Bureau of Land Management, Interior

Subpart 2546—Snake River, Idaho: Omitted Lands

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Subpart 2547—Omitted Lands: General

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Subpart 2540—Color-of-Title: Authority and Definitions

§ 2540.0–3 Authority.

(a) Act of December 22, 1928. The Act of December 22, 1928 (45 Stat. 1069), as amended by the Act of July 28, 1953 (67 Stat. 227; 43 U.S.C. 1068, 1068a), authorizes the issuance of patent for not to exceed 160 acres of public lands held under claim or color of title of either of the two classes described in §2540.0–5(b) upon payment of the sale price of the land.

(b) Act of February 23, 1932. The Act of February 23, 1932 (47 Stat. 53; 43 U.S.C. 178), authorizes the Secretary of the Interior in his discretion to issue patents, upon the payment of $1.25 per acre, for not more than 160 acres of public land, where such land is contiguous to a Spanish or Mexican land grant, and where such land has been held in good faith and in peaceful, adverse possession by a citizen of the United States, his ancestors or grantors, for more than 20 years under claim or color of title and where valuable improvements have been placed on such land, or some part thereof has been reduced to cultivation. The act further provides that where the land is in excess of 160 acres, the Secretary may determine the 160 acres to be patented under the Act. Under the said act the coal and all other minerals in the land are reserved to the United States and shall be subject to sale or disposal under applicable leasing and mineral land laws of the United States.

(c) Act of September 21, 1922. The Act of September 21, 1922 (42 Stat. 992; 43 U.S.C. 993), authorizes the Secretary of the Interior in his judgment and discretion to sell at an appraised price, any of those public lands situated in Arkansas, which were originally erroneously meandered and shown upon the official plats as water-covered areas, and which are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws, to any citizen who in good faith under color of title or claiming as a riparian owner, has prior to September 21, 1922, placed valuable improvements on such land or reduced some part thereof to cultivation.

(d) Act of February 19, 1925. The Act of February 19, 1925 (43 Stat. 951; 43 U.S.C. 993), authorizes the Secretary of the Interior in his judgment and discretion to sell at an appraised price, any of those public lands situated in Louisiana, which were originally erroneously meandered and shown upon the official plats as water-covered areas and which are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws, to any citizen who or whose ancestors in title in good faith under color of title or claiming as a riparian owner, has prior to February 19, 1925, placed valuable improvements upon or reduced to cultivation any of such lands. The coal, oil, gas, and other minerals in such lands are reserved to the United States.

(e) Act of August 24, 1954. The Act of August 24, 1954 (68 Stat. 789), directs the Secretary of the Interior to issue patents for public lands which lie between the meander line of an inland lake or river in Wisconsin as originally surveyed and the meander line of that lake or river as subsequently resurveyed, under certain terms and conditions. The Act of February 27, 1925 (43 Stat. 1013 43 U.S.C. 994), authorized the Secretary of the Interior to sell such public lands under certain other terms and conditions. These Acts are cited as the Act of 1954 and the Act of 1925, respectively, in §§2545.1 to 2545.4.

(f) Act of May 31, 1962. (1) The Act of May 31, 1962 (76 Stat. 89), hereafter referred to as the Act, authorizes the Secretary of the Interior, in his discretion,
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to sell at not less than their fair market value any of those lands in the State of Idaho, in the vicinity of the Snake River or any of its tributaries, which have been, or may be, found upon survey to be omitted public lands of the United States, and which are not within the boundaries of a national forest or other Federal reservation and are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws, or are not used and occupied by Indians claiming by reason of aboriginal rights or are not used and occupied by Indians who are eligible for an allotment under the laws pertaining to allotments on the public domain.

(2) The Act provides that in all patents issued under the Act, the Secretary of the Interior (i) shall include a reservation to the United States of all the coal, oil, gas, oil shale, phosphate, potash, sodium, native asphalt, solid and semisolid bitumen, and bitumen rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried), together with the right to prospect for, mine, and remove the same; and (ii) may reserve the right of access to the public through the lands and such other reservations as he may deem appropriate and consonant with the public interest in preserving public recreational values in the lands.

(3) The Act further provides that the Secretary of the Interior shall determine the fair market value of the lands by appraisal, taking into consideration any reservations specified pursuant to paragraph (f)(2) of this section and excluding, when sales are made to preference-right claimants under section 2 of the Act, any increased values resulting from the development or improvement thereof for agricultural or other purposes by the claimant or his predecessors in interest.

(4) The Act further provides that the Secretary of the Interior shall issue patents subject to such terms, conditions, and reservations as deemed necessary to insure proper land use and protection of the public interest.

(4) Section 209 of the Act (43 U.S.C. 1719) provides that all patents issued under the Act 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 as provided by section 209(b) of the Act.


§ 2540.0–5 Definition.


(b) The claims recognized by the Act will be referred to in this part as claims of class 1, and claim of class 2. A claim of class 1 is one which has been held in good faith and in peaceful adverse possession by a claimant, his ancestors or grantors, under claim or color of title for more than 20 years, on which valuable improvements have been placed, or on which some part of title or claiming as a riparian owner has, prior to March 30, 1961, placed valuable improvements upon, reduced to cultivation or occupied any of the lands so offered for sale, or whose ancestors or predecessors in title have taken such action.


(1) Section 211 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1721), authorizes the Secretary of the Interior in his discretion to sell at not less than fair market value to the occupant thereof any omitted lands which, after survey, are found to have been occupied and developed for a 5-year period prior to January 1, 1975.

(2) The Act provides that all such conveyances under the Act must be in the public interest and will serve objectives which outweigh all public objectives and values served by retaining such lands in Federal ownership.

(3) Section 208 of the Act (43 U.S.C. 1718) further provides that the Secretary of the Interior shall issue patents subject to such terms, conditions, and reservations as deemed necessary to insure proper land use and protection of the public interest.