiture, tort or contract, and that the balance, if any, shall go into a separate account in the Treasury. This subsection is an expanded version of the provisions in section 30 of the Public Land Administration Act (43 U.S.C. 1361, 1382); those provisions referred only to the "timber purchaser" rather than any "resource developer or purchaser or permittee." (See discussion of S. 2743 in section IV, Legislative History.)

Subsection (b) authorizes the Secretary to require users of roads, trails, lands or facilities to maintain them and to deposit money for such purposes. A proviso states that the user is not to be held responsible for damages attributable to general public use rather than the specific activities of the user. This subsection implements PLLRC recommendation No. 25 quoted above in the analysis of section 101 (2). This subsection is also an expanded version of section 302 of the Public Land Administration Act (43 U.S.C. 1361, 1383) wherein only "roads and trails" rather than "roads, trails, lands, or facilities" are mentioned. In addition, it is similar to section 6 of the National Forest Roads and Trails System Act (78 Stat. 1089, 1090; 16 U.S.C. 532, 537).

Subsection (c) requires that money collected from O and C lands (lands administered under the Act of August 28, 1937 (50 Stat. 874)) be expended only for the benefit of O and C lands.

CONTRACTS FOR CADASTRAL SURVEY OPERATIONS AND RESOURCE PROTECTION

Section 305. This section would expand the Act of September 26, 1970 (84 Stat. 805; 43 U.S.C. 1362a), which authorizes the Secretary of the Interior to enter into renewable contracts for protection of public lands from fire in advance of appropriations, to apply as well to all resource protection activities and to cadastral survey contracts. That Act has been an effective and efficient management tool in the Bureau of Land Management's fire control program.

The same circumstances which justified the authority given by the Act of September 26, 1970, exist with regard to other resource protection activities and to airborne cadastral surveying operations. For example, helicopters equipped with specialized electronic and optical equipment are essential for airborne cadastral surveying operations. These specially equipped aircraft are very expensive and must be piloted by skilled hoversite pilots. If owners of such equipment can look forward to at least two annual contract renewals, they can amortize their costs over a three-year period, reduce the overall cost to the Government, undertake equipment improvements, and provide much better and safer service.

UNAUTHORIZED USE

Section 306. This section prohibits and declares unlawful the use, occupancy, or development of national resource lands contrary to regulations or orders issued by the Secretary of the Interior or other responsible authority.

ENFORCEMENT AUTHORITY

Section 307. This section is one of the most important sections of S. 507. Certainly there is a critical need to provide the Department of the Interior, through its Bureau of Land Management, with adequate enforcement authority on the national resource lands. Crimes against persons, vandalism and destruction of private and Federal property, thefts, and other unlawful acts are increasing rapidly on the national resource lands, and in many situations are "out of control" or nearly so. Presently, in most cases, the Bureau can protect the national resource lands from misuse only by "jawboning" the users of those lands.

The Department of the Interior, in a submission to the Committee, described the "alarming situation" concerning the lack of enforcement authority:

> The Bureau's present capability to enforce the lawful use of the national resource lands which it administers is almost non-existent. Unlike other Federal agencies such as the National Park Service and the Forest Service, the Bureau generally lacks authority to require persons using its land to follow the rules and regulations which have been issued for the proper use and management of these Federal lands. While the majority of users may follow the rules, an ever increasing number seem to delight in such "past-times" as tearing out toilet shelves and deodorizers, wrecking toilet doors and roofs, polluting springs and campground waters, cutting livestock fences, breaking guzzlers which supply water to wildlife, defacing archeological sites, painting rocks, cutting plastic water pipe, dynamiting petroglyphs, pulling out survey stakes and markers, burning signs, defacing trees, shooting water tanks, windmills, signs, garbage cans, livestock and wildlife, harassing other people, and similar acts of rowdyism. These problems are increasing at a faster rate than even the rapidly increasing use of the national resource lands.
>
> While basic law enforcement traditionally is a state problem and most major categories of public and private offenses are adequately covered by state law, such laws do not apply to the enforcement of special rules and regulations on Bureau administered lands. It is in this area that the most glaring deficiency exists in both state and Federal laws. As an example, in the State of California, there is a special section of the State Code which covers specialty regulations, but this section is applicable only to state parks and recreation areas and cannot be applied to BLM lands.
>
> To date, the Bureau's attempts to solve such problems by using the only tools available to it, persuasion, cooperation, and education, have not been successful. Every evidence indictates that without enforcement authority and authority to cooperate with State and local law enforcement agencies as spelled out in [section 308 of S. 507], the Bureau's situation will continue to deteriorate. Some examples of past problems are shown below.
>
> It may not be known generally that the Charles Manson group involved in the Sharon Tate murders were apprehended on Bureau land.
>
> In the El Cajon area of California, a group of motorcyclists refused to obtain a permit for an ORV event and openly defied the Bureau personnel.
>
> Also in California, some visitors to a Bureau campground were engaged in unauthorized shooting. They were asked by the Bureau's maintenance man to desist. Not long thereafter, two $1,500 concrete block toilets were dynamited, a picnic table was burned, three stoves were torn out, a cattle guard was torn down, signs were twisted out of shape, and garbage and trash were scattered throughout the campground. The investigating Sheriff's deputy who arrived later could not locate or identify the vandals and no arrest was made.

Subsection (a) provides a maximum penalty of a $1,000 fine or one-year imprisonment for any violations of regulations which the Secretary issues with respect to the management, protection, development, acquisition, and conveying of the national resource lands and property located on them. Further, it provides that any person charged with a violation of any of the regulations may be tried and sentenced by any United States magistrate, 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.

Subsection (b) authorizes the Attorney General, at the request of the Secretary, to institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from using the national resource lands in violation of laws or regulations relating to lands or resources managed by the Secretary.

Of course, the Committee expects that most violations of the Secretary's regulations can be resolved on an administrative basis without instituting criminal or civil action pursuant to subsections (a) and (b). This is particularly true in the case of minor violations, such as innocent trespass by individuals. While these provisions provide authority for legal action, they should not be viewed as a substitute for administrative procedures and remedies.

Subsection (c) provides authority to the Secretary to designate any employee to take any of three enforcement actions. None of these actions may be taken, however, for any purpose other than that of enforcing any law or regulation relating to lands or resources managed by the Secretary. The three enforcement actions are: (1) carry firearms; (2) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; and (3) make arrests without warrant or process for a misdemeanor the employee 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.

The Committee has not, as the Administration requested last Congress, extended enforcement authority to any and all criminal activities. In the markup of S. 507's predecessor last Congress, some Committee members expressed concern about providing general law enforcement authority to Departmental personnel who lack the intensive training and the experience of State and local law enforcement personnel. Other members expressed concern that the law enforcement training required to permit general law enforcement by Departmental personnel would necessarily result in a diminution of time spent by those employees in acquiring the necessary and more important resource management and protection skills. Instead, the Committee believed the better alternative is to authorize the Secretary to contract with State and local officials for general law enforcement on the national resource lands. This authority is provided in section 308.

First, this subsection authorizes enforcement for violations of all laws and regulations relating to the lands and resources managed by the Secretary, rather than only those laws relating to the national resource lands. Many laws relate to the national resource lands exclusively, many relate to other lands as well and most refer to "public lands" instead of the "national resource lands". There would, therefore, be confusion as to whether a law applies to the national resource

lands. Furthermore, authority to make arrests to enforce all Departmental laws and regulations will facilitate the coordination of law enforcement on all lands under the administrative jurisdiction of the Department of the Interior.

Second, officials designated by the Secretary are given authority to carry firearms. Persons who are committing acts of vandalism on the national resource lands are often armed and dangerous. State and local governments do not expect their enforcement officials to make these arrests unarmed. Similarly, the Committee believes that the carrying of firearms is necessary both for the protection of Departmental personnel and for effective enforcement of the laws on the national resource lands.

COOPERATION WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES

Section 308. This section confers on the Secretary authority to cooperate with State and local law enforcement agencies in enforcement of State and local laws on national resource lands. The State and Local Law Enforcement Act (the Act of August 10, 1971, 85 Stat. 303, 16 U.S.C. § 551a) gave similar authority to the Secretary of Agriculture with respect to national forest lands.

Visitors and property on national resource lands are entitled to protection under State law; but, in the past, State and local law enforcement officials have not policed the national resource lands with any degree of regularity. This is largely because these officials' constituents—the local citizenry—do not live on those lands. Furthermore, most State and local law enforcement programs suffer from a chronic shortage of funds and manpower. Most national resource lands are relatively extensive in size and sufficiently remote to make their policing expensive. Therefore, many State and local law enforcement officials reach these lands only during rescue operations or special calls.

In order to make the policing of national resource lands more attractive to State and local law enforcement personnel, section 308 would provide the Secretary with the authority to contract (and thus pay for) it. Under this section, State and local law enforcement agencies would be reimbursed for extraordinary services. Normal law enforcement duties would continue to be supplied by State and local personnel on a nonreimbursable basis.

CALIFORNIA DESERT AREA

Section 309. This section directs the Secretary to prepare and implement, by June 30, 1980, a comprehensive, long-range plan for the management, use and protection of the national resource lands within the California Desert area. In the meantime, the Secretary would be mandated to execute an interim management program. The section would also require the immediate establishment of a California Desert Area Advisory Committee in accordance with the provisions of section 6. It would authorize a five-fiscal year authorization of $40,000,000.

The best examples for the need for enforcement authority on the national resource lands can be found in the more than 16 million acre California Desert area. The California Desert is one of the most ecologically fragile areas of the national resource lands, and it is certainly the most threatened. Throughout much of this country's history, the California Desert was a terrifying obstacle to civilization, a thing to be bridged quickly, or avoided if at all possible. Its rough ambience discouraged all but the most persistent and hardy visitors. The Desert's brutal inhospitality was its own greatest protection.

Having successfully skirted the Desert, however, Americans now recognize its unique environment and are placing untold pressures upon it. Today, the California Desert is within a four hour drive of over 12 million people living in the southern California metropolitan complex. The Bureau of Land Management estimates that in 1968 there were 5 million visitor days of recreational uses on the Federal lands within the Desert (11 million acres are national resource lands; the area also contains Forest Service, Park Service, and Department of Defense lands). Use of these lands was estimated to increase to 11 million visitor days by 1973; and it is expected to reach 17 million this year.

People have good reason to visit the Desert. It is an area of extraordinary ecological diversity—rich in history, scenery, and archeology, and possessing significant biological, cultural, scientific, and educational resources. The natural topography of this vast open space includes mountain ranges, basins, rivers, and washes. It is the home of more than 700 species of flowering plants, of which 217 are found nowhere else. It is the habitat for nearly 200 species of wildlife, ranging from the bighorn sheep to the desert tortoise and roadrunner and including such rare and endangered species as the Mojave chub, desert pupfish and desert slender salamander. Finally, the Desert contains priceless archeological resources in the form of petroglyphs, pictographs, and intaglios.

The very fragility of the Desert's environment is its own worst enemy. The thin desert crust breaks easily, and vegetation once destroyed is slow to regenerate itself even in ideal circumstances. And when the plant cover is disturbed, its loss is followed by erosion, dramatic changes in soil nutrients, and a corresponding decline in the variety and abundance of plants and animals. BLM studies in 1968, 1970, and 1971 have assessed the increasingly severe damage to the desert environment resulting from heavy public use, particularly from use of off road vehicles.

To gauge the desert's sensitivity to man's actions, one has only to view a set of aerial photographs taken by the Bureau of Land Management. They show deep, heavy scars across a section of the desert surface as clearly as if they had been made yesterday. Yet they are the imprints made by Army training maneuvers conducted by General Patton in World War II—over 30 years ago. These imprints may still be visible a hundred years from now.

In addition to the environmental damage, the public's added mobility in the Desert has enabled greater numbers of people to visit important archeological and historic sites. Unfortunately, as a result of the added mobility, vandals have stolen, destroyed or defaced many of the petroglyphs, pictographs and intaglios.

Examples of this destruction include the following: the Giant Intaglio, a huge prehistoric land drawing in the Yuha Desert, is being destroyed by indiscriminate vehicle use; the old plank road across the Imperial Dunes is being hauled away, piece by piece, or

being burned for firewood; and the fascinatingly beautiful Indian petroglyphs at Inscription Canyon are literally being quarried.

The increased use has also resulted in a commensurate increase in injuries and deaths from off-road vehicle accidents, criminal assaults, gunshot wounds, snake bites, exposure, and drownings. There were 76 deaths in 1970, 125 in 1971, and 135 in 1973. The number of serious accidents was many times these numbers.

On January 4, 1973, Senators Cranston and Tunney introduced S. 63, a bill to establish the California Desert National Conservation Area, and for other purposes. Witnesses at the Public Lands Subcommittee hearing were unanimous in support of S. 63. The Department of the Interior, however, testified in opposition to the bill, largely on technical grounds, and recommended enactment of the administration's National Resource Lands Management Act (S. 1041). Subsequent to the hearing, the Subcommittee counsel, at the direction of the Subcommittee chairman, met with counsel from the Interior Department and re-drafted the measure to eliminate the objectionable provisions and to insure that the bill complemented the Department's ongoing efforts in the Desert. The re-draft was in the form of an amendment (providing a new section) to S. 424 (S. 507's predecessor last Congress). Only minor changes have been made to the section in the markup of S. 507, this Congress.

This section calls for a management regime for the California Desert which is not significantly different from the general national resource lands management requirements of S. 507. For example, it calls for "multiple use" management (as required generally in section 103, reporting as required generally in section 7), and an advisory committee (as provided for generally in section 6). The Committee believes, however, that, by providing statutory deadlines for those activities and a specific appropriation authorization, it establishes a mandate for, and a base for Congressional oversight to insure, early protection of one of the most valuable areas of the national resource lands.

Subsection (a) provides a number of Congressional findings as to the importance of the California Desert area and the nature of the threats to it.

Subsection (b) states the purpose of section 309 to be provision for the immediate and future protection and management of the California Desert area within the framework of a program of multiple use and the maintenance of environmental quality.

Subsection (c) identifies the "California Desert area" as the area generally depicted on a map entitled "California Desert Area—Proposed," dated April 1974, and on file in the Office of the Director of the Bureau of Land Management. It also provides that, as soon as possible after enactment of S. 507, the map, with any corrections, must be made available to the Congress and the public. The map and a legal description would have the same legal effect as if included in S. 507.

Subsection (d) requires the Secretary to prepare, in accordance with section 103, a comprehensive, long-range plan for the management, use, and protection of the national resource lands within the California Desert area. Unlike section 103 which has no deadline for completion of the land use plans, this subsection requires that the California Desert area plan be completed and implementation be initiated prior to June 30, 1980.

Subsection (e) requires that, during the period prior to completion of the plan, the Secretary must execute an interim program to manage and protect the national resource lands, and their resources now in danger of destruction, in the California Desert area, to provide for the public use of those 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.

Subsection (f) directs that the advisory committee to be established pursuant to section 6 (and the requirements of the Federal Advisory Committee Act (86 Stat. 770) concerning balanced representation, independence, etc.) be formed within 60 days of the enactment of S. 507. The committee would be named the "California Desert Area Advisory Committee."

Subsection (g) provides assurances that the national resource lands within the California Desert Area will be subject to all laws relating to the national resource lands. It also provides for coordination between the Secretaries of the Interior, Agriculture, and Defense, to the extent such cooperation is possible given the constraints of laws relating to the management of the lands under each Secretary's jurisdiction.

Subsection (h) requires the Secretary to report to the Congress no later than two years after the enactment of S. 507, and annually thereafter in the report required in section 7, on the progress in, and any problems concerning, the implementation of section 309, together with any recommendations to remedy such problems.

Subsection (i) authorizes the appropriation of not more than $40,000,000 for fiscal years 1977 through 1981. The funds are to remain available until expended.

MINERAL REVENUES

Section 310. This section amends section 35 of the Mineral Leasing Act of 1920 (41 Stat. 437, 450), as amended. Section 35 of the 1920 Act provides that 37½ percent of the revenues from the leasing of minerals, including coal, gas, phosphate, sodium, potassium, oil, oil shale, native asphalt, and solid and semi-solid bitumen and bituminous rock and tar sands, on Federal lands are to be paid to the States in which the Federal lands are located. Section 35 requires that the States use this money "for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State may direct". Among other things, that section also provides that another 52½% of those mineral revenues are to be paid into the Reclamation Fund.

It now appears that many of the western public land States will experience substantial oil shale and coal development in the near future. If so, State and local governments will have to provide a wide range of community services to large numbers of new residents. Roads and schools are just two of those services. Water and sewer treatment plants, health and emergency services, police and fire protection all must be considered, planned, and funded. The Committee recognizes a need to alter section 35 to provide necessary flexibility to State and local governments to accommodate the inevitable, extraordinary economic, social, and environmental effects which such "energy booms" will have. The Federal Government has the responsibility of assisting the local people who must bear the often severely adverse, localized

impacts of fuels development which benefits the public on a nationwide basis.

Subsection (a) of section 310 amends section 35 of the 1920 Act to increase from 37½ percent to 60 percent the share of 1920 Act mineral leasing revenues paid to the States. The additional revenues derived from the 22½ percent increase would be used as the legislatures of the States direct, giving priority to those areas suffering impact problems as a result of energy development, for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services. The share of revenues paid to the Reclamation Fund would be reduced by the 22½which would be paid to the States, thus placing the Reclamation Fund share at 30 percent.

The utility of these additional revenues will be reduced significantly if paid to the States only upon their receipt by the Federal Government. In order to accommodate the expected growth which energy development will bring, the affected State and local governments need to expend those funds prior to the occurrence of the development. Unless the planning can be done, the sewers laid, the health and emergency services provided before development, those governments will be able only to react to, rather than guide, growth and mitigate, rather than avoid, its adverse impacts.

Subsection (b) is designed to provide the funds to meet these front-end needs. It authorizes loans to the States and subdivisions limited to the anticipated revenues from the 22½ percent portion to be returned to the States in a ten year period. The loans are to be repaid to the Treasury, with 3 percent interest, by the recipients from their portions of the 22½ percent of the revenues during the time the revenues are collected, as the Secretary of the Interior directs.

RECORDATION OF MINING CLAIMS

Section 311. One of the most persistent and significant roadblocks to effective planning and management of most Federal lands, including the national resource lands, is the status of hardrock mining and mining claims on those lands under the Mining Law of 1872, as amended (30 USC 22–47). The status accorded mining and its implications for the public land planner were recently outlined as follows:

> The prime concern of public land managers is that mining is given a preferential status on almost all the public lands under the present law. Under the policy of "free mining" a prospector is unrestricted as long as he is diligently exploring for mineral deposits, without regard to the impact which his activity may have on other uses of the land. . . . This situation has obviously compromised the ability of public land managers to develop and administer a comprehensive plan which provides, in an even and balanced way, for all uses of the public lands. Mining lies outside this process. Because mining tends to dominate other uses whenever and wherever it occurs, the land management policies implemented by the agencies are continually subject to displacement by a mineral claimant.[20]

[20] W. Condon and D. Jackman, "Reforming the Mining Laws—The Case For A Leasing System", *Public Land Management—A Time For Change!*, Stanford, California (1971), p. 8.

Virtually all interested parties, including the Members of Congress, the mining community, the PLLRC, the Administration, environmental organizations, and others, have proposed changes in the Mining Law of 1872, as amended, to alter, or mitigate the adverse impacts resulting from, the present position of hardrock mining on the public lands. The Committee expects to initiate the legislative process with hearings early next year on the various legislative proposals to alter the 1872 Mining Law.

Although the Committee considered such proposals to be beyond the scope of S. 507, as ordered reported, the Committee did address a particular procedural problem concerning the registration of mining claims—a problem which is particularly frustrating to the public land manager. The source of this problem is what is often termed "stale claims". There is no provision in the 1872 Mining Law, as amended, requiring notice to the Federal government by a mining claimant of the location of his claim. The mining law only requires compliance with local recording requirements, which usually means simply an entry in the general county land records. Consequently, Federal land managers do not have an easy way of discovering which Federal lands are subject to either valid or invalid mining claim locations. According to some estimates, there are presently more than 6,000,000 unpatented claims on the public lands, excluding national forests, and more than half of the units of the National Forest System are reputedly covered by mining claims.[21] Of course, the vast majority of these claims will never be pursued, and do not directly interfere with land management. They do, however, create significant uncertainty regarding the actual extent of valid locations. Furthermore, as unpatented mining locations can be bought and sold, they have become the basis for many unauthorized occupancies on the public lands. These claims constitute a cloud on the title of a large portion of the Federal lands.

Subsection (a) would establish the recording system so necessary for Federal land planners and managers. It would require that all mining claims under the 1872 Mining Law, as amended, be recorded by the claimants with the Secretary within two years after the enactment of S. 507, as ordered reported, or within 30 days of the location of the claim, whichever is later. Any claim not recorded is to be conclusively presumed abandoned and will be void.

This recording requirement is not intended to supersede nor displace the existing recording requirements under State law. As such, its purpose is to advise the Federal land managing agency, as proprietor, of the existence of mining claims. The agency is not intended to be the official recording office for all ancillary documents (i.e. wills, mechanic's liens, conveyances, tax liens, court judgments, etc.). The county public records would remain, as before, the official repository of such recorded documents.

Subsection (b) concerns the procedure for making application for patent. Many claims remain a cloud on title for decades or more simply because there is no time limit in which a holder of a claim must proceed to patent. S. 507, as introduced, would have established a five year time limit. The Administration proposal, S. 1292, had a shorter three year period for patent applications. During the hearings on S. 507 and S. 1292, several representatives of the mining community stated that

[21] Ibid., p. 10.

these time limits may be impossible to meet because of an insufficient number of mineral surveyors to conduct the mineral surveys required to accompany applications for patent. The Committee agreed that this was a problem. Therefore, in mark-up, the Committee agreed to alter the patent application provision in S. 507, as introduced, to extend the time period and to incorporate the concepts embodied in a regulation of the Department of the Interior (43 C.F.R. 2650.3–2(b)) concerning patent applications on lands conveyed to Native Village or Regional Corporations under the Alaska Native Claims Settlement Act (85 Stat. 688).

Subsection (b) states that any claim recorded under subsection (a) for which the claimant has not made a patent application within a decade after the date of the claim's recordation must be conclusively presumed to be abandoned and void. A proviso provides, however, that where a showing is made that a mineral survey cannot be completed within the 10 year period, the filing of an application for a mineral survey, which states on its face that it was filed for the purpose of proceeding to patent, will be acceptable for the patent application purposes of subsection (b) if all other applicable requirements under the general mining laws have been met and if the applicant subsequently prosecutes diligently to completion his application for patent.

Subsection (c) states that neither the claim recordation procedure of subsection (a) or the patent application procedure of subsection (b) may render valid any claim which is not valid on the date of enactment of S. 507, or which becomes invalid thereafter.

Title IV—Authority To Grant Rights-of-Way

AUTHORIZATION TO GRANT RIGHTS-OF-WAY

Section 401. This section authorizes the Secretary of the Interior to grant, issue, or renew rights-of-way over, upon, or through any national resource lands for the purposes set forth in clauses 401(a)(1) through (7). It is intended that clauses (1) through (7) be all inclusive and provide the Secretary the requisite authority to grant any right-of-way for any purpose which is in the public interest and which meets the requirements of title IV. The only exception concerns rights-of-way for oil and gas pipelines. Authority for granting these rights-of-way is found in the Act of November 16, 1973 (87 Stat. 576, see the discussion of S. 1081 in section IV, Legislative History). As noted below many of the provisions of this title parallel those of the 1973 Act.

Subsection (a)(1). This clause authorizes the Secretary or appropriate agency head to grant rights-of-way for reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water.

Subsection (a)(2). This clause authorizes the Secretary to grant, issue or renew rights-of-way for pipelines and other systems for the transportation or distribution of liquids and gases other than oil, natural gas, synthetic liquid or gaseous fuel, or any refined product produced therefrom, which are authorized by the Act of November 16, 1973, and water, which is authorized by clause (a)(1).

Subsection (a)(3). This clause authorizes the rights-of-way for systems carrying solid materials by pipeline systems, slurry and emulsion systems, and conveyor belt, and for facilities for the storage of such materials.

Subsection (a)(4). This clause authorizes rights-of-way for the generation, transmission, and distribution of all forms of electrical energy. At present, the Federal Power Commission has, in effect, the authority to issue rights-of-way for electrical transmission lines which are primary lines from hydroelectric projects. In order not to affect the authority of the Federal Power Commission, this clause provides that the applicant must comply with FPC requirements in addition to those of the Secretary of the Interior.

Subsection (a)(5). This clause authorizes rights-of-way for communications systems.

Subsection (a)(6). This clause authorizes rights-of-way for the various means of transportation. Roads are included in this category and, in that regard, this provision would replace R.S. § 2477, 43 U.S.C. § 932, which has been a cause of considerable management difficulty. However, 23 U.S.C. §§ 107, 317 (the Federal-Aid Highway Act) would not be superseded and this is made clear in subsection 410(b).

Subsection (a)(7). This clause provides authority to grant rights-of-way for other necessary transportation or other systems not specified in clauses 401(a)(1) through (6). It should be noted that this Act is also intended to include rights-of-way which serve future needs arising out of existing and future technology advances. Thus, this clause is expected to be broad enough to cover rights-of-way for pneumatic tube transportation systems, laser ray communications, magnetic railways, routes for ground-effect vehicles, and any other systems which are not yet in general use.

Subsection (b). This subsection was added by the Committee to authorize a cost-share road-building program for timber harvesting on national forest lands. It is similar to the National Forest Roads and Trails Systems Act (78 Stat. 1089; 16 U.S.C. 532–538) which provides the basis for the existing cost-share road program between the Forest Service and non-Federal forest landowners.

The Bureau of Land Management administers a considerable amount of land which is intermingled with non-Federal land in several Western States. The purpose of the cost-share road program is to encourage the planning and development of a single road system in such areas jointly owned, operated and maintained to serve the land management objectives of both public and private landowners involved. Through such a program the number of roads necessary to gain access to timber on intermingled Federal and non-Federal lands can be significantly lessened, thus also reducing the inevitable environmental and monetary costs associated with road construction and maintenance. The program, however, should not be viewed or used as a means of building permanent or improved roads where such roads are not considered essential.

Subsection (b)(1) authorizes the Secretary to provide for the acquisition, construction, and maintenance of roads within or near the national resource lands. The Secretary may finance such roads by several means: (1) using appropriated funds, (2) placing requirements on

purchasers of timber and other products from the national resource lands, including provisions for amortization of road cost in contracts; (3) cooperative financing with other public or private agencies or persons, or (4) a combination of these methods.

Clause (1) of the subsection also provides that where roads of a higher standard than those needed in the harvesting and removal of timber are to be constructed, the purchaser of timber will not be required to bear that part of the cost necessary to meet those higher standards.

Finally, clause (1) provides that when timber is offered conditioned upon the purchaser building roads in accordance with standards specified in the offer, the purchaser will be responsible for paying the full construction costs of such roads.

Subsection (b)(2) requires that copies of all instruments affecting permanent interests in land executed pursuant to this subsection be recorded in each county where the lands are located.

Under subsection (b)(3), whenever, pursuant to an agreement in which the United States has obtained the use of a right-of-way, road easement, or existing road for use of the national resource lands, the Federal government is obliged to make delayed payments to its grantor, any funds received by the Secretary for use of the right-of-way, easement, or road are authorized to be placed in a fund to be used to make the payments to the grantor.

Clauses 1, 2, and 3, of this subsection are virtually identical to sections 4, 5, and 7 of the National Forest Roads and Trails Systems Act. Section 6 of that Act concerning user responsibility for maintenance of the road is made unnecessary by the presence of section 304(b) in S. 507, as ordered reported.

Subsection (c)(1). This provision provides for submission and disclosure by an applicant for a right-of-way of any and all plans, contracts, agreements or other information or material which the Secretary deems necessary for a determination as to whether the right-of-way shall be granted, issued or renewed and the terms and conditions of the right-of-way if it is granted. Information called for pursuant to this provision which is already on file with respect to applications pending at the date of enactment need not be refiled. Proprietary information or other information designated by the applicant as confidential could be required by the Secretary if necessary to his determination of whether to grant the right-of-way, and the terms and conditions of the grant.

Subsection (c)(2). This provision requires public disclosure of the ownership and control of business entities applying for rights-of-way under the Act. Information with respect to shares and shareholders refers to shares and shareholders of record only, since publicly held corporations have no practical way of determining beneficial ownership of shares held in "street names" or by nominees or fiduciaries.

Requiring disclosure is based upon the principle that the Federal government should know the true identity of the entity and individuals applying for permission to use the national resource lands.

This provision is similar to section 28(i) of the Mineral Leasing Act, as amended by the Act of November 16, 1973 (87 Stat. 576, 579).

RIGHTS-OF-WAY CORRIDORS

Section 402. Section 28(s) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (28 Stat. 576, 582), required the Secretary of the Interior to review the need for a national system of transportation and utility corridors across Federal lands and submit a report of his findings and recommendations to the Congress and the President by July 1, 1975. The report has been submitted.[22]

Subsection (a). Section 402(a) requires the Secretary to designate such corridors on national resource lands and, to the extent practical and appropriate, confine rights-of-way to them. Various factors must be taken into consideration in designating corridors and determining whether to require that rights-of-way be confined to them, including National and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices.

Existing transportation and utility corridors such as those authorized by and established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) and those in the Pacific Southwest may be included in the national system without further proceedings or review.

The section is not intended to preclude the Secretary or agency head from granting, issuing or renewing rights-of-way between the date of enactment and the time regulations are issued on the criteria and procedures to be used in designating corridors in the national system. Neither is it intended to preclude the grant, issuance or renewal of rights-of-way between the date of enactment and the time of designation of corridors in the national system.

Subsection (b). Section 402(b) authorizes the Secretary to require applicants to use rights-of-way in common where exclusive use of a right-of-way is not necessary. It also provides that each right-of-way shall be subject to the right of future common use. This provides the Secretary with authority to confine rights-of-way in corridors, or to share rights-of-way in common where such action is consistent with such considerations as land use policies, environmental quality, safety, economic efficiency, and good engineering practices. At the same time, it gives the Secretary sufficient control through grants of exclusive use to prevent any hazardous or technologically inoperable placement of various facilities. For example, in some circumstances, it would be hazardous to place high voltage lines too close to an oil or gas pipeline or to expose buried pipelines to undue risk of damage or rupture from adjacent construction operations by unrelated right-of-way holders. In other circumstances, it would be technologically inappropriate to place communications facilities in the same corridor or right-of-way with other activities such as electrical transmission lines which might interfere with the communication system. This provision is similar to section 28(p) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576, 580).

[22] U.S. Department of the Interior, *The Need for a National System of Transportation and Utility Corridors*, Washington, D.C. (1975).

Section 403. This section authorizes the Secretary to specify the boundaries of rights-of-way and limits the grant to the project facilities and such additional lands as are necessary for operation and maintenance and to protect the environment. Other subsections deal with the duration of the right-of-way; promulgation of regulations; provisions to protect the environment, property owners and users of the national resource lands; the use of materials in or near the right-of-way; the assessment of the fair market value of the right-of-way plus administrative costs; rules governing liability; requirements for bonding or other security; and provisions relating to the technical and financial capability of the applicant.

Subsection (a). This subsection provides that the Secretary shall specify the boundaries of each right-of-way as precisely as is practicable. The Committee expects that the Secretary will exercise considerable flexibility in weighing the merits of each situation. Expensive and highly precise surveys are not normally required for many rights-of-way, such as low standard logging spurs or livestock driveways. Thus, it is expected that the Secretary will weigh the proportionate values involved when determining the appropriate level of accuracy in setting such rights-of-way boundaries.

The subsection also provides that the right-of-way specified by the Secretary shall extend to the ground determined by him to be (1) occupied by the facilities constituting the project; (2) necessary for operation or maintenance; and (3) necessary to protect the environment or public safety. The Secretary may authorize temporary use of such additional lands as he determines to be reasonably necessary for construction, access, operation, maintenance or termination of the project or activity.

Experience under existing Federal right-of-way laws demonstrates that the Secretary must have adequate discretion to determine both the extent and the conditions of the rights-of-way granted. For example, it will often be appropriate for the Secretary to determine that facilities constituting the project "occupy" additional space beyond the immediate physical limits of the structures themselves. In addition, a determination as to the boundaries and the amount of land necessary for operation and maintenance and protection of the environment and public safety should be made by the Secretary after a careful review of the proposed project or activity, the lands involved, the environment of the area, and other criteria set forth in this title.

The Committee intends that all rights-of-way granted under this title be *limited* to the minimum amount of land reasonably necessary for the conduct of the particular project or activity involved. The Committee further intends that all essential activities associated with the project or activity taking place within the right-of-way be appropriately authorized. The Committee has consciously avoided establishing arbitrary width limitations because experience has shown that they are not a practical guide to environmentally sound construction design; they are not amenable to technological change; and they limit the Secretary's discretion and ability to cope with unique circumstances.

The third sentence in subsection 403(a) gives the Secretary the authority to allow the use of other lands near or at some distance from the right-of-way in order that the project may be constructed, put into operation, maintained and finally terminated and removed. It is intended that the Secretary will use any mix of leases, licenses, or permits as he finds appropriate for such uses. These permissions of use will vary in duration, and in conditions; the objective being to allow the use of lands only to the extent, and for the time, that is reasonably necessary to accomplish the construction, operation and use of the particular project.

The provision on temporary uses is not a limitation on the type of facility or activity which may be allowed. Thus, slope cuts and fills, berm construction, access facilities and other permanent changes in terrain are permissible, as temporary uses. The Secretary may require, as a condition of such temporary use, removal of structures and rehabilitation of the area.

Subsection (b). This subsection authorizes the Secretary to determine the duration of each right-of-way or other authorization granted, issued or renewed pursuant to title IV. In making this determination, he shall take into consideration the cost of the facility and its useful life. One purpose of this section is to give the holder of a right-of-way a degree of certainty and security as to his tenancy so that adequate financing can be arranged. This is particularly necessary for major projects. In certain instances, due to the very long-term nature of certain required investments in rights-of-way, it is expected that it may be appropriate to specify a length of term which is very long or even perpetual. In such cases, there should be provision for review and revision of the terms and conditions of the right-of-way needed to reflect changing times and conditions.

This provision refers to both rights-of-way and other authorizations granted under this title, since the Secretary may prescribe a specific duration for uses classified as temporary as well as for those classified as rights-of-way.

The subsection is similar to section 28(n) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576, 580).

Subsection (c). This subsection authorizes the Secretary to prescribe such regulations or stipulations and terms and conditions with respect to rights-of-way as he deems appropriate regarding extent, duration, survey, location, construction, maintenance, and termination. If the Secretary determines that general regulations are not appropriate to govern these factors for any particular project, specific terms and conditions can be imposed. In any event, the Secretary is not precluded from granting, issuing or renewing a right-of-way and including appropriate stipulations pending promulgation of regulations pursuant to this section. Any terms or conditions imposed, whether by regulation or stipulation in a right-of-way grant, must, of course, be in accord with the provisions of this title or some other Federal law. This subsection is similar to section 28(f) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576, 578).

Subsection (d). This subsection authorizes the Secretary to require an applicant to submit a plan of construction, operation and rehabilitation on any proposed new project which may have a significant impact

on the environment prior to granting a right-of-way. The information required is to be set forth in regulations or stipulations, and must include information in certain specified areas. It is not intended that the plan of construction, operation or rehabilitation be a detailed final plan since all details and conditions cannot be known at the time of application. However, the plan should be a description in as much detail as the state of the planning for the particular project will permit and must be adequate enough for the Secretary or agency head to make an informed judgment on the application and on the need for imposing any special terms and conditions which the public interest may require.

The Secretary is directed to impose, either by regulation or stipulation, certain requirements with respect to activities in connection with the right-of-way for the purpose of environmental protection. These include, but are not limited to: (1) requirements to insure that applicable Federal and State air and water quality and Federal and State transmission, power plant, and related facility siting standards are not violated; (2) requirements designed to control or prevent damage to the environment and to public or private property, or hazards to the public health and safety; and (3) requirements to protect the interests of individuals living in the vicinity who rely on resources of the area for subsistence purposes.

This last provision is of particular importance to Alaska Natives who will continue to depend, to a greater or lesser degree, directly and indirectly, upon fish, wildlife and biotic resources as the basis for their economy. The "who rely" clause is intended to identify the class of persons covered, not to limit the scope of the protection to be afforded. The provision, being remedial, is to be broadly construed to embrace the range of interests of such persons that could be damaged by an adverse environmental and ecological impact of a right-of-way.

The last sentence of this subsection provides that any regulation issued pursuant to this section shall be applicable to all new grants of rights-of-way. Such regulations may be made applicable to rights-of-way which were not granted or issued pursuant to title IV but which are subsequently renewed in accordance with title IV.

This subsection is similar to section 28(g)(2) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576, 578).

Subsection (*e*). This subsection provides that a right-of-way holder may not use mineral or vegetative materials from the national resource lands without obtaining an authorization under applicable law to do so. (The principal laws are the Act of August 28, 1973, 50 Stat. 874, 43 U.S.C. § 1181a; and the Act of July 31, 1947, 61 Stat. 681, as amended, 30 U.S.C. § 601.) This does not prevent the holder from excavating for construction purposes and using or moving earth and non-merchantable vegetation and disposing of them in approved locations on national resource lands. It merely requires the holder to purchase mineral materials, such as gravel, and vegetative materials, such as timber, where the sale of such materials is authorized or otherwise required by statute or regulation.

Subsection (*f*). This subsection provides that no right-of-way shall be issued for less than "fair market value" as determined by the Secretary. The proviso at the end of the subsection qualifies this standard

where the applicant is a State or local government or a nonprofit association. In this case, the right-of-way may be granted for such lesser charge as the Secretary determines to be equitable under the circumstances. However, it is not the intent of this Committee to allow use of national resource land without charge except where the holder is the Federal Government itself or where the charge could be considered token and the cost of collection would be unduly large in relation to the return to be received.

Section 403(f) authorizes the Secretary to issue regulations or, prior to their promulgation, to condition right-of-way grants to require an applicant or holder of a right-of-way to "reimburse the United States for all reasonable administrative and other costs" incurred in processing an application and in inspection and monitoring of construction, operation, maintenance and termination of the facility. In establishing regulations or in conditioning right-of-way grants the Secretary is to follow a standard of reimbursement which is fair and equitable, and as uniform as practicable, taking into consideration the direct and indirect cost to the government, the value to the recipient, the public policy or public interest served, and other pertinent facts.

A proviso states that reimbursement of costs need not occur in any cooperative cost-share right-of-way program between the Federal government and the right-of-way holder. This refers to the cost-share program authorized in section 401(b).

Prior to promulgating regulations establishing uniform schedules for reimbursement, the Secretary is expressly authorized to require reimbursement as a condition of a right-of-way, taking into consideration the same factors which are intended to guide the Secretary in promulgating regulations.

This subsection is similar to section 28(l) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576, 579).

Subsection (*g*). This subsection implements the principle that the United States shall be protected from suit or loss with respect to any right-of-way. The bill is drafted to allow flexibility because it is recognized that some right-of-way holders will not be able to so protect the United States. Governmental entities, for example, may not be legally able to give such assurances of protection because of limitations in State law or in State Constitutions.

The subsection directs the Secretary to promulgate regulations specifying the extent to which holders of rights-of-way are to be liable to the United States for damage or injury incurred by the United States in connection with the rights-of-way. The regulations must also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims arising in connection with the rights-of-way. Finally, the subsection provides that any regulation or stipulation imposing liability without fault must 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 is to be determined by ordinary rules of negligence.

This subsection is similar to several provisions of section 28(x) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576, 583).

Subsection (h). This subsection authorizes the Secretary to require a right-of-way holder to furnish a bond, or other security, satisfactory to secure the obligation imposed by rules, regulations or the terms and conditions of the right-of-way. The term "security" is not intended in a technical sense but may include any satisfactory undertaking which gives adequate assurance to the Secretary that all obligations under the permit will be met. This subsection provides flexibility because certain holders may not be legally empowered to post such security, and in other cases requirement of such security may be impossible or unnecessary. This subsection is virtually identical to section 28(m) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576, 579).

Subsection (i). This subsection authorizes the Secretary to consider the financial and technical capabilities of applicants before granting rights-of-way. This subsection is similar to section 28(j) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576, 579).

TERMS AND CONDITIONS

Section 404. This section provides broad authority to make rights-of-way grants subject to specific terms and conditions. Under existing laws this authority is not spelled out clearly and may not be sufficient to meet present-day needs. The section includes a directive to prescribe terms and conditions to protect the environment, lives and property, and to manage national resource lands efficiently. It specifically directs that terms and conditions be designed to protect other lawful users of the national resource lands adjacent to or traversed by a right-of-way. Of particular importance with respect to national resource lands in Alaska is the provision for protection of the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes.

This section is virtually identical to section 28(h)(2) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576, 578).

SUSPENSION OR TERMINATION OF RIGHTS-OF-WAY

Section 405. This section sets out the grounds for suspension or termination of a right-of-way. It prescribes due process procedures to be followed by the administrative agency in suspending or terminating any right-of-way. Holders of rights-of-way would be given an opportunity to contest any violations before formal suspension or termination action. Immediate temporary suspensions prior to an administrative proceeding are authorized only where necessary to protect public health or safety or the environment. Administrative proceedings would be started as soon as possible after any temporary suspension. These particular provisions are similar to those concerning permits, leases, etc., in section 101(3) of S. 507, as ordered reported.

Finally this section provides that failure to use the right-of-way for any continuous five-year period would create a rebuttable presumption of abandonment, but termination would not be required if such failure was due to circumstances not within the holder's control.

This section is similar to section 28(o) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576, 580).

RIGHTS-OF-WAY FOR FEDERAL AGENCIES

Section 406. Subsection (a) establishes authority and a procedure for the setting aside of rights-of-way for other Federal agencies. At the present time, there is no clear mechanism for this purpose and a standard procedure is desirable. Subsection (b) requires the consent of the head of any Federal department or agency before the Secretary may terminate or limit the department or agency use of a right-of-way set aside under subsection (a). It is intended that such consent will not be unreasonably withheld and that it will be given except where there is a real need to retain the right-of-way.

CONVEYANCE OF LANDS

Section 407. This section covers the various situations that can arise where a tract of land which has a right-of-way on it is conveyed out of Federal ownership. Normally, under common law, the new landowner becomes the landlord of the lease and assumes the position of the prior landlord, in this case, the United States. This presents few or no problems with roads and other small rights-of-way, but power transmission lines, pipelines, and other large projects are vastly different. In such cases, continued Federal ownership or control may be necessary for environmental, national defense, or a multitude of other reasons. Because the cases will vary with the precise situations involved, the section allows the Secretary to choose the appropriate form of retention or disposal of the right-of-way. (The choices are conveying the land subject to the right-of-way, reserving only the right-of-way, and conveying of all the land subject to the right-of-way while reserving the right to enforce terms and conditions for the right-of-way.) This section does not provide new authority for transfer of national resource lands out of Federal ownership.

Under this provision rights-of-way holders are assured of continuation of the rights-of-way under any of the alternatives available to the United States, thus protecting their capital investments both in transportation systems and in producing facilities. The options available to the United States insure that the interest of the United States and the public will be protected.

EXISTING RIGHTS-OF-WAY

Section 408. This section insures that rights-of-way granted under statutes superseded or repealed by the provisions of this Act are not affected.

Section 408 also provides that, with the consent of the holder, previously granted rights-of-way may be cancelled and a right-of-way under this title be issued in its place.

STATE STANDARDS

Section 409. Rights-of-way frequently cross from State or private land into national resource land and back into State or private land. There may be a difference in standards for construction, operation and maintenance of rights-of-way on the national resource lands (under the terms of this title) and on the non-Federal lands (subject to State standards).

This section provides that where such a situation exists, and the State standards are more stringent than Federal standards, the Secretary should take into consideration and, to the extent practical, comply with the State standards. It is not intended that State standards must be followed in every case, but rather that the Secretary consider them carefully.

This section is similar to section 28(v) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576, 582).

EFFECT ON OTHER LAWS

Section 410. Subsection (a) provides that after enactment of this title, rights-of-way over national resource lands for the purposes listed in section 401 shall be granted only under this title. Most of the existing laws authorizing grants of rights-of-way are repealed by section 505 of this Act. However, in order to maintain continuity of ongoing operations and to preclude a hiatus in the issuance of rights-of-way, any application filed under existing laws prior to enactment of title IV may, at the applicant's option, be granted under either this title or the Act under which the application was filed. In those cases where the applicant chooses to have the application granted under the Act and the regulations under which the application was filed, the requirements of this title need not be met. In those cases where the applicant chooses to have the application granted under this title, the substantative requirements of this title must be met, but the application may be processed without awaiting the promulgation of the new regulations required by this title.

Many applicants, including many small businessmen and ranchers, have gone to considerable expense to prepare and file rights-of-way applications. This provision will enable these applications to be processed without additional expense or delay. At the same time it assures that applications which can only be granted under this title must meet all its substantative requirements. Under this provision, applications for projects, including references to further subordinate applications for rights-of-way or uses required in connection with the same project, would also be included within the grandfather provision.

This subsection is similar to section 28(g) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576, 580).

Subsection (b) provides that the use of national resource lands for public highway purposes under the Federal Aid Highway Program will continue unchanged.

INTERAGENCY COORDINATION

Section 411. This section requires that applicants before any Federal agency other than the Department of the Interior seeking a license, certificate, or other authority for a project which will involve national resource lands simultaneously also apply to the Secretary for the appropriate authority to use national resource lands and submit to the Secretary all information furnished to the other Federal agency.

TITLE V—CONSTRUCTION OF LAW, PRESERVATION OF VALID EXISTING RIGHTS, AND REPEAL OF LAWS

CONSTRUCTION OF LAW

Section 501. Subsection (a) of this section provides that the authority conferred upon the Secretary by S. 507, as ordered reported, is in addition to all other authority vested in him by law. Furthermore, it establishes that nothing in the legislation is to be considered as repealing any authority by implication. The only laws or parts of laws repealed by the bill are those listed in sections 503, 504, and 505.

There is one exception to the provisions of subsection (a). Section 410 clearly limits the Secretary's authority to issue rights-of-way covered by title IV under the authority of any other law. Therefore, to some extent, section 410 does repeal or partially repeal by implication other rights-of-way authorities.

Subsection (b) prevents construction of the Act as affecting water rights, water resources development or control, interstate compacts, interstate or intergovernmental agencies, authority of Federal agencies concerning development, licensing, or regulating of water resources and functions, the police power and civil and criminal jurisdiction of the States, and the jurisdiction of the States with respect to wildlife and fish on the national resource lands.

These so-called "savings clauses" are particularly important in this bill because of the number of laws which it would repeal. For example, the numerous references to water resources and water rights are to insure that any "case law" which may be traced back to and be based upon any of the obsolete statutes repealed in sections 503, 504, and 505 is not, in effect, also "repealed" along with those statutes.

VALID EXISTING RIGHTS

Section 502. This section provides the necessary assurance that valid existing rights will not be sacrificed by any action the Secretary might take under S. 507, as ordered reported.

REPEAL OF LAWS RELATING TO DISPOSAL OF NATIONAL RESOURCE LANDS

Section 503. This section repeals laws relating to the disposal of the national resource lands. Many of these laws have long since outlived their usefulness. Others conflict with the "retention" policy and specific disposal guidelines of S. 507, as ordered reported.

A number of disposal laws are not repealed. Among those not being repealed are the Recreation and Public Purposes Act (44 Stat. 741); the Color of Title Act (45 Stat. 1069), and the Desert Land Act (19 Stat. 377). S. 1041, the proposal submitted by the Administration last Congress, included three Indian allotment laws in the repealers. However, during Committee mark-up of S. 424, S. 507's predecessor last Congress, the Administration asked that these laws (the Act of Feb. 8, 1887, section 4, 24 Stat. 389 as amended, 25 U.S.C. 334; and the Act of Feb. 28, 1891, section 4, 26 Stat. 794 as amended, 25 U.S.C. 336) be deleted from the list pending further study. The Committee honored that request and these allotment laws remain absent from the section 503 repealer list in S. 507.

The following is a description of the laws repealed by section 503.

1. Homestead Laws

The essence of the homestead laws and amendments thereto consists of conditions of actual settlement, residence on, and cultivation of land embraced in a homestead entry. The homestead law gave a qualified individual, for a nominal fee, the right to enter upon 160 acres of unoccupied public land in any of the public-land States and Territories, the right to live upon the land for a period of years, and, upon proof of compliance with the law, the right to receive a patent thereto.

Homesteading has become almost nonexistent, except in Alaska, because of the scarcity of public lands suitable for agriculture. The possibility of homesteading in Alaska in the future has been virtually precluded by enactment of the Alaska Statehood Act (48 U.S.C. prec. § 21 note) and the Alaska Native Claims Settlement Act (85 Stat. 688), under which most of the suitable agricultural land has been or will be appropriated.

Other homestead statutes generally concern the payment of fees and were superseded by the Public Land Administration Act of 1960 (74 Stat. 506, 43 U.S.C. 1361–1383).

Some statutes, presently a part of the homestead laws, allow additional homestead rights for soldiers. All presently outstanding validated soldiers' additional homestead rights must have been satisfied by January 1, 1975; such rights were rendered null and void after that date, as provided by the Act of August 31, 1964 (78 Stat. 751).

The following homestead statutes which would be repealed contain provisions relating to other than strictly homestead matters:

(a) The Act of May 17, 1900 (31 Stat. 179, 43 U.S.C. 179), in addition to giving free homesteads to settlers upon agricultural public lands acquired and opened to settlement prior to May 17, 1900, provides that in the event that the annual sales of public lands are not sufficient to meet the payments provided for agricultural colleges and experimental stations, such deficiencies are to be paid by the United States. This provision is no longer necessary because present legislation provides for Federal funding of these institutions. See, for example, the Agricultural College Act of 1890 (26 Stat. 417 as amended, 7 U.S.C. 321 *et seq.*); The Bankhead-Jones Act of 1935 (49 Stat. 436 as amended, 7 U.S.C. 329 *et seq.*); and the Hatch Act of 1887 (24 Stat. 440 as amended, 7 U.S.C. 361a *et seq.*)

(b) The Act of June 13, 1902 (32 Stat. 384 as amended, 43 U.S.C. 203) extended the homestead laws to lands in the former Ute Indian Reservation in Colorado and forbade forest lieu selections and soldiers' additional homesteads on these lands. Indian title to these lands has since been extinguished and the Indians compensated therefor.

(c) Section 3 of the Act of March 2, 1907 (34 Stat. 1224, 43 U.S.C. 224(f)), authorizes the Secretary to sell isolated tracts in part of Nebraska not exceeding three quarter sections in size. The sale authority in the bill would supersede this law.

2. Sale and Disposal

Chapter 16 of Title 43 of the United States Code provides for the sale and disposal of public lands and would be superseded by the sale authority in S. 507, as ordered reported.

Section 671 of the chapter provides that no public lands shall be sold at public sale with certain exceptions. Sections 673–676 of chapter 16 pertain to the private sale law. No private sales have been made for many years.

The chapter includes two laws which provide for particular types of disposal. The first is the Act of March 1, 1907 (34 Stat. 1052, 43 U.S.C. 682), which provides for the sale of public lands for cemetery purposes. The Act provides for reversion should the land be used for any other purpose. The second is the Act of June 1, 1938 (52 Stat. 609 as amended, 43 U.S.C. 682a to 682e), commonly referred to as the Small Tract Act, which provides for the sale or lease of up to 5 acres of public land for residential, commercial, recreational, or community site purposes. Neither of these Acts is used frequently today. The Recreation and Public Purposes Act (44 Stat. 741 as amended, 43 U.S.C. 869 to 869–4), authorizes sales for most of these purposes and the sale authority in the bill would permit sales for all of these purposes in accordance with the disposal criteria in Section 202.

The rest of the chapter is composed essentially of sections dealing with prices for lands (§§ 678–679, 681), refunds (§§ 689–690), mistakes as to entries and patents (§§ 693–694), and collusive agreements involving public sales (§§ 696, 698–699).

The sections setting certain prices, such as $1.25 per acre, are archaic. The sections dealing with mistakes would be replaced by section 211 of S. 507, as ordered reported, which authorizes the Secretary to correct mistakes in patents, and the sections dealing with refunds could be handled by regulation. The old system for disposing of public land often invited or encouraged speculation and collusion. The bill, with its strict criteria for disposal and policy of fair market value, should help eliminate such speculation and collusion.

Section 700 of the chapter excludes all lands from private entry except lands in Missouri. This section is no longer necessary since there are no lands in Missouri suitable for private entry.

3. Townsite Reservation and Sale

This category includes laws for the disposal of lands for townsite purposes.

Modern urban development requires better planning than the townsite laws which provide for haphazard location and establishment of cities or towns with obsolete provisions for size of towns, townlots, etc. There has been practically no use of these laws outside of Alaska, for many years. S. 507 would allow for transfer of lands for the same purposes as the townsite laws, but with more adequate provision for land use planning, protection of the public interest, the environment, etc.

4. Drainage Under State Law

These laws make public lands in Minnesota (43 U.S.C. 1021–1027) and Arkansas (43 U.S.C. 1041–1048) subject to State drainage laws. There are no public lands left in Arkansas to which these laws could apply. The Act of May 1, 1958 (72 Stat. 99, 43 U.S.C. 1029–1034) had the effect of terminating the applicability of 43 U.S.C. 1021–1027, pertaining to public lands in Minnesota. The Act of May 1, 1958, would also be repealed by S. 507, as ordered reported.

5. Abandoned Military Reservations

This category includes various laws relating to disposition of "abandoned military reservations". The basic law was passed in 1884 and dealt primarily with frontier forts and military reservations. Legislation during and after World War II, including the Federal Property and Administrative Services Act of 1949 (63 Stat. 378, 40 U.S.C. 471 *et seq.*), has superseded this legislation.

6. Public Lands in Oklahoma

The public land laws were extended to Oklahoma with variations designed for special conditions and situations existing there. Repeal of these special laws concerning Oklahoma would have no real effect. Most of the 7,300 acres of public domain lands remaining in Oklahoma already have claims against them and are thus encumbered. The bill would apply to any national resource lands which may remain in the State.

7. Sales of Isolated Tracts

Revised Statute 2455 (43 U.S.C. 1171) provides for the sale at public auction, of isolated tracts, or tracts which are mountainous or too rough for cultivation. 43 U.S.C. 1171a–1177 extend the provisions of § 1171 to lands in Oklahoma, coal lands in Alabama, ceded Chippewa Indian lands in Minnesota, ceded Fort Berthold Indian lands in North Dakota; the abandoned Fort Buford Military Reservation in Montana; and ceded Fort Hall Indian lands and Crow Indian lands in Montana. The Act of June 18, 1934 (48 Stat. 984, as amended, 25 U.S.C. 463), provided for the restoration to tribal ownership of remaining surplus lands on Indian reservations which had been open to sale. All ceded Indian lands which were undisposed of at that time, have been restored to Tribal ownership. The Fort Buford lands have been sold. Coal lands in Alabama and all other lands subject to R.S. 2455 would be subject to the disposal authority providing by S. 507, as ordered reported.

R.S. 2455 contains an absolute preference right for adjacent owners. This has sometimes created problems in the disposition of isolated or disconnected tracts. S. 507, as ordered reported, would allow the Secretary to give a preference right under certain circumstances, to assure fair distribution among purchasers or to recognize equitable considerations or public policies.

8. Alaska Special Laws

The following statutes which would be repealed provide for the disposition of public lands in Alaska, and are only applicable to Alaska:

(*a*) Alaska Townsite Laws (The Act of March 3, 1891, 26 Stat. 1099, 43 U.S.C. 732; and the Act of May 25, 1926, 44 Stat. 629, 43 U.S.C. 733–736). They provide for trustee townsites in Alaska. The Alaska Native Claims Settlement Act granted to the Natives the lands in "Native villages," rendering the townsite laws obsolete with respect to Natives. The comments appearing above with regard to townsites generally are applicable here.

(*b*) Alaska Public Sale Act (63 Stat. 679, 43 U.S.C. 687b to 687b–4). It provides for the sale of public land in Alaska not exceeding 160 acres, suitable for industrial or commercial purposes, including housing. This Act would be rendered obsolete by the sale authority in S. 507, as ordered reported.

(*c*) Trade and Manufacturing Site Act (30 Stat. 413, as amended, 43 U.S.C. 687a). It provides for the disposition of 80 acres to any one person for use as a trade and manufacturing site. This Act would also be rendered obsolete by the sale authority in S. 507, as ordered reported.

(*d*) Headquarters Site Act (30 Stat. 413, as amended, 43 U.S.C. 687a). It provides for the disposition of 5 or less acres of public lands by sale for use as a homestead or headquarters site. The sale authority of the bill would also render this Act obsolete.

The Alaska Statehood Act and Alaska Native Claims Settlement Act provide for the selection of 104 million acres and 40 million acres of public lands in Alaska, respectively. It is expected that most of the public lands suitable for development will be selected under one or the other of those Acts.

9. Pittman Act Extensions of Time

This law (The Act of Sept. 22, 1922, 42 Stat. 1012, 43 U.S.C. 356) gives the Secretary of the Interior authority to grant a two-year extension of time for developing underground waters in Nevada under permit issued pursuant to the Pittman Act. The Pittman Act itself was repealed by the Act of August 11, 1964 (78 Stat. 389). There are no longer any permits outstanding under the repealed Pittman Act and therefore there is no longer any need for this section authorizing extensions of Pittman Act permits.

REPEAL OF LAWS RELATING TO ADMINISTRATION OF NATIONAL RESOURCE LANDS

Section 504. This section repeals laws relating to the administration of the national resource lands. As mentioned throughout this section-by-section analysis, a number of the authorities contained in the laws to be repealed are "updated" and, in effect, "re-codified" in S. 507, as ordered reported.

The following is a description of the laws repealed by section 504:

(1) The Act of March 2, 1895 (28 Stat. 744, 43 U.S.C. 176), provides for appointment of court commissioners for certain Territories. Since the Territories have become States, these sections are obsolete.

(2) Section 8 of the Taylor Grazing Act (48 Stat. 1272, as amended, 43 U.S.C. 315g), authorizes the Secretary to accept donations of lands, authorizes him to exchange certain Federal lands for private lands of the same value, and directs him upon application of a State to exchange certain Federal lands for State-owned lands of equal acreage or of equal value. Section 213 of S. 507 provides comprehensive authority to acquire land by exchange, purchase or donation. It would allow for acquisition of any non-Federal land by exchange and, unlike section 8 of the Taylor Grazing Act, would allow for the values of lands exchanged to be equalized by payment of money. The mandatory State exchange provision of section 8 of the Taylor Grazing Act is not retained since it is inconsistent with the disposal criteria, in section 202 of S. 507, as ordered reported.

The Act of July 9, 1962 (76 Stat. 140, 43 U.S.C. 315g–1), states that lands acquired under section 8 of the Taylor Grazing Act which are within a national forest may be administered by the Secretary of Agriculture. Section 213(e) of S. 507, as ordered reported, allows any lands acquired by exchange which are within a national forest to be transferred to the Secretary of Agriculture.

(3) The Act of August 24, 1937 (50 Stat. 748, 43 U.S.C. 315p), authorizes the Secretary of the Interior in exchanging lands with States under section 8 of the Taylor Grazing Act, to issue patents to States for certain lands on which leases have been issued, provided

that such patents will be subject to those outstanding leases. Section 213 of S. 507, as ordered reported, is intended to preserve the authority to make exchanges subject to outstanding leases.

(4) The second proviso of the Act of March 3, 1909 (35 Stat. 845, as amended, 43 U.S.C. 772), limits the amount of appropriations for surveys which may be spent on resurveys. The second proviso originally limited to 5 percent the amount of the total annual appropriation for surveys and retracements. Joint Resolution No. 40, June 25, 1910 (36 Stat. 884, 43 U.S.C. 772), increased the limitation to 20 percent. However, 20 percent is not sufficient to meet today's requirements. Outside of Alaska, there is a much greater need for resurveys than for surveys. Prior to 1910 natural objects such as rocks or sticks were used as survey monuments. Many of these objects have decayed or have been moved. Most remaining unsurveyed areas, outside Alaska, are large blocks which may never need to be surveyed. Each year the provisions of this Act have been superseded by appropriation acts to allow for resurveys.

(5) The Act of June 21, 1934 (48 Stat. 1185, 43 U.S.C. 871a), provides for issuance of patents to States for school lands in accordance with the laws authorizing such grants (43 U.S.C. 870, 871). Section 211 of S. 507, as ordered reported, replaces this Act by authorizing the Secretary to issue patents in accordance with his authority to dispose of national resource lands.

(6) (a) R.S. 2447 (43 U.S.C. 1151), gives the Secretary discretionary authority to issue patents for claims confirmed by law prior to December 1854. This authority will be continued by section 211 of the bill. (b) R.S. 2448 (43 U.S.C. 1152), provides for normal succession in cases where a person entitled to a patent dies before its issuance. Section 211 of S. 507 is intended to authorize the Secretary to issue a patent in the name of the claimant or his heirs.

(7) The Act of June 6, 1874 (18 Stat. 62, 43 U.S.C. 1153–1154), provides that title to land in Missouri confirmed prior to June 1874 by persons acting under authority of an Act of Congress shall have the same status as patented land and provides for the discontinuance of the office of recorder of land titles in Missouri. The effect of this Act has already been achieved.

(8) The Act of January 28, 1879 (20 Stat. 274, 43 U.S.C. 1155), provides for issuance of certificates of location of private land claims in the States of Florida, Louisiana, and Missouri, if the validity of the claims have been recognized by decree of the Supreme Court. The issuance of certificates was completed many years ago. The satisfaction of remaining issued certificates was provided for by the Act of August 31, 1964 (78 Stat. 751).

(9) The Act of May 30, 1894 (28 Stat. 84, as amended, 43 U.S.C. 1156), authorizes the Secretary of the Interior to issue patents for certain locations under certificates issued prior to January 1879. This Act would be superseded by section 211 of S. 507, as ordered reported, which authorizes the Secretary to issue patents in accordance with his authority to dispose of national resource lands.

(10) R.S. 2450, 2451, 2456, and 2457, as amended (43 U.S.C. 1161–1164), authorize the Secretary of the Interior to decide cases of suspended entries of public lands and suspended pre-emption land claims upon principles of equity and justice and authorize the Secretary, upon cancellation of an outstanding patent issued on entries approved by him, to issue a new patent to the person making the entry or his heirs. These sections apply to all cases of suspended entries and locations which have arisen since 1856 where there has been substantial compliance with the law. Since the pre-emption law was repealed many years ago, this law is obsolete.

(11) Section 7 of the Act of March 3, 1891 (26 Stat. 1098, 43 U.S.C. 1165), authorizes the Secretary of the Interior to suspend entries for purposes of correction of clerical errors. Since there would be few entries under S. 507, as ordered reported, or any other law, this statute would be obsolete. However, the statute will continue to apply to valid rights existing on the date of approval of S. 507.

(12) R.S. 2471–2473 (43 U.S.C. 1191–1193), establish criminal penalties for false making or altering of instruments concerning lands, mines, or minerals, in California; false dating of evidence of title under Mexican authority to lands in California; and presenting false or counterfeited evidences of title to lands in California. These statutes have been superseded by the Act of June 25, 1948 (62 Stat. 749, 18 U.S.C. 1001).

(13) The Public Land Administration Act (74 Stat. 506, 43 U.S.C. 1361, 1362, 1363–1383), authorizes the Secretary to conduct investigations and to enter into cooperative agreements involving improvement, management, use, and protection of public lands. It authorizes him to accept donations of money, services, and property for specified purposes, to establish fees relating to furnishing of documents, to refund excess payments relating to disposition of lands, and to require maintenance of roads and trails. The Act also provides for disposition of certain moneys. This Act would be substantially reenacted by sections 301, 302, and 304 of S. 507, as ordered reported.

Provisions of the Public Land Administration Act which would not be reenacted are explained below:

(a) Section 2 of the Public Land Administration Act (43 U.S.C. 1361) defines "public lands" as all Federal lands administered by the Bureau of Land Management. Those lands are identified in S. 507 as national resource lands.

(b) Part of section 102 (43 U.S.C. 1363) limits the authority granted by that section to make cooperative agreements to the making of only such agreements which are neither expressly authorized nor prohibited by other provisions of law. Section 301(b) of S. 507, as ordered reported, provides general authority to enter into cooperative agreements which are necessary for proper administration of the national resource lands. The Department of the Interior has informed the Committee that it knows of no law expressly prohibiting the making of cooperative agreements.

(c) Part of section 103 (43 U.S.C. 1364(b)) provides that the authority in section 103 to accept contributions or donations does not limit or repeal any other such authority. This provision is unnecessary because S. 507, in section 501, explicitly provides that it does not repeal by implication any authority granted the Secretary by law. However, section 8 of the Taylor Grazing Act (43 U.S.C. 315g) which contains, among other things, authority to accept contributions, would be repealed by section 504(2) of S. 507 and would be replaced by section 301(c).

(d) Part of section 201 (43 U.S.C. 1371) requires publication in the *Federal Register* of notice of intention to establish or change filing fees, service fees, etc. with respect to applications and documents regarding the public lands. This section is unnecessary since the Bureau of Land Management as a matter of policy establishes and charges fees in accordance with the Administrative Procedure Act (80 Stat. 383 as amended, 5 U.S.C. 553). Section 4 of S. 507, as ordered reported, would require the BLM to continue to do so.

(e) Section 202(a) (43 U.S.C. 1372) provides that all fees, charges and commissions prescribed by then existing law or regulation shall remain in effect until changed or abolished. This provision is obsolete since such fees, etc., have been changed or abolished and were published in the *Federal Register*, p. 5712, June 15, 1962.

(f) Section 203 (43 U.S.C. 1373) provides that nothing in the Public Land Administration Act shall affect the provisions of 43 U.S.C. 1460 pertaining to price of records furnished by the Department of the Interior. 43 U.S.C. 1460 prescribes a charge for furnishing copies of records in the custody of the Secretary. Elimination of section 203 would make 43 U.S.C. 1460 inapplicable to the furnishing of copies of records which pertain to national resource lands. Section 302(a) of S. 507, as ordered reported, would authorize the charging of reasonable fees for services.

(14) The Act of September 26, 1970 (84 Stat. 885, 43 U.S.C. 1362a) authorizes the Secretary to enter into contracts (twice renewable without additional competition) for use of aircraft, supplies and services for fire protection operations. This Act would be reenacted and expanded upon by section 305 of S. 507, as ordered reported.

(15) The Act of July 31, 1939 (§§ 1–2, 53 Stat. 1144, ch. 401) authorizes the Secretary of the Interior, in administering the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands, to exchange such lands for lands of equal value, in State, county, or private ownership, which are within or contiguous to former limits of the grants. Section 213 of S. 507, as ordered reported, would provide more comprehensive exchange authority which would be applicable to these lands.

REPEAL OF LAWS RELATING TO RIGHTS-OF-WAY

Section 505. This section repeals laws or parts of law relating to rights-of-way on national resource lands. In most cases, the laws are repealed only insofar as they apply to national resource lands and would be superseded by enactment of S. 507, as ordered reported. The following is a description of those laws:

Roads and Highways

1. Section 1 of the Act of March 3, 1899 (43 U.S.C. 665, repeated at 43 U.S.C. 958), grants the Secretary authority to file and approve surveys and plats of rights-of-way for wagon roads, railroads, and other highways across forest reservations and reservoir sites if public interests would not be injuriously affected thereby.

2. Section 2477 of the Revised Statutes (43 U.S.C. 932) makes an *in praesenti* grant to unspecified grantees of a right-of-way for construction of highways over public lands, not reserved for public uses. R.S. 2477 is repealed in its entirety.

Railroads

1. Sections 1, 2 and 4–6 of the Act of March 3, 1875 (43 U.S.C. 934, 935, 937–939), grant rights-of-way through public lands to railroad companies and provide procedures for obtaining such rights-of-way.

2. Sections 2–9 of the Act of May 14, 1898 (43 U.S.C. 942–1 through 942–9), grant rights-of-way through lands in Alaska to railroad companies and provide procedures for obtaining such rights-of-way. In addition, they authorize the Secretary to grant rights-of-way through such lands for construction of wagon roads and tramways.

3. The Act of February 27, 1901 (43 U.S.C. 943), declares that water reserve lands in Minnesota are subject to railroad rights-of-way under the Act of March 3, 1875 (43 Stat. 934–939).

4. The Act of June 26. 1906 (43 U.S.C. 944) recognizes rights-of-way granted for railroads in former Territories of Oklahoma and Arizona and provides for disposition of lands subject to such rights-of-way.

Ditches, Canals, and Reservoirs

1. R.S. 2339 and R.S. 2340 (43 U.S.C. 661). Only those portions are repealed which grant rights-of-way for construction of ditches and canals for "mining, agricultural, manufacturing or other purposes" where water rights have vested and are duly recognized and which provide that all patents and entries shall be subject to such rights to ditches and reservoirs used in connection with such water rights. The water rights provisions are preserved.

2. Sections 18–21 of the Act of March 3, 1891 as amended (43 U.S.C. 946–949), makes an *in praesenti* grant of rights-of-way through public lands and reservations to canal ditch companies, or irrigation or drainage districts for irrigation and drainage, and sets forth conditions and restrictions thereon.

3. The Act of February 26, 1897 (43 U.S.C. 664) opens reservoir sites to use and occupancy under sections 18–21 of the Act of March 3, 1891 (43 U.S.C. 946–949).

4. The Act of March 1, 1921 (43 U.S.C. 950), extends rights granted under the sections 18–21 of the Act of March 3, 1891, as amended (43 U.S.C. 946–949), by authorizing the Secretary to grant permits or easements for dwellings or other buildings or corrals to be used in connection with facilities provided for by the 1891 Act.

5. Section 2 of the Act of May 11, 1898, as amended (43 U.S.C. 951), permits use of ditches, canals, or reservoirs constructed under the Act of March 3, 1891 as amended (43 U.S.C. 946–949), for purposes of a public nature and permits use of such rights-of-way for water transportation, domestic purposes and development of power.

6. The Act of January 13, 1897, as amended (43 U.S.C. 952–955), permits persons and companies who are in the livestock business to construct reservoirs on unoccupied public lands, grants such persons control of such reservoirs subject to the regulations of the Secretary, and provides procedures by which persons may obtain these benefits.

7. The Act of January 21, 1895, as amended (43 U.S.C. 956), authorizes the Secretary of the Interior to grant rights-of-way through public lands (not within national forests, national parks, military reservations, or Indian reservations) for tramroads, canals, or reservoirs to persons engaged in mining, quarrying, timber cutting, or for furnishing water.

Power and Communications Facilities

1. Section 2 of the Act of January 21, 1895, as added by the Act of May 14, 1896 (29 Stat. 120, 43 C.S.C. 957), authorizes the Secretary to grant rights-of-way on the public lands and national forests for purposes of generation, manufacture, and distribution of electric power.

2. The Act of February 15, 1901 (43 U.S.C. 959, 16 U.S.C. 79, 522), authorizes the Secretary of the Interior and the Secretary of Agriculture to permit use of rights-of-way through public lands, forests and other reservations for electrical plants, poles and lines for the generation and distribution of electrical power, and for telephone and telegraph purposes, and for canals, ditches, pipes, pipelines, flumes, tunnels, or other water conduits, and for water plants, dams, and reservoirs used to promote irrigation, mining or quarrying or the manufacturing or cutting of timber or lumber, or the supplying of water for domestic, public, or other beneficial uses.

3. The Act of March 4, 1911, as amended (43 U.S.C. 961), authorizes respective departmental heads to grant easements for right-of-way, not exceeding 50 years, upon the public lands and reservations for electrical poles and lines for the transmission and distribution of electrical power, and for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay and recessing structures and facilities.

VI. COMMITTEE AMENDMENT

Prior to ordering S. 507 reported to the Senate, the Committee agreed to an amendment to the text in the nature of a substitute. This amendment contains a large number of technical, conforming, and minor substantive changes. Identified below are the more significant substantive changes contained in the amendment. These changes are discussed in the section-by-section analysis in section V of this report.

(1) *Section 101(3)*. This provision concerning suspension and revocation of permits was clarified by adding "applicable" before "regulations", by referring to State or Federal water quality "laws or regulations" rather than "standard or implementation plan", and adding the first proviso concerning the lifting of the suspension.

(2) *Section 103(d)*. The notice period to land users for a change in permitted use was modified from an arbitrary sixty days to a period sufficient to permit the users to initiate the administrative review processes available to them.

(3) *Section 208(c)*. This subsection in S. 507, as introduced, was deleted. It provided for a reversion of conveyed, formerly reserved, mineral interests in the event that mineral development activities are initiated within 20 years of the conveyance. The Committee chose to delete this provision for the reasons presented on page 3 of the March 6, 1975, report of the Department of the Interior set forth in section IX, Executive Communications.

(4) *Section 209*. The Committee added a proviso declaring that the terms, covenants, conditions, and reservations which the Secretary may insert in the patents for national resource lands conveyed out of Federal ownership may not require or permit those lands to be used in conflict with Federal or State law or State land use plans.

(5) *Section 210*. The Committee struck the first sentence in this section in S. 507, as introduced. That sentence, which prohibited the Secretary from conveying national resource lands in conflict with State and local land use plans, programs, zoning, and regulations, was regarded as unworkable. The change in section 209 was made to achieve the same objective. The final sentence in the amendment was added so as to provide for additional notice to State and local governments at the time lands are conveyed.

(6) *Section 213(c)*. The second criteria for exchange of land was added so as to permit land exchanges to occur when the section 202 disposal criteria for land sales cannot be met, but when, on balance, the exchange would be in the public interest. The Committee felt this more flexible criterion was proper because in land exchanges, unlike land sales, the Department acquires additional land to compensate for the land conveyed. To insure that the more flexible criterion was not abused by using it to effect a sale rather than an exchange, the proviso providing for the payment of money to equalize the values of the land exchanges was altered to limit such cash payments to no more than 30% of the total value of the land conveyed out of Federal ownership.

(7) *Section 214*. The Committee added this section which established a program for the surveying and conveying of omitted lands.

(8) *Section 307(c)*. The Committee deleted language authorizing warrantless searches and seizures in specified situations by designated Department employees. The authority to conduct such searches and seizures in certain circumstances exists in the common law, and is commonly exercised without a statutory basis by FBI and Treasury agents, for example. Therefore, there appeared no necessity to put into statutory form an authority which already exists in the common law, particularly when to do so might imply an unintended expansion or diminution of the authority.

(9) *Sections 309 (b) and (g)*. Changes were made in both subsections to insure that the national resource lands in the California Desert Area would be subject not just to the provisions of section 309 calling for the interim management program and long-range plan but to all other provisions of law applicable to the national resources lands, where those latter provisions do not conflict with the program or plan.

(10) *Section 310*. This section in S. 507, as introduced, would have amended section 35 of the Mineral Leasing Act of 1920 to alter the purpose for which the State may use the 37½ percent of revenues it receives from oil shale development. The purpose was changed from construction of roads and schools only to construction of all governmental facilities and provision of governmental services. The Committee substituted a new section 310 which also amended section 35, but addressed the use of revenues from development of all the minerals subject to the 1920 Act rather than just oil shale. The new section does not expand the limited uses to which the 37½ percent can be put, but rather reduces the 52½ percent of mineral revenues now paid into the Reclamation Fund to 30 percent and provides that the 22½ percent thus released be paid to the States for the more general governmental purposes first identified in the original section 310. The new section also establishes a loan program to permit the State and local governments to receive monies prior to the development of the minerals. The loan recipients would pay back the loans, with 3 per-

ent interest, as they receive their portions of the 22½ percent of revenues once mineral development occurs.

(11) *Section 311.* Section 104 of S. 507, as introduced, concerning recordation of mining claims, was modified and inserted in the amendment as section 311. The modifications are discussed in the analysis of section 311 in the section-by-section analysis in section V of this report.

(12) *Section 401(b).* The Committee added this subsection authorizing cost-share road building associated with timber harvesting on the national resource lands similar to the program authorized for the Forest Service in the National Forest Roads and Trails System Act (78 Stat. 1089).

(13) *Section 403(g).* Clause (2) of this subsection concerning a maximum limitation on liability without fault for rights-of-way on national resource lands was added by the Committee.

(14) *Section 411.* The Committee inserted this new section providing for interagency coordination in the licensing of activities on the national resource lands.

(15) *Section 503(a).* Item "2" in the list of repealers in subsection 503(a) of S. 507, as introduced, included the desert land entry laws. The Committee chose not to repeal these laws and, therefore, the former item "2" was removed from the subsection.

(16) *Section 503(f)* A floor amendment to S. 424, S. 507's predecessor last Congress, delayed the repeal of the homestead laws as they relate to Alaska until June 30, 1984. During the hearings on S. 507, representatives of both the Department of the Interior and the Joint Federal-State Land Use Planning Commission for Alaska recommended the deletion of this provision (section 503(f) in the bill, as introduced). Accordingly, the Committee agreed to strike subsection (f) in its entirety.

VII. COST

In accordance with subsection (a) of section 252 of the Legislative Reorganization Act of 1970 (84 Stat. 1140), set forth below is an estimate of the cost of S. 507, as ordered reported:

Section 9 authorizes the appropriation of moneys needed to implement the legislation. However, many of the provisions of S. 507 simply restate existing authority. Where new authority is provided the result of such authority will often be more efficient, not necessarily more costly, management of the national resource lands. Of course, as pressures for the use of national resource lands increase, management of those lands will, of necessity, become more intensive and, thus, more costly; but these additional costs will occur whether or not S. 507, as ordered reported, is enacted.

The new authorities provided in S. 507, as ordered reported, which do involve new authorizations or increases in estimated costs are as follows:

The land acquisition authority, particularly the authority to exercise eminent domain to secure access to national resource lands, provided in section 213 will result in additional expenditures of approximately $10 million a year during the next five years.

Section 214 establishes a program for the surveying and conveying of omitted lands. The estimated cost for the program is $600,000 per

year for the next twenty-five years. These costs would ultimately be assumed by the Interior Department in any case. In fact, section 214 would permit private surveys of the omitted lands thus substantially reducing the ultimate survey costs to the Federal Government (see analysis of section 214 in the section-by-section analysis in section V of this report).

Section 303, subsection (d), authorizes the appropriation of not more than $3,000,000 as initial capital for the working capital fund established under subsection 303(a). This provision affects only the timing of Federal expenditures; it does not presuppose or require additional expenditures. Rather, as discussed in the section-by-section analysis of section 303, the working capital fund may substantially reduce the level of expenditures for certain management activities.

Section 309, subsection (i), authorizes an appropriation of not to exceed $40,000,000 to prepare and implement a comprehensive, long range plan and establish an interim management program for the California desert. These monies are authorized for fiscal years 1977 through 1981, but are to remain available until expended. Although this subsection does provide additional obligational authority, the figure provided is identical to the projected five-year costs of the Department of the Interior's existing California desert program.

The added expenditures for several of the other programs and activities authorized by S. 507, as ordered reported—such programs and activities as the inventorying and land use planning required by sections 102 and 103, law enforcement by Department employees and through contracts with State and local law enforcement officials pursuant to sections 307 and 308, and the rights-of-way program of title IV—will total approximately $19 million annually.

Section 310 would amend section 35 of the Mineral Leasing Act of 1920 by removing 22½ percent of the mineral revenues collected under that Act which now go into the Reclamation Fund (leaving 30 percent in the Fund) and, instead, providing them to State and local governments. This cost is directly related to revenues, but may precede receipt of those revenues as subsection (b) of section 310 authorizes the Secretary of the Interior to make loans to State and local governments in advance of those revenues. Those governments would be required to repay the loans at 3 percent interest as they receive their portions of the 22½ percent. Estimated fiscal year 1976 payments to the States under the additional 22½ percent would have increased by about $72 million over the current estimate of $120 million to be made available to the States under an existing provision of section 35 of the 1920 Act, and the fiscal year 1976 payments to the Reclamation Fund would have decreased by the same amount.

VIII. COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs, in open markup on December 2, 1975, with a quorum present and by a voice vote, unanimously recommended the enactment of S. 507, as amended.

IX. EXECUTIVE COMMUNICATIONS

Reports and communications relating to S. 507 and S. 1292 of the Departments of the Interior and Agriculture and the Office of Management and Budget are set forth in full as follows:

62-657 O - 75 - 6

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAR 6 1975

Dear Mr. Chairman:

This responds to your request for this Department's views on S. 507, a bill "To provide for the management, protection and development of the national resource lands, and for other purposes."

While S. 507 would provide needed management authority to protect and regulate the use of the national resource lands, we recommend the enactment of the Administration's proposed "National Resource Lands Management Act", transmitted to the Congress on March 6, in lieu of S. 507.

The national resource lands were for many years used as a means of stimulating the growth and development of the West. Consequently, little attention was given to preserving the irreplacable values of those lands. Many of the laws pertaining to the lands were designed primarily to facilitate disposal. Although there has been a growing awareness that these lands are an invaluable national asset and although our policy is now to preserve their values, to obtain authority to develop sound planning of their uses and generally to maintain them in Federal ownership, these lands have inherited an archaic and often conflicting conglomeration of laws which govern their use. The national resource lands comprise over 60 percent of all Federal lands and yet Congress has never given the Bureau of Land Management, the administering agency, a clear and comprehensive grant of authority to manage these lands as it has done for the National Forest Service and the National Park Service.

S. 507, like the Administration proposal, would establish a legislative base for the management of the national resource lands. Title I of the bill declares a national policy that these lands be managed under the principles of multiple use and sustained yield in a manner which will, using all practicable means and measures, protect the quality of environment, including requiring appropriate land reclamation as a condition for use. It directs the Secretary of the Interior to inventory the national resource lands and to develop comprehensive land use plans for such lands, giving priority to "areas of critical environmental concern". Such areas are defined to include, among

others, important natural systems and scenic or historic areas. The bill also directs the Secretary to identify land suitable for wilderness study within five years, and to review and make recommendations to Congress within 15 years for inclusion of eligible land within the Wilderness System.

Title II would provide modern disposal authority for the Secretary to sell by competitive bidding national resource lands at not less than fair market value, when management of those lands would be significantly improved or when such disposal would serve important public objectives which cannot be prudently and feasibly achieved on land other than the national resource lands, or when the lands are not suitable for Federal purposes. Under certain circumstances it would authorize conveyance of mineral interests in lands to the surface owner if certain criteria are met. The bill would also authorize the acquisition of lands needed for proper management of national resource lands.

Title III would provide modern land management tools and procedures designed to facilitate achievement of the goals and objectives established for the national resource lands. Among other things, it would establish a working capital fund that would afford a more efficient method of accounting for various programs and service operations of the Bureau of Land Management. It would significantly facilitate management of the national resource lands by making violation of laws and regulations pertaining to them a crime and by vesting enforcement authority in certain designated Departmental employees. In addition, the bill would authorize the Secretary to cooperate with State and local law enforcement agencies on national resource lands and to reimburse them for extraordinary services on national resource lands.

Title IV provides uniform and comprehensive authority for the Secretary to grant rights-of-way for purposes ranging from roads, trails and canals to powerlines and pipelines other than oil and gas pipelines. Presently this authority must be gleaned from numerous, often overlapping laws.

Title V contains a list of laws to be repealed or amended. These laws are generally either obsolete, duplicative or are replaced by the preceding titles. Title V also explicitly preserves rights existing under these laws at the time of enactment of the bill.

The bill differs from the Administration proposal in several respects:

(1) S. 507 requires the designation of areas with wilderness characteristics within five years and proposals to Congress within 15 years. We believe that these time frames put an unrealistic burden on the Department, because it would call for a review of all roadless areas of 5,000 acres or more within the 450 million acres administered by BLM.

The Administration proposal would call for a review of acrea of 50,000 acres or more and does not require a specific time frame for making the necessary study. This would provide adequate time to do the necessary work and considerably reduces the amount of

land which must be reviewed, without substantially changing the intent of the provision, which is to assure that suitable areas within the vast public domain are studied for inclusion within the wilderness areas. In addition, studies of smaller areas are possible and are in fact being identified in the current land use planning process of BLM.

(2) S. 507, like the Administration proposal, calls for recordation of mining claims, to require claims to be recorded or invalidated. The Administration proposal specified one year for recording the claims and three years for obtaining a patent, or the claim would be presumed abandoned and void. S. 507 specifies two and five years respectively. The shorter time frame is adequate for the purpose and would settle the matter of unrecorded claims as expeditiously as possible.

(3) S. 507 includes a provision, section 309, which singles out the California Desert for special environmental protection. The Administration proposal does not include this provision because section 101 of both bills calls for prompt regulations for the protection of areas of critical environmental concern, which by definition (section 2(e)), would include the California Desert. To single out this area for special consideration would not be fair to other areas in need of equal protection and of equal values. We do not feel such specification necessary in light of the direction in section 101.

(4) S. 507 contains a provision, section 310, which gives priority to impacted communities in use of the State's share of oil shale revenues. While the Department favors giving the States more flexibility in use of their share of funds, and does not oppose this provision per se, we believe that such a provision is more appropriate as part of comprehensive amendments to the Mineral Leasing Act. We expect to propose such comprehensive amendments to the 94th Congress in the near future.

(5) Section 208(c) of S. 507 provides that where the United States has conveyed mineral interests, the patent shall contain a reverter clause providing that if any mining occurs within 20 years of the conveyance of the interests, the interest shall revert back to the United States. The Administration bill contains no such reverter. Such a provision unduly encumbers the interest being transferred and if the interest is transferred in the first place, under 208(a), it should not be so valuable that the United States would want it back. Also, the owner of the surface rights, to whom the transfer is made, is required to pay the United States for the fair market value of the mineral interests and once this is done, it would not be equitable to require him to wait 20 years before he can extract the minerals. Consequently, we urge that such a reverter provision not be included in the bill.

(6) The proposed bill contains a section, 503(f), which is not in the Administration proposal. This section calls for the application of the Homestead Laws to Alaska, despite their repeal by section 503(a). The repeal of the Homestead Laws should be complete in that they are cumbersome and their retention as to Alaska would not be desirable.

(7) S. 507 contains a provision, section 101(3), which allows the Secretary to revoke permits, licenses or leases. The Administration proposal does not contain this provision because section 101(1) authorizes the Secretary to regulate the use of the lands through permits, licenses and leases, which would necessarily include the right to revoke these, if necessary.

(8) The provision in S. 507, section 8, which calls for the appointment of the Director of Bureau of Land Management by the President, with the consent of the Senate, differs from the Administration proposal in the following respect. There is no requirement in the Administration bill that the Director have experience in public land management. It is felt that if the President is to pick the Director, he should have wide discretion in doing so.

(9) S. 507 specifies in section 307(b) that law enforcement officers of the Bureau of Land Management shall have the authority to conduct warrantless searches and seizures. The Administration proposal does not. This is a power which exists in the common law in certain situations, and is commonly exercised without statutory codification by FBI and Treasury agents for example; it is felt that it is not necessary to put into statutory form an authority which already exists in the common law.

(10) S. 507, in section 213(c), authorizes exchanges of lands of unequal value between the United States and private owners, by allowing cash payments to make up the differences in value. The Administration bill adds a proviso to this section which limits the amount of cash payments to 20% of the value of Federal lands exchanged. This has been done to assure that land exchange will not be used as a substitute for land disposal, which is governed by rigid criteria as to when it can be done in section 202.

(11) In section 204, S. 507 limits the disposal of land for agricultural use to tracts only big enough for a family farm. This provision is not necessary. The Secretary should have the discretion to dispose of land in large tracts for farm use, if the disposal meets the disposal criteria set forth in the bill in the first place. Consequently, it is not in this section of the Administration bill.

(12) Section 213(a) of S. 507 authorizes the Secretary to acquire land by eminent domain where necessary for access to public lands. Since there are other, limited, situations which might arise calling for proper use of this power, this section in the Administration bill does not contain the restriction on eminent domain. It deletes the qualifying language as to acquiring access corridors only.

The foregoing are the most significant differences between S. 507 and the Administration proposal, although there are other differences of lesser importance which will be furnished to the Committee. Considering the similarities in the two bills, the recommendation that the Administration proposal be enacted essentially accomplishes the enactment into law of most of the provisions of S. 507 with the changes noted.

The Office of Management and Budget has advised that there is no objection to the submission of this report and that the enactment of the Administration's proposal would be in accord with the program of the President.

Sincerely yours,

Jack Horton

Assistant Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D. C. 20510

Enclosure

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

March 6, 1975

Dear Mr. President and Dear Mr. Speaker:

Transmitted herewith is a draft bill "To provide for the management, protection and development of the national resource lands, and for other purposes."

We recommend that the proposed bill be referred to the appropriate committee and that it be enacted.

The national resource lands administered by the Secretary of the Interior through the Bureau of Land Management comprise 60% of all Federal lands. The national resource lands were for many years used as a means of stimulating the growth and development of the West. Consequently, little attention was given to preserving the irreplacable values of those lands. Many of the laws pertaining to the lands were designed primarily to facilitate disposal. Although there has been a growing awareness that these lands are an invaluable national asset and although our policy is now to preserve their values in Federal ownership for the benefit of the general public, these lands have inherited an archaic and often conflicting conglomeration of laws which govern their use.

From 1812 to 1946, these lands were under the custodial administration of the General Land Office in the Department of the Interior. Its primary job was to survey the land and convey it to qualified applicants. The dust storms and other distress of the 1930's focused national attention on western lands. In 1934, the Taylor Grazing Act brought a large measure of protection and management to the "forgotten lands" in the West. For the purpose of managing grazing of the western lands, the Grazing Service was created within the Department of the Interior.

From 1934 to 1946, the Grazing Service and the General Land Office shared administration of the western range. The Bureau of Land Management was created in 1946 primarily through consolidation of the functions of these two existing agencies. The variety of responsibilities of the Bureau of Land Management is extracrdinary among the Federal resource management agencies:

Save Energy and You Serve America!

-- It has exclusive jurisdiction over and responsibility for managment of 450 million acres of national resource lands. In addition, BLM has some management responsibilities on millions of acres of withdrawn lands.

-- In cooperation with the Geological Survey, it has responsibilities for administration of the mineral laws on more than 800 million acres of land including public domain, acquired lands and lands in which the United States has reserved mineral interests. In addition, BLM administers the mineral leasing program on the Outer Continental Shelf.

-- It keeps the basic public land records and does land boundary surveys for most Federal lands.

Despite the extensive responsibilities of BLM, Congress has never clearly defined BLM's mission or made a comprehensive grant of authority to BLM to accomplish its mission. Unlike other Federal conservation agencies such as the National Park Service and the National Forest Service, the mission and authority of BLM must be gleaned from some three thousand land laws which have accumulated over some 170 years. This piecemeal collection of laws is seriously inadequate, incomplete, and sometime conflicting.

Although the Bureau of Land Management is responsible for more Federal land than any other Federal agency, its authorization to administer the land is inadquate. For example, BLM has insufficient sale and exchange authority and has no general authority to enforce its rules and regulations. It does not have essential administrative authority enjoyed by other Federal agencies, such as really workable exchange authority, or a working capital fund and authority to contract with State and local law enforcement agencies for protection of Federal lands and their uses. The bill transmitted herewith would provide the basic mission statement, and authority for management, protection, development, sale and administration national resource lands. It would be a Congressional declaration, for the first time, of national policies governing the use and management of the national resource lands and would provide specific guidelines for the management of these vast lands.

The format of the bill is designed in view of the long-range needs for a legislative base for the management of the national resource lands, as pointed out in various analyses, including that of the Public Land Law Review Commission. Each title of the proposal is designed to permit separate consideration of its provision and to permit modifications without review of other titles. It provides for a separte repealer title, to consolidate administrative authority in one act and eliminate archaic laws.

Title I of the proposal, the "National Resource Lands Management Act", declares a national policy that these lands be managed under the principles of multiple use and sustained yield in a manner which will, using all practicable means and measures, protect the quality of environment, including requiring appropriate land reclamation as a condition for use.

It directs the Secretary of the Interior to inventory the national resource lands and to develop comprehensive land use plans for such lands, giving priority to areas of critical environmental concern. "Areas of critical environmental concern" are defined to include, among others, important natural systems and scenic or historic areas. The bill also directs the Secretary to identify land suitable for wilderness study, and to review and make recommendations to Congress for inclusion of eligible land within the Wilderness System.

Title II, Conveyance and Acquisition Authorities, would provide modern disposal authority for the Secretary to sell by competitive bidding national resource lands at not less than fair market value, when management of those lands would be significantly improved or when such disposal would serve important public objectives which cannot be prudently and feasibly achieved on land other than the national resource lands, or when the lands are not suitable for Federal purposes. Under certain circumstances it would authorize conveyance of mineral interests in lands to the surface owner if certain criteria are met. Acquisition of lands needed for proper management of national resource lands would be authorized.

Title III, Management Implementing Authority, would provide modern land management tools and procedures designed to facilitate achievement of the goals and objectives established for the national resource lands. Among other things, it would establish a working capital fund that would afford a more efficient method of accounting for various programs and service operations of the Bureau of Land Management.

It would significantly facilitate management of the national resource lands by making violation of laws and regulations pertaining to them a crime and by vesting enforcement authority in certain designated Departmental employees. In addition, the Secretary would be authorized to cooperate with State and local law enforcement agencies on national resource lands and to reimburse them for extraordinary services on national resource lands.

Title IV provides uniform and comprehensive authority for the Secretary to grant rights-of-way for purposes ranging from roads, trials and canals to powerlines and pipelines other than oil and gas pipelines. Presently this authority must be gleaned from numerous, often overlapping laws.

Title V of the proposal would repeal a number of obsolete, duplicative, or superseded laws. These include a hodgepodge of land disposal laws, and a number of other laws relating to fees, charges, and other administrative matters.

The national resource lands are a priceless and irreplaceable national asset. It is time to provide the Department of the Interior with the tools to manage and preserve them in accordance with their value to the American people.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

Jack Horton

Assistant Secretary of the Interior

Honorable Nelson A. Rockefeller
President of the
Senate
Washington, D. C. 20510

Enclosure

Identical letter to:

Honorable Carl Albert
Speaker of the
House of Representatives
Washington, D.C. 20515

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

May 15, 1975

Honorable Henry M. Jackson
Chairman, Committee on Interior
and Insular Affairs
United States Senate

Dear Mr. Chairman:

We would like to offer our views on S. 507 and S. 1292, bills "To provide for the management, protection, and development of the national resource lands, and for other purposes" and the "Amendments intended to be proposed by Mr. Jackson to S. 507" as introduced on March 6, 1975.

The Department of Agriculture recommends that S. 1292 be enacted in lieu of S. 507 and that the Amendments to S. 507 not be adopted. S. 1292 contains the Administration's recommendations as transmitted to the Congress by the Secretary of the Interior on March 6, 1975. We defer to the Secretary of the Interior for an analysis of the differences between S. 507 and S. 1292 and an explanation of the reasons for the recommendation contained in his transmittal.

S. 507 and S. 1292 would provide general management authority for the national resource lands. The term "National resource lands" is defined to mean all lands and interests in lands now or hereafter administered by the Secretary of the Interior through the Bureau of Land Management, except the Outer Continental Shelf. The bills would also provide conveyance and acquisition authorities, management implementing authority, and authority to grant rights-of-way for the national resource lands.

The S. 507 Amendments would add a new title to S. 507. The new title would provide for Federal-State coordination and cooperation in the planning and management of Federal and adjacent non-Federal lands. The term "Federal lands" is defined to mean any land owned by the United States, except lands held in trust for the Indians, Aleuts, and Eskimos and the Outer Continental Shelf. The S. 507 Amendments would require coordination between Federal and non-Federal lands and preparation of environmental statements and public hearings on all new Federal programs or management direction. The Amendments would provide for the establishment by the Secretary of the Interior of Federal-State joint committees to review and make recommendations on problems relating to jurisdictional conflicts and inconsistencies regarding the planning and management of Federal and non-Federal lands.

This Department supports the need and desirability of providing the Secretary of the Interior with strong statutory authority for the retention and management of the lands now being administered by the Secretary through the Bureau of Land Management. We do not, however, believe that S. 507 or S. 1292 should be expanded to provide new statutory direction for Federal-State coordination and cooperation in the planning and management of Federal and adjacent non-Federal lands.

The issue raised by the S. 507 Amendments is the complex interrelationship between national, State, and local purposes and the question of how to blend national goals and programs for Federal lands with the goals and programs of State and local governments on non-Federal lands. The National Forests were created and are administered for "national" purposes. The Secretary of Agriculture has the responsibility to insure that all National Forest System lands are managed in consonance with these national purposes. The Forest and Rangeland Renewable Resources Planning Act of 1974 provided emphasis on the need for long-range planning to meet national needs. This Act also provides for appropriate coordination with State and local governments.

We view the procedural requirements of the S. 507 Amendments as unduly cumbersome and duplicative of existing policies and practices. For example, it would expand on the requirements of the National Environmental Policy Act of 1969 by requiring statements to be prepared on the consistency of Federal policies and programs. This would be a time consuming and consequently a costly process. The National Environmental Policy Act now requires the preparation of environmental statements on major Federal actions significantly affecting the environment. Agency guidelines provide for the comment and review of these statements by affected State and local agencies. We believe that environmental statements and the associated review procedures established under the National Environmental Policy Act provide an appropriate level of review of Federal actions as they relate to State and local concerns.

We are concerned that while the required coordination of Federal land use plans with local and State plans is subordinate to paramount national policies, programs, and interests, in the proposed Amendments, there is a probability of many small decisions relating to Federal coordination with State and local land use plans which could on a cumulative basis act to block or delay the attainment of national programs. The direction provided in the Amendments would tend to focus on local issues and purposes rather than on national purposes.

We are also concerned that the establishment of ad hoc Federal-State joint committees to review jurisdictional conflicts and inconsistencies between planning and management of Federal lands and of adjacent non-Federal lands as provided in the Amendments would segment existing Federal-State cooperative arrangements aimed at coordinating a wide range of Federal-State interests.

In addition the procedures pertaining to these committees do not appropriately recognize the role and responsibilities of Federal officials, other than the Secretary of the Interior, in cooperating and consulting with State Governors and other State officials.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. Phil Campbell
Under Secretary

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAR 6 1975

Honorable Henry M. Jackson
Chairman, Committee on Interior
and Insular Affairs
United States Senate
3106 New Senate Office Building
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your request of February 14, 1975, for the views of the Office of Management and Budget on S. 507, a bill entitled the "National Resource Lands Management Act."

The Department of the Interior has just submitted to the Congress similar legislation which is also entitled the "National Resource Lands Management Act" and in the Department's report on S. 507, it recommends enactment of its proposal in lieu of S. 507. Enactment of the Department of the Interior's "National Resource Lands Management Act" would be in accord with the program of the President.

Sincerely,

James F. C. Hyde, Jr.
Acting Assistant Director
for Legislative Reference

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEP 16 1975

Dear Mr. Chairman:

We would like to offer our views to your Committee on Amendment No. 26 to S. 507, a bill "To provide for the management protection and development of the national resource lands, and for other purposes."

We recommend against enactment of the amendment.

Amendment No. 26 would add an additional title to S. 507 to require coordination of land use inventory, planning, and management activities on Federal lands with State and local land use activities for adjacent non-Federal lands. The amendment would also require establishment of Ad Hoc Federal-State Joint Committees at the Secretary's discretion or at the request of a Governor to make recommendations concerning problems relating to jurisdictional conflicts arising from land use planning and management policies and requirements.

We firmly believe that a Bureau of Land Management Organic Act should not require comprehensive Federal-State land use planning. Other major problems with the proposed Amendment No. 26 are that the amendment would establish very cumbersome procedures, and would give joint Federal-State committees the authority to require the Secretary to take specific actions to resolve problems.

More specifically, we offer the following comments on the proposed amendment:

1. The provisions of section 601(a) could be interpreted as more restrictive than the parallel provisions for coordination by BLM in section 103 of S. 507. Superimposing a second set of requirements on the requirements set forth for BLM land could lead to confusion in administration and conflict among legal responsibilities.

2. Section 601(a) also requires coordination with State planning, etc., for adjacent non-Federal lands to the extent that it is "not inconsistent with paramount national policies, programs and interests." We view this statutory language as too restrictive and unworkable. We believe the language of section 103 of S. 507 is preferable. Section 103 provides that the Secretary of the Interior shall, with public participation, develop land use plans for national resource lands and coordinate these plans with State and local governments so far as he finds it feasible and proper, and as may be required by other Federal laws. The language of section 601(a), also, provides no criteria for determining which policies and programs are to be considered paramount, nor is there any provision which specifies a procedure for reaching such a determination of inconsistency of State planning with a paramount national policy or program.

3. Section 2(b) of S. 507 defines national resource lands to include "all lands and interests in lands (including the renewable and nonrenewable resources thereof) administered by the Secretary through the Bureau of Land Management, except the Outer Continental Shelf." However, the definition of Federal lands in section 1(b) of the amendment does not specifically include interests in lands. Due to this inconsistency, the applicability of Title VI is not clear with respect to mineral interests reserved to the United States where the surface is not federally owned.

4. Section 601(b) would require any agency proposing any "new" program, policy, rule or regulation relating to Federal lands to publish a draft statement and final statement concerning consistency of the program, rule, etc., with State and local planning and management. If the agency intends to proceed with the program notwithstanding the inconsistency, then the reasons for the inconsistency would have to be included in the statement. Prior to the final statement a public hearing would have to be held. We view the procedural requirements of section 601(b) as basically unworkable and lacking in definitions of important terms as well as duplicative of existing policies and procedures concerning public notice or comment.

We believe that the current practice of publishing proposed rulemaking in the Federal Register, inviting public comment, along with the requirements of the National Environmental Policy Act, coordination with the States and localities, and public participation and interagency coordination under the BLM's planning system are sufficient.

5. Section 603 provides for establishment of Ad Hoc Federal-State Joint Committees at the discretion of the Secretary or upon the request of a Governor. The life of each such committee would be two years and would have to be extended for another two-year term if the Governor requested. Upon receipt of a recommendation from a committee, the Secretary would be directed to take appropriate and necessary action where he has authority to do so. Where the Secretary of the Interior has no authority over the lands involved, he would be required to work with the appropriate agency head to develop a solution. Where legal authority is lacking in the Executive Branch, the Secretary is directed to recommend the enactment of appropriate legislation.

We see no reason to make the Secretary of the Interior responsible for solving problems or resolving conflicts between States and other Federal agencies where he otherwise would have no jurisdiction. We approve of joint Federal-State efforts in problem solving. However, if such committees were created for this purpose, it is desirable that the scope and magnitude of the conflicts to which they would address themselves be further defined, and that such committees be only advisory in nature. They should not have the authority to require the Secretary to take "appropriate and necessary action to resolve such problem or conflict." In addition, such committees should be established on as simple an organizational structure as possible. The requirements of section 603(d) for an executive secretary, professional staff, and such clerical assistance as the Secretary deems necessary contemplate the establishment of a series of units of dubious value, but a series of units which would most certainly have a high cost. The advisory board system contemplated by section 6 of S. 507 is certainly a more desirable approach and one that can function more economically.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

Royston C. Hughes

Assistant Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D. C. 20510

62-657 O - 75 - 7

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

NOV 14 1975

Memorandum

To: Steve Quarles - Special Counsel, Committee on Interior and Insular Affairs

From: Ken M. Brown - Legislative Counsel

Subject: S. 507, October 1, 1975 Committee Print

We have reviewed your October 1, 1975 Committee Print on S. 507 and have these comments and suggestions:

(1) Page 4 - the proposed amendment to the definition of "areas of critical environmental concern" section 2(e) would omit any reference to areas where no development is required to prevent irreparable damage. The concept that there may be areas where no development is required is an important element of the definition of "areas of critical concern" and should not be overlooked. As an alternative to the staff definition you may wish to consider this definition:

> (e) "areas of critical environmental concern" means areas of national resource lands where special management attention is required in order to prevent irreparable damage from natural or other hazards, to important historical, cultural or scenic values or natural systems or processes, or life and safety, and includes both areas that are developed and used and areas where development is excluded to afford the needed protection.

A second, and less desirable alternative would be to delete the phrase "if such areas are developed or used to protect". This would eliminate any emphasis on developed versus nondeveloped areas.

(2) Page 5 - The inclusion of the word "fuels" on line 24 raises the question of whether refineries or other facilities to turn minerals into fuels are intended. An explanation might be helpful.

(3) Page 7 - lines 3-5. The section as redrafted would seem to allow public participation in the management of national resource lands. We agree that there should be public participation in the formulation of

standards and criteria for management and in land use planning, but not in actual management of lands. Our objection to the section could be overcome by the deletion of the words "and the" and of the comma in line 5.

(4) Page 9 - Proposed amendment. The inclusion of the italicized proviso would be self-defeating. It would rob the section of any element of punishment for violation of regulations. It would give the violator complete control of his fate, knowing he could violate at will, with a temporary suspension of his lease, permit, etc. and reinstate his lease or permit at any time by rectifying the violation. At a minimum the Secretary should be given discretionary authority to continue or terminate a suspension.

(5) Page 10 - lines 25-26 - The requirement that as funds and manpower become available, the Secretary shall provide means of public identification of national resource lands, including signs and maps may be too restrictive. It may limit the Secretary's discretion as to use of his funds by establishing a priority for public identification over other land management responsibilities.

We understand that it is the second part of section 102(b) that is of special interest to state and local governments. If so, the section might be rewritten to provide that when prepared, data from the inventory shall be made available to State and local governments, and that where the Secretary determines it to be appropriate, he shall provide means of public identification of national resource lands, including signs and maps.

(6) Page 12 - There would seem to be no purpose to allowing either 60 days or sufficient time to initiate (rather than invoke) the administrative review process. Either one would be sufficient.

(7) Page 16 - lines 23-25. The purpose of granting the authority to enter into a covenant at the time of conveyance of national resource lands (with a reservation of mineral interests) is not clear. Moreover, exercise of the authority may cause practical and legal problems. We assume that the potential surface owner would request the Secretary to enter such a covenant because he intended development with which mineral development would be inconsistent. However, we believe that the outstanding mineral interests may still pose a problem for the purchaser of the land in obtaining financing (the reason usually given for seeking the reserved mineral interests).

In addition, any limitation on development of mineral interests retained in the United States raises problems insofar as the operation of the mining laws is concerned since the mining law is nondiscretionary. In a land conveyance the Government could not restrict its own title to

mineral interests in the sense suggested. The limitation would have to come in a supplemental contractual-type agreement which seemingly conflicts with the mining law and would have to be accompanied by a withdrawal. The propriety and legal effect of tying a withdrawal to a contract and thereby eliminating any discretion to revoke the withdrawal are questionable.

In summary we think that the subject provision is not practicable or useful and that it raises difficult legal problems. Therefore we urge that it be deleted.

(8) Page 23 - Amendment proposed by Senator Stone. Tying the provisions of proposed section 214 into the Recreation and Public Purposes Act instead of making it complete in and of itself may create at least one problem. Section 1(C) of that Act as amended (43 U.S.C. 869 (c)) provides "Nor shall any disposition be made under this Act for any use authorized under any other law, except for a use authorized under" the Small Tract Act. Since the R&PP Act covers all public or recreational purposes it is possible that a State or local government would want to acquire a tract of omitted land under section 214 and the R&PP Act for a use authorized under another law. The quoted language would in all probability prevent that.

(9) Page 37 - Present procedures followed by the Bureau of Land Management for timber road construction are effective and economic and have resulted in the development of good roads. The proposed system would result in a proliferation of lower standard roads, many of which are subject to erosion, and other problems. The first proviso would allow building roads of a higher standard than needed by a timber contractor but the additional costs would have to be borne by the Federal government. This would necessitate the authorization and appropriation of funds for this purpose. The likelihood of getting additional funds is slim at a time when efforts are being made to cut the budget. We oppose this amendment.

(10) Page 39 - Amendment proposed by Senator McClure. The proposed amendment is similar to Recommendation No. 98 of the Public Land Law Review Commission Report and is apparently intended to address an issue discussed in that Report - the regulations of the Department of the Interior requiring recipients of power line rights-of-way to wheel Federal power within their available excess capacity on such lines. However, the proposed amendment is broad and vague and its impact cannot be foreseen.

Construction of power lines across public lands is a significant development of those lands. As a legal matter the issue of "wheeling" regulations has previously been fully explored, adjudicated and upheld in a Memorandum Opinion of June 2, 1952, by the United States District

Court in the District of Columbia in the unreported case of Idaho Power Company v. Chapman (Civil Action No. 4540-50); and in a supplemental memorandum of that Court on October 31, 1952. Most important, subsequent administrative decisions have been based on our interpretation that Congress intended power lines to be placed across Federal lands. The Government's use of surplus capacity in a transmission line upon payment of fair market value by the Government for that use limits the proliferation of these lines across Federal lands, saves the taxpayers the expense of constructing separate Federal lines, and is fully consistent with good land management policy. Thus there is considerable doubt as to whether adoption of Recommendation No. 98 or Senator McClure's proposed amendment would in fact circumscribe the Secretary with respect to the wheeling regulations in issue.

Congress has given the Secretary fairly clear policy guidance in the administration of lands under his jurisdiction. It would be impossible for Congress to foresee all of the situations arising which require Secretarial action to carry out that policy. Limitation of the Secretary's discretion of the sort contemplated by this amendment could seriously impair his ability to enforce Congressional policy. With the great burden of legislation before the Congress it would be impossible for it to react effectively to deal with the great variety of problems which arise.

In summary the language of the proposed amendment is vague and except for the specific illustrations in the discussion of the Public Land Law Review Commission Report on Recommendation No. 98 it is extremely difficult to predict what other actions of the Secretary it might be construed to affect. Because of this vagueness the Secretary could be subject to a wide variety of lawsuits alleging a violation of this provision whenever he attempted to include otherwise reasonable conditions in grants of rights-of-way or any other authorizations for use of the public lands. Consequently this amendment could very seriously hamper the Secretary in his administration of our Nation's public land resources.

X. CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, S. 507, as ordered reported, are as follows:

1. Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman:

Section 35 of the Mineral Leasing Act of 1920 (41 Stat. 437, 450), as amended (30 U.S.C. 181, 191):

Sec. 35. All money received from sales, bonuses, royalties, and rentals of public lands under the provisions of this chapter shall be paid into the Treasury of the United States; 37½ per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after December 31 and June 30 of each year to the State within the boundaries of which the leased lands or deposits are or were located; said moneys to be used by such State or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State may direct; *an additional 22½ per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after December 31 and June 30 of each year to the State within the boundaries of which the leased lands or deposits are or were located; said additional 22½ per centum of all moneys paid to any State 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 (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services;* and, excepting those from Alaska, [52½ per centum thereof shall be paid into, reserved] *30 per centum thereof shall be paid into, reserved* and appropriated, as a part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902, and of those from Alaska 52½ 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 chapter 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 chapter not otherwise disposed of by this section shall be credited to miscellaneous receipts.

2. The following statutes or parts of statutes relating to disposal of the national resource lands are repealed:

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.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
June 6, 1900	891		31: 683	166, 223.
Aug. 9, 1912	280		37: 267	
Apr. 6, 1914	51		38: 318	167.
Mar. 1, 1921	90		41: 1193	
Oct. 17, 1914	325		38: 740	168.
Revised Statute 2297				169.
Mar. 3, 1881	163		21: 511	
Oct. 22, 1914	335		38: 766	170.
Revised Statute 2298				171.
June 8, 1880	196		21: 166	172.
Revised Statute 2301				173.
Mar. 3, 1891	561	6	26: 1098	
June 5, 1896	312	2	29: 197	
Revised Statute 2288				174.
Mar. 3, 1891	561	3	26: 1097	
Mar. 3, 1905	1484		33: 991	
Revised Statute 2296				175.
Apr. 28, 1922	156		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. 23, 1922	19		42: 1067	
June 12, 1930	471		46: 580	
Feb. 25, 1925	396		43: 981	187.
June 21, 1934	690		48: 1185	187a.
May 22, 1902	821	2	32: 203	187b.
June 5, 1900	716		31: 270	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 43, sec. 190)"				
Revised Statutes 2310, 2311				191.
June 13, 1902	1080		32: 384	203.
Mar. 3, 1879	191		20: 472	204.
July 1, 1879	80		21: 46	205.
May 6, 1886	38		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 this 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. 5, 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: 958	
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	410		39: 724	
Aug. 10, 1917	53	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	2537		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: 1165	
July 3, 1916	214		39: 341	232.
Sept. 29, 1919	64		41: 288	233.
Apr. 6, 1922	122		42: 491	223, 272, 273.
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: 450	236.
July 24, 1919	26	Next to last paragraph only.	41: 271	237.
Mar. 2, 1932	69		47: 59	237a.
May 21, 1934	320		48: 787	237b.
May 22, 1935	135		49: 286	237c.
Aug. 19, 1935	560		49: 659	237d.
Mar. 31, 1938	57		52: 149	
Apr. 20, 1936	239		49: 1225	237e.
July 30, 1956	778	1; 2, 4	70: 715	237 f,g,h.
Mar. 1, 1921	108		41: 1202	238.
Apr. 7, 1922	125		42: 492	
Revised Statute 2308				239.
June 16, 1898	458		30: 473	240.
Aug. 29, 1916	430		39: 671	
Apr. 7, 1930	108		46: 144	243.
Mar. 3, 1933	198		47: 1424	243a.
Mar. 3, 1879	192		20: 478	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	188		32: 63	
Mar. 4, 1904	394		33: 59	
Feb. 23, 1925	105		43: 1231	

Act of	Chapter	Section	Statute at Large	43 U.S. Code
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, 1908	176		47: 153	256a.
June 18, 1934	99		48: 974	
July 26, 1935	4139		49: 504	
June 16, 1937	361		50: 305	
Aug. 27, 1935	770		49: 909	256b.
Sept. 30, 1890	J. Res. 59a		26: 684	261.
June 16, 1880	244		21: 287	263.
Apr. 18, 1904	25		33: 539	
Revised Statute 2304				271.
Mar. 1, 1901	674		31: 847	271, 272.
Revised Statute 2305				272.
Feb. 25, 1919	37		40: 1161	272a.
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: 999	
Sept. 27, 1944	421		58: 747	279-283.
June 25, 1946	474		60: 308	279.
May 31, 1947	83		61: 133	279, 280, 282.
June 18, 1954	306		68: 253	279, 282.
June 3, 1948	329		62: 305	283, 284.
Dec. 29, 1916	9	1-8	39: 862	291-293.
Feb. 28, 1931	336		46: 1454	291.
June 9, 1933	53		48: 119	291.
June 6, 1924	274		43: 489	292.
Oct. 25, 1918	195		40: 1016	293.
Sept. 29, 1919	69		41: 287	294, 295.
Mar. 4, 1923	245	2	42: 1445	302.
Aug. 21, 1916	361		39: 518	1075.
Aug. 28, 1937	876	5	50: 875	1181c.
2. 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 2367				678.
June 15, 1880	227	3, 4	21: 238	679, 680.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 2, 1889	381	4	25: 854	681.
Mar. 1, 1907	2286		34: 1052	682.
June 1, 1938	317		52: 609	682a–e.
July 14, 1945	298		59: 467	
June 8, 1954	270		68: 239	
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 two provisos only.	44: 591	
Revised Statute 2375				698.
Revised Statute 2376				699.
Mar. 2, 1889	381	1	25: 854	700.
3. 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.
4. Drainage Under State Laws:				
May 20, 1908	181	1–7	35: 171	1021–1027.
May 1, 1958	P.L. 85–387		72: 99	1029–1034.
Jan. 17, 1920	47		41: 592	1041–1048.
5. 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."				
Aug. 23, 1894	314		28: 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.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
6. 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.
Mar. 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	
7. 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	18		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.
8. 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.
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, 270–5.
July 11, 1956	571	2	70: 529	270–6, 270–7, 678a–1
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	
Mar. 8, 1922	96	1	42: 416	270–11.
Aug. 23, 1958	P.L. 85–725	1, 4	72: 730	
Aug. 17, 1961	P.L. 87–147		75: 384	270–13.
Oct. 3, 1962	P.L. 87–742		76: 740	
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.
July 19, 1963	P.L. 88–66		77: 80	687b–5.
9. Pittman Underground Water Act:				
Sept. 22, 1922	400		42: 1012	356.

3. Section 7 of the Taylor Grazing Act (48 Stat. 1269, 1972), as amended by section 2 of the Act of June 26, 1936 (49 Stat. 1976) is further amended to read as follows:

"The Secretary of the Interior is authorized, in his discretion to examine and classify any lands withdrawn or reserved by Executive order of November 26, 1934 (numbered 6910), and amendments thereto, and Executive order of February 5, 1935 (numbered 6964), or within a grazing district, which are more valuable or suitable for any other use than for the use provided for under this Act, or proper for acquisition in satisfaction of any outstanding lieu, exchange or land grant, and to open such lands to disposal in accordance with such classification under applicable public land laws. Such lands shall not be subject to disposition until after the same have been classified and opened to disposal.".

4. 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), as added to by the Act of August 17, 1961 (75 Stat. 384), and amended by the Act of October 3, 1962 (76 Stat. 740), 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.".

5. Section 3 of the Act of August 30, 1949 (63 Stat. 679), 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."

6. The following statutes or parts of statutes relating to administration of the national resource lands 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	225		18: 62	1153, 1154.
8. Jan. 28, 1879	30		20:274	1155.
9. May 30, 1894	87		28: 84	1156.
10. Revised Statute 2450				1161.
Feb. 27, 1877	69	1	19: 244	
The following words only: "Section twenty-four hundred and fifty is amended by striking out in the fourth line the words 'Secretary of the Treasury' and inserting the words 'Secretary of the Interior' ".				
Revised Statute 2451				1162.
Feb. 27, 1877	69	1	19: 244	
The following words only: "Section twenty-four hundred and fifty-one is amended by striking out, in the first and second lines, the words 'Secretary of the Treasury' and inserting the words 'Secretary of the Interior' ".				
Revised Statute 2456				1163.
Sept. 20, 1922	350		42: 857	
The words ". . . and sections 2450, 2451, and 2456 be amended to read as follows;" and all words following in the Act.				
Revised Statute 2457				1164.
11. Mar. 3, 1891	561	7	26: 1098	1165.
12. Revised Statute 2471				1191.
Revised Statute 2472				1192.
Revised Statute 2473				1193.
13. July 14, 1960	P.L. 86-649	101-202(a), 203-204(a), 301-303.	74: 506	1361, 1362, 1363-1365.
14. Sept. 26, 1970	P.L. 91-429		84: 885	1362a.
15. July 31, 1939	401	1, 2	53: 1144	

7. The following statutes or parts of statutes relating to rights-of-way across national resource lands are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statutes 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 damage shall be liable to the party injured for such injury or damage."				
Revised Statutes 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 plats of any right-of-way for a wagon road, railroad, or other highway over and across any forest reservation or reservoir 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	

Act of	Chapter	Section	Statute at Large	43 U.S. Code
May 28, 1926	409		44: 668	
Mar. 1, 1921	98		41: 1194	950.
Jan. 18, 1897	11		29: 484	952–955.
Mar. 3, 1923	219		42: 1457	
Jan. 21, 1895	37		28: 635	951, 956, 957.
May 14, 1896	179		29: 120	
May 11, 1898	298		30: 404	
Mar. 4, 1917	184	2	39: 1197	
Feb. 15, 1901	372		31: 790	959 (16 U.S.C. 79, 522).
Mar. 4, 1911	238		36: 1253	961 (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.

The following statute concerning rights-of-way is repealed in its entirety:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statute 2477				43 U.S.C. 932.

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