

agency, or instrumentality and request such department, agency, or instrumentality to take the actions necessary to conform the proposed facility or undertaking to the plan. The Federal department, agency, or instrumentality shall, within 60 days after receiving the Secretary's request, notify the Secretary of the specific decisions made in response to the request. To the extent that such department, agency, or instrumentality does not then conform such facility or undertaking to the request of the Secretary, the Secretary is directed to notify the Congress in writing of the incompatibility of such facility or undertaking with the plan approved under section 460zz-2 of this title.

(2) Navigation

(A) Nothing in this part shall be deemed to impact or otherwise affect such existing statutory authority as may be vested in the Secretary of the Department in which the Coast Guard is operating or the Secretary of the Army for the maintenance of navigation aids and navigation improvements: *Provided*, That in exercising such authority the Secretary of the Army, through the Corps of Engineers and the Secretary of the Department in which the Coast Guard is operating, shall not take any action that would have a direct and adverse effect on the values for which the Area is established unless such action is essential for the protection of public health or safety or is necessary for national security or defense.

(B) In planning for the development and public use of the Area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource developments or flood control projects and that of the Area are compatible.

(Pub. L. 100-696, title VII, § 704, Nov. 18, 1988, 102 Stat. 4604.)

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

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

§ 460zz-4. Administration

(a) Authorities

The Secretary shall administer the Area in accordance with this part. Only those lands within the Area under the direct jurisdiction of the Secretary shall be administered in accordance with the provisions of law generally applicable to units of the National Park System. Other lands and waters within the Area shall be administered under State and local laws. In the case of any conflict between the provisions of this part and such generally applicable provisions of law, the provisions of this part shall govern.

(b) State and local authorities

The Secretary shall consult and cooperate with the State of Minnesota and its political subdivisions concerning the development and management of Federal lands within the Area.

(c) Land acquisition

Within the boundaries of the Area, the Secretary is authorized, in consultation with the State of Minnesota and the affected local governmental unit, to acquire land and interests therein by donation, purchase with donated or appropriated funds, exchange or transfer, except as provided in paragraphs (1) and (2).

(1) Any lands or interests therein owned by the State of Minnesota or any political subdivision thereof may be acquired only by donation.

(2) Privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary makes a determination pursuant to subsection (d)(2). In no event may the Secretary use the authority provided in subsection (d)(3) to acquire land or interests in land without the owner's consent for any use exercised prior to January 1, 1987, that is consistent with the plan under section 460zz-2 of this title.

(d) Review of local plans

(1) Authority

For the purpose of protecting the integrity of the Area the Secretary shall cooperate and consult with the State and the appropriate political subdivisions to review all relevant local plans, laws and ordinances to determine whether they substantially conform to the plan approved pursuant to section 460zz-2 of this title. Additionally the Secretary shall in consultation with the State and its political subdivisions determine the adequacy of enforcement of such plans, laws, and ordinances, including review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances. The Secretary shall enter into agreements with the State or its political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of such local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring or the enforcement thereof by local governments having jurisdiction over any areas to which the management plan applies.

(2) Purpose

The purpose of review under paragraph (1) shall be to determine the degree to which actions by local governments are compatible with the purposes of this subchapter. Following the approval of the plan under section 460zz-2 of this title and after a reasonable period of time has elapsed, upon a finding by the Secretary that such plans, laws and ordinances are nonexistent, are otherwise not in conformance with the plan or are not being enforced in a manner consistent with the plan, and if the Secretary determines that there is no feasible alternative available to prevent uses which would be substantially incompat-

ible with the plan, the Secretary may exercise the authority available to him under the provisions of paragraph (3).

(3) Enforcement

In those sections of the Area where local plans, laws and ordinances, or amendments thereto or variances therefrom are found by the Secretary not to be in conformance with the plan approved pursuant to section 460zz-2 of this title, or are not being enforced in a manner consistent with the plan, the Secretary shall notify the local government authority concerned. The Secretary may withhold from the local government authority concerned or, require reimbursement of, (A) Federal funds made available for implementation of the plan, or (B) any grant under section 460zz-5(a) of this title if the local plan, law, ordinance, amendment, or variance is not modified to conform with the plan and enforced in such manner as will carry out the purposes of this part. If the State has not initiated, within a 60-day period, such judicial or other action as necessary to ensure conformity with the plan, and if noncompliance with the plan or failure to enforce the plan continues after the end of such 60-day period, the Secretary may acquire, subject to appropriations, land or interests in land under this subsection without the consent of the owner thereof. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local government unit failing to conform with the plan and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for the protection of the Area in a manner compatible with the plan.

(e) Retention by owner of use and occupancy

The Secretary may permit the owner or owners of any improved residential property acquired by the Secretary under this part to retain a right of use and occupancy of the property for noncommercial¹ residential uses not incompatible with the plan approved under section 460zz-2 of this title. The provisions of subsection (c), (d), and (e) of section 460ii-1 of this title shall apply to the retention of such rights, except that for purposes of this part, the applicable date shall be January 1, 1987 in lieu of January 1, 1975 and the purposes of this part shall be substituted for the purposes referred to in section 460ii-1(d) of this title.

(Pub. L. 100-696, title VII, § 705, Nov. 18, 1988, 102 Stat. 4605; Pub. L. 101-40, § 4(1), June 20, 1989, 103 Stat. 82.)

Editorial Notes

AMENDMENTS

1989—Subsec. (a). Pub. L. 101-40 substituted “Other” for “Our” in third sentence.

§ 460zz-5. State and local assistance and jurisdiction

(a) Grants

Upon approval of the plan under section 460zz-2 of this title, the Secretary is authorized

to make grants to the State of Minnesota, or its political subdivisions, to cover not more than 50 percent of the cost of acquisition and development within the Area of lands and waters or interests therein in a manner consistent with the purposes of this part.

(b) Cooperative agreements

The Secretary is authorized to enter into cooperative agreements with the State of Minnesota or any political subdivision thereof pursuant to which he may assist in the planning for and interpretation of non-Federal publicly owned lands within the Area.

(c) Technical assistance

To enable the State of Minnesota and its political subdivisions to develop and implement programs compatible with the plan, the Secretary shall provide such technical assistance to the State and its political subdivisions as he deems appropriate.

(d) State and local jurisdiction

Nothing in this part shall diminish, enlarge, or modify any right of the State of Minnesota or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out State fish and wildlife laws, rules, and regulations within the Area, or to tax persons, corporations, franchises, or private property on the lands and waters included in the Area.

(Pub. L. 100-696, title VII, § 706, Nov. 18, 1988, 102 Stat. 4607.)

§ 460zz-6. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this part.

(Pub. L. 100-696, title VII, § 707, Nov. 18, 1988, 102 Stat. 4607.)

PART B—TRI-RIVERS MANAGEMENT

§ 460zz-11. Tri-Rivers Management Board

(a) Federal representatives

In furtherance of the integrated management of those portions of the Mississippi, Saint Croix, and Minnesota Rivers within the Saint Paul-Minneapolis Metropolitan Area, the Secretary of the Interior and the Secretary of the Army are authorized and directed to appoint representatives to a Tri-Rivers Management Board (hereinafter referred to as the “Board”), or any similar organization, which may be established by the State of Minnesota to assist in the development and implementation of consistent and coordinated land use planning and management policy for such portions of such rivers.

(b) Personnel

Upon request of the Board, the Secretary of the Interior and the Secretary of the Army may detail, on a reimbursable basis, any personnel to the Board.

(c) Authorization of appropriations

There is hereby authorized to carry out the purposes of this part the sum of \$100,000 annually; except that the Federal contribution to the Board shall not exceed one-third of the annual operating costs of the Board.

¹ So in original. Probably should be “noncommercial”.