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LAND DISPOSAL POLICIES OF THE PRINCIPAL FEDERAL LAND MANAGEMENT AGENCIES

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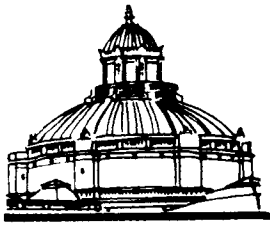

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ABSTRACT

While the heyday of large-scale disposal of Federal public land is long past, interest on the part of citizens and local and state governments in gaining title to such lands continues, and provisions still exist in law for transfer of title to some Federal public land. The report reviews the history of public land disposal and the location and uses of present Federal public lands. Land disposal policies and practices of agencies of the Department of Agriculuture, Defense and the Interior, and of the General Services Administration are discussed. An Appendix provides addresses of Bureau of Land Management State offices, and Forest Service and General Services Administration Regional offices.

CONTENTS

SUMMARY

The days in which the Federal Government provided cheap land for the taking are gone. Nevertheless, interest in obtaining Federal lands remains high, and it is still possible to obtain parcels of public lands under certain circumstances. The land disposal practices of the principal Federal land management agencies are summarized below.

Department of the Interior

Bureau of Land Management (BLM). As administrator of more than 400 million acres of public land, BLM is the only Federal agency which makes public domain land available for sale or other disposal on a relatively frequent basis.

Criteria for sales and exchanges of BLM land are provided in Title II of the Federal Land Policy and Management Act of 1976 (FLPMA), P.L. 94-579. This major piece of legislation repealed most prior law pertaining to the sale or disposal of the public lands and established new land sales procedures. Most final regulations to implement the sale of public lands under FLPMA have now been published. The regulations governing the sale provision of FLPMA also provide a way for individuals to recommend that specific tracts of land be offered for sale. In general, the sales take place at public auction and are conducted through the State BLM offices. The sale of a tract of public land is to be made at not less than fair market value.

In addition to the Federal Land Policy and Management Act, public land will continue to be available under certain other laws. Some irrigable arid and semi-arid lands will be available for selection under the Desert Land Act. Similar lands may become available in States that are still eligible to patent land to settlers under the provisions of the Carey Act. Persons holding a valid mining claim under the 1872 Mining Act may also be eligible to receive title to the lands under claim. In addition, there are several other laws on the books that authorize the conveyance of land to States and local governments as well as private parties under certain circumstances.

Repeal of the Homestead Act of 1862 by FLPMA went into effect immediately in all States except Alaska, where the effective date of the repeal will be delayed until October 1986. For reasons explained in the main text of this report, however, it is unlikely that many homesteading grants can be made in Alaska during this interim.

Bureau of Reclamation. The Bureau, which is responsible for 6.6 million acres in 17 Western States, has a policy of retaining only those lands which are deemed necessary for reclamation project purposes. Once parcels

of land are identified as unneeded, they are either sold by the Bureau of Reclamation or turned over to the BLM or the General Services Administration, depending upon whether the land was originally withdrawn, acquired, exchanged or donated. Sales, however, have dwindled over the last several years because of the reduction in irrigation projects. On occasion, the Bureau exchanges unneeded lands on which there are facilities which interfere with a project. Exchanges are also possible under FLPMA.

National Park Service. Land in the National Park System is not available for sale or exchange for all practical purposes. Occasionally, however, the Federal Government will authorize an exchange of private land within the boundaries of National Parks for other Federal lands (generally BLM lands) outside of the Park boundaries.

Fish and Wildlife Service. Land in the National Wildlife Refuge System, administered by the U.S. Fish and Wildlife Service is not available for sale. At times, exchanges of land within the System may be undertaken for private lands of greater value for wildlife. The exchange mechanism is used strictly as a tool to improve or upgrade the refuge system.

Department of Agriculture

Forest Service. For all practical purposes, National Forest System lands are not available for sale. The Forest Service is authorized to conduct land exchanges, however, if such exchanges would further the public interest. The decision to dispose of land is entirely discretionary on the part of the Service and the Secretary of Agriculture. Persons seeking further information should contact the supervisor of the unit of the National Forest in which the land of interest is located, or the appropriate regional office. It should also be noted that approximately 85 percent of the National Forest System is open to mineral exploration and development.

Department of Defense (DOD)

The DOD regularly reviews Federal land under its jurisdiction (24.5 million acres at present) to identify lands which it no longer needs. If the land thus identified was originally part of the public domain, it goes to BLM for disposal or transfer; acquired land is subject to the surplus property disposal procedures of the General Services Administration. The Defense Department also has authority to exchange lands, but exchanges rarely materialize.

General Services Administration (GSA)

The GSA may, from time to time, sell lands that have been acquired by the Federal Government if those lands are no longer needed by any of the Federal agencies. Surplus property offered for sale to private parties is ordinarily handled by a GSA regional office on a competitive bid basis. Scheduled sales are widely publicized.

INTRODUCTION

On October 21, 1976, President Ford signed P.L. 94-579, the Federal Land Policy and Management Act (FLPMA), which in essence provides the Bureau of Land Management (BLM) of the Department of the Interior with its first mandate to manage the public lands for permanent Federal ownership. Among other things, the Act removed from the books numerous nineteenth and early twentieth century laws authorizing the conveyance of Federal lands into private ownership and established new land sale procedures. One of the laws repealed by FLPMA was the Homestead Act of 1862 which had come to symbolize an entire era in American history -- extending from the 1860s to the 1970s -- in which land for farming could be obtained free of charge from the Federal Government. 1/ The repeal of the Homestead Act, however, was really little more than a formality -- the days had long since disappeared when Federal land suitable for farming or settlement purposes was in plentiful supply.

In the spring of 1977, the Bureau of Land Management announced a freeze on further public land sales while regulations to implement FLPMA were being established. The recent publication of final regulations can be considered a major step forward in the processing of public land sales. In addition, the Secretary of the Interior, James Watt, has announced that the identification and transfer of public land parcels for community needs will be a continuing priority of his Department. In February 1981, Secretary Watt asked

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1/ The Homestead Act will remain in effect in Alaska until 1986. However, for reasons described on pp. 34-38, it is unlikely that much homesteading will occur even in that State.

Western governors to identify small parcels of Federally administered lands which local governments wish to acquire to meet community needs for schools, hospitals, parks, and other public purposes. Watt further indicted that opportunities for land transfer will not be restricted only to those which can be accomplished under existing authorities (i.e., he is prepared to pursue legislative and regulatory changes, if necessary, to meet identified State and local needs). Soon after his confirmation, Watt initiated a moratorium on Federal land acquisition to provide time for a review of acquisition policy and boundaries of existing park areas, and for the planning of an aggressive exchange program to round out the Federal estate. The policy was expressed in the Office of Management and Budget's spending proposed report released in conjunction with President Reagan's State of the Union message on February 18, 1981 (as reported in Environmental Study Conference Fact Sheet, February 18, 1981, pp. 2-3).

Since interest in obtaining public land remains high, it is the purpose of this report to describe the various means by which Federal land is disposed. The body of the report consists of five chapters. The immediately following chapter provides background information on the location and use of the public domain and a brief history of Federal land disposal. Chapter II describes the land disposal policies of the Department of the Interior. The focus of the discussion is on the Bureau of Land Management, the only Federal agency which routinely sells public domain land as provided for by the procedures of the Federal Land Policy and Management Act. Land disposal policies of the U.S. Fish and Wildlife Service, the National Park Service and the Bureau of Reclamation are also discussed. For the convenience of readers with questions specifically on Alaskan land disposal, a separate section has been included. Chapter III describes the land exchange and sale policies of the U.S. Forest

Service as well as mining in the National forests. A brief description of disposal of Federal land by the Department of Defense can be found in the fourth chapter, and of the surplus property sales procedures of the General Services Administration in the fifth chapter.

One should keep in mind that the backdrop for future land disposal by the Federal Government is colored by an assortment of issues, many of which are competing and few of which can be ignored. Land prices continue to rise rapidly -- according to the National Association of Homebuilders, land prices have risen 1,275 percent since 1949. The average price of U.S. farmland has doubled in the last 5 years. 2/

The States with the largest public land holdings comprise the country's fastest growing region. "During the past decade, the population of the Western Sunbelt States (Arizona, California, Colorado, Nevada, New Mexico, Texas and Utah) swelled by 25 percent, compared with 11 percent for the entire nation. The headcount jumped 64 percent in Nevada, 53 percent in Arizona and 38 percent in Utah." 3/ This burgeoning growth is placing new and stronger demands on the public lands and their resources. Cities are now rivals of traditional users of the public land resources. The Reagan Administration has announced a policy to expand energy and mineral development of the West's Federal lands, an action which many fear will aggravate what already is becoming an increasingly cruel competition for the region's limited water supply.

2/ The Federal Drive to Acquire Private Lands Should be Reassessed. Washington, D.C., The General Accounting Office, December 14, 1979. p. 10. (CED-80-14).

3/ Mosher, Lawrence. Reagan and the GOP are Riding the Sagebrush Rebellion - But for How Long? National Journal, V. 13, March 21, 1981: 477. land (including grazing and mining interest) are yet to be fully determined.

The deployment of the proposed $50 billion MX missile system in Nevada and Utah could require as much as 10,000 miles of new highway and railroad lines, 25 square miles of land for missile sites, and bring an estimated 100,000 new residents to the area during the construction period. Because of the limited private lands in the area, public lands will be needed to deal with the MX growth. However, the effects of such a transfer on present users of the land (including grazing and mining interests) are yet to be fully determined.

Last, but in the eyes of many Westerners not least of the issues relevant to future land disposal, is the so-called Sagebrush Rebellion, the present attempt by numerous States, organizations, individuals and public representatives to reduce the Federal Government's public land ownership, influence and control in the West by transfering over 540 million acres of public land to the States. The "rebellion" represents a combination of forces including interests that want Federally owned land for commercial development, ranchers who want to be free of restrictions on grazing the Federal lands, and oil and mining interests that want more access to the mineral and petroleum resources they believe to be on and under Federally owned Western lands. Other factors contributing to the fracas include alleged Government insensitivity and overregulation, poor channels of communication, home rule sentiments, hostility to the Federal Government and suspicion among Westerners that they have been used by the East.

I. BACKGROUND

A. Historical Perspective on Public Land Disposal

As early as 1780 the original 13 States began assigning their lands beyond the Appalachian Mountains to the new Nation in an effort to settle disputes over conflicting colonial grants and for use, in part, as a revenue source. More than ten percent of the Nation's land at that time was included in the State cessions which were completed by 1802. During the next 70 years further public domain land was acquired through purchase, annexation and foreign cession. As a result, by the middle of the 19th century, the Federal Government held title to nearly 80 percent of the total land area of the United States.

For the most part, public policy during the 1800s was clearly directed toward transferring Federal land to private owners and/or States. The 11 Western States, commonly known as the "public land states," as well as 19 other Midwestern and Southern States, were carved from land which was once the public domain. 4/ The massive disposal policy was conditioned also by the Federal Government's need for money, and much of the public domain land was sold for cash to private individuals. Other large amounts, as indicated by Table 1, were given as payments for military service or as grants to encourage settlement, farming, transportation systems, mineral development, etc.

4/ As areas gained in population they could apply for a change in status from Territory to State at which point they would be admitted to the Union. For an overview of State admissions, see U.S. General Accounting Office. Experiences of Past Territories Can Assist Puerto Rico Status Deliberations; Report to the Congress by the Comptroller General of the United States. GGO-80-26, March 7, 1980. Washington, 1980: pp. 3-21.

TABLE 1. Disposition of the Original Public Domain 1781-1979

	Million Acres
Original Public Domain	1,837.0
Disposed of to Private Interests:	
Confirmed as Private Land Claims	34.0
Granted to Veterans as Military Bounties	61.0
Granted or Sold to Homesteaders	287.5
Sold Under Timber and Stone Act	13.9
Granted or Sold Under Timber Culture Act	10.9
Sold Under Desert Land Act	10.7
Granted to Railroad Corporations	94.4
Disposed of by Methods not Classified elsewhere 1/	303.5
Total	815.9
Granted to States for:	
Support of Common Schools	77.6 2/
Reclamation of Swamp Lands	64.9
Construction of Railroads	37.1
Support of Miscellaneous Institutions and Other Schools	21.7
Canals and Rivers	6.1
Construction of Wagon Roads	3.4
Purposes not Classified Elsewhere 3/	117.6
Total	328.6
Total Disposition	1144.5
Area of Original Public Domain Remaining in Federal Ownership	692.0

1/ Chiefly, by public, private and pre-emption sales, but also through mineral entires, scrip locations, and sales of townsites and townlots.

2/ Approximately 600,000 acres of land are still due some States including Arizona, California, Colorado, Idaho, Montana, South Dakota, Utah and Wyoming, under terms of their individual Statehood acts. Several recent regulatory changes by BLM will make it easier for certain States to obtain land from the Federal Government to compensate for base land lost earlier due to delays in Federal surveys and reservations. The rulemaking would provide for any land selected by a State to be segregated from acquisition by any other party for up to two years while the State's application is being processed by BLM. Dept. of the Interior. Bureau of Land Management. State Grants; Amendments to the State Indemnity Selections Regulations. Federal Register, v. 46, no. 82, April 29, 1981, pp. 24135-24139.

3/ For construction of various public improvement, reclamation of desert lands, construction of water reservoirs, etc.

Source: Bureau of Land Management, Public Land Statistics -- 1979.

A few of the laws that authorized the transfer of Western land to individuals, businesses and States, include the Swamp and Overflow Act of 1850, the Homestead Act of 1862, the General Mining Law of 1872, the Desert Land Entry Act of 1877, the Timber and Stone Act of 1878, and the Land Grant Act of 1887.

As the 19th century came to a close, the policy of rampant land disposal gradually ended. Of the public land which remained, millions of acres were eventually reserved for special purposes. In 1891, for example, Congress enacted a system for reserving forest land from the public domain for permanent Federal ownership (16 U.S.C. 471) (since repealed). Reservation of the national forests was due in part to a need for watershed protection for western agriculture, and for maintenance of stable prices for forest products. 5/ The withdrawal of mineral lands, on the other hand, was designed to foster mineral use and to prevent agricultural development from thwarting such use. 6/ The concept of preservation, which developed more slowly in the West with major debates over Yosemite and Yellowstone, was not a key aspect of the early reservation and withdrawal policy.

5/ During the 1900s as many deletions were made from the National Forest System as additions. After the lands judged to be agricultural lands had been homesteaded, it frequently turned out that they were not viable for continued agricultural use. Consequently, during the 1930s several million of these acres were purchased from private owners or acquired at the behest of counties by the Forest Service because they were tax delinquent. As a result of this and similar instances, a common but inaccurate local view developed that public lands were taken from local lands. This still clouds the current debate over Western public lands.

6/ It should be noted that while the "withdrawal" policies were aimed mainly at retention of water and mineral resource potential, their ultimate direction was toward private development of these resources under permit or lease. Also, the land acquired by the States under the numerous school and transportation land grants was used as capital to provide essential public services and was for local as well as national development.

The Withdrawal Act of 1910, also known as the Pickett Act (36 Stat. 847) broadened and made firm the President's power to withdraw public lands from entry and reserve them for "water-power sites, irrigation, classification of lands, and/or other public purposes to be specified in the orders of withdrawal." A year later the Weeks Act (36 Stat. 961), among other things, symbolized the reversal of the former policy of disposing of Federal land and provided for the acquisition of land by the Federal Government. Homesteading, however, was still a means by which considerable amounts of Federal land passed into private ownership until the 1930s when President Franklin Roosevelt withdrew the remaining public domain until it could be properly classified. This move, intended as a temporary measure, had the effect of closing the public domain to further large scale disposal.

As far back as 1812, Congress had established the General Land Office (GLO) to administer the public lands. This move consolidated individual district land offices that had been created in 1800 to handle the Government's land sales and to keep records. Initially part of the Treasury Department, GLO was transferred to the Department of the Interior in 1849. As the first custodian of the public domain, GLO made little attempt to manage the public land. 7/ In fact, a program of active management of public domain lands was not provided until enactment in 1934 of the Taylor Grazing Act (48 Stat. 1269). This act authorized the Secretary of the Interior to create not more than 80 million acres of grazing districts on Federal land which was not already

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7/ Many people believed that the land eventually would pass into private ownership (giving little reason to invest in improvements). The assumption rested in large part on agrarian philosophy, the Jefferson/Lincoln concept that there should be many owners of small amounts of land, the view that irrigation would turn desert into viable lands, and the concept that every acre had a potential for effective private ownership and development which would be in the public interest.

committed to another public use and to make rules and regulations for their occupancy. In addition, the act established the U.S. Grazing Service within the Interior Department for administrative purposes and provided GLO with the authority to classify public domain land, an action which signaled the end of the Federal Government's overall policy of disposal.

While management of the public domain had improved under the direction of the Grazing Service, operations were still considered to be less than effective due in part to insufficient funding and in part to a fundamental objection by western ranchers to regulation and fees on what was hitherto unregulated and free. In 1946, however, management of the public domain entered a new era with the merger of GLO and the Grazing Service to create the Bureau of Land Management (BLM), still within the Department of the Interior.

The trend toward growing public investment in improving and managing the public lands, begun with the Taylor Grazing Act, was accompanied by an increase in the public's stake and interest in the land. 8/ By the 1960s, concern for environmental values and open space had begun to compete with development and increased production. In 1964, not surprisingly, Congress passed three laws which enunciated a policy of Federal retention of unappropriated public lands.

8/ During the decade of the fifties, however there was some pressure to dispose of additional public domain lands. This resulted in large-scale classification under the 1938 Small Tract Act which previously had been seldom used. Disposal under the act largely came to an end in the early 1960s when local governments complained to BLM about the pressures being put on them by small tract owners to make improvements on the scattered parcels. Activity under the Recreation and Public Purposes Act, which provided a means for selling public land to State and local governments at a low cost for public purposes, also increased during the 1950s.

The Wilderness Act (P.L. 88-577) declared the policy of the Congress to establish a National Preservation System to be composed of Federally owned areas designated by Congress as "wilderness areas." Public Law 88-606 established the Public Land Law Review Commission to conduct a comprehensive review of existing public land laws and regulations, as well as a review of the policies and practices of the Federal land management agencies. The Commission's review would recommend modifications which in the judgement of the Commission would best serve to carry out the policy that "the public lands of the United States shall be (a) retained and managed or (b) disposed of, all in a manner to provide the maximum benefit for the general public." The Commission reported its findings to Congress in 1970 9/ and made over 137 recommendations in the areas of planning future public land use, public land policy and the environment, various types of resources, outdoor recreation, occupancy uses, tax immunity, and land grants to the States. The Commission clearly decided against wholesale land disposal, since "at this time most public lands would not serve the maximum public interest in private ownership." 10/

Also in 1964, the Classification and Multiple Use Act (P.L. 88-607) strengthened the power of BLM by giving it authority to classify land for retention as well as disposal. 11/ Upon expiration of the act in 1970, BLM

9/ Public Land Law Review Commission. One Third of the Nation's Land. Washington, U.S. Govt. Print. Office, June 1970, 342 p.

10/ Ibid., p. 1.

11/ In the process of implementing the act, and as part of its decision-making process, BLM held meetings throughout the West. During this time, local officials in the West, who had initially hoped to be able to include the land in question on the county tax rolls, gradually lost interest in the struggle for disposal -- a reversal in attitude which largely grew out of fear that the tax revenues might not be as much as the funds being paid by the Federal Government in lieu of taxes.

had classified over 90 percent (190 million acres) of the public land for retention. This (plus the recommendation by the Public Land Law Review Commission the same year against wholesale land disposal) was widely believed to reflect a shift in the attitude of the American public to favor retention of national resource lands in Federal ownership with use by permit.

Culmination of the trend was the passage of the Federal Land Policy and Management Act (FLPMA) in 1976 (P.L. 94-579). From the time BLM was created in 1946, successive Presidents called for legislation to reform and consolidate public land laws. Three times since 1970, Congress considered, but failed to enact, legislation for a BLM organic act (i.e., an agency's basic statutory authority). 12/ Consequently, until 1976 BLM continued to operate under the Taylor Grazing Act and an accumulation of several thousand land laws -- some of which were not only obsolete and conflicting, but had limited application and addressed isolated issues. FLPMA provided BLM with a comprehesive legislative charter, outlining the agency's authority to permanently manage 450 million acres of public lands according to multiple use and sustained yield principles (i.e., the responsibility to find ways of accomodating, insofar as feasible and compatible, the full range of beneficial uses of the land) and to enforce rules and regulations to accomplish these goals. 13/

12/ Arguments in favor of passing an organic act for BLM included the theory that BLM-managed lands are an essential part of both the Nation's heritage as well as its present and future, and therefore should not be left to the exising tangle of laws. Others, however, had reservations on the basis that the act was likely to give too much authority to an agency already heavily involved in mineral leasing and therefore not committed to environmental protection. Still others argued that economic use would be restricted if BLM had more power.

13/ The Act also provides: (1) guidelines for land use planning on all BLM lands; (2) a process for review of Executive "withdrawals" of Federal lands from one or more uses; (3) criteria for sales and exchange of BLM managed lands; (4) a study of grazing fees during a temporary moratorium on fee increases; and

(continued)

Title I of the act makes 13 declarations of national policy about the public lands, including a policy favoring the retention of these public lands in Federal ownership, unless, as a consequence of the land use planning process established by the act, a determination is made that the national interest would best be served by the sale of particular tracts of land.

B. Location and Use of Public Lands

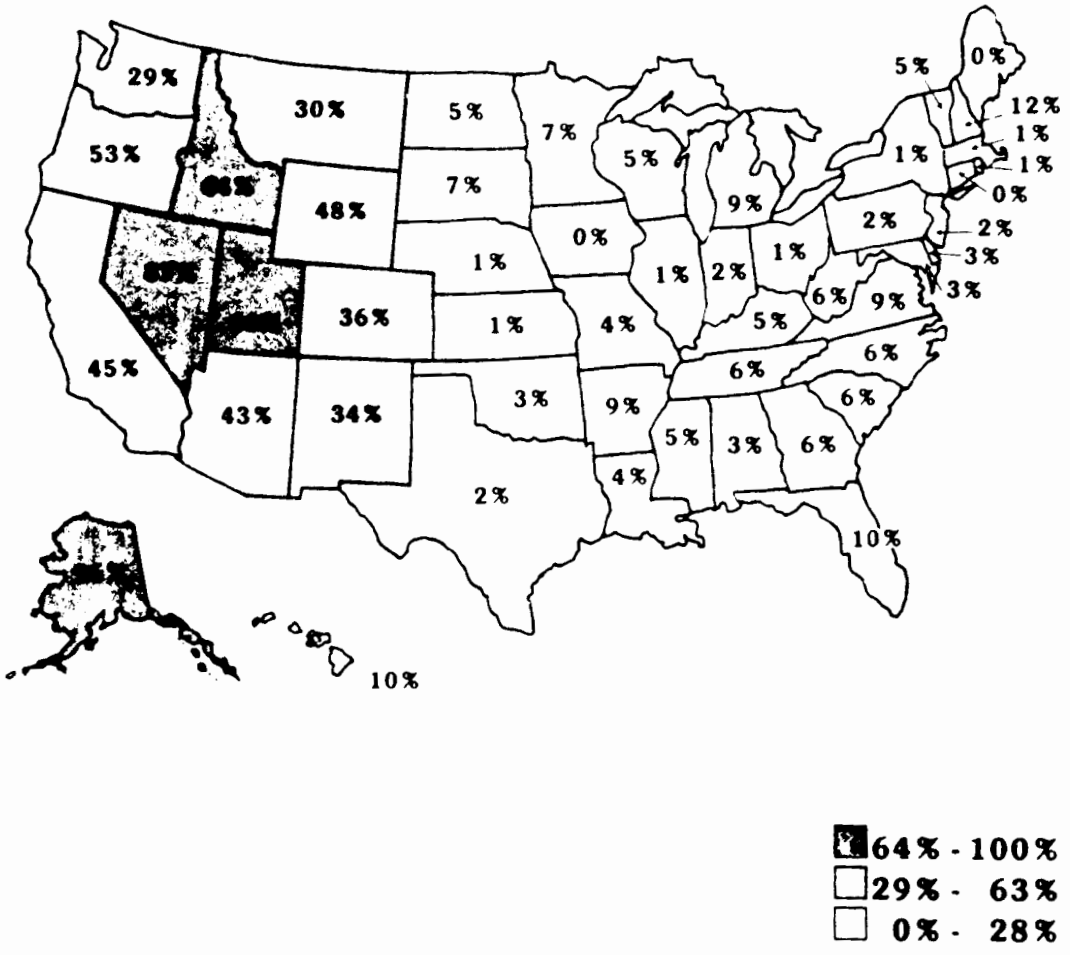
The Federal Government has always been the Nation's largest landowner, and at various times in U.S. history has held title to about four-fifths of the Nation's gross area. While a total of 1.1. billion acres of public land has passed out of Federal ownership under Federal legal authority generally referred to as the "land laws," approximately one third of the land area of the 50 States (i.e., 770 million acres) still belongs to the Federal Government. 14/ Over 90 percent of all Federal land is from the Rockies west -- the Federal Government, on the average, controls 50 percent of the land in the 11 Western States plus Alaska. 15/ The percentage of Federally-owned land in each State is shown in the chart on the following page.

(continued) (5) guidelines for issuing rights-of-ways across the public lands. In additon, P.L. 94-579 repeals hundred of obsolete public lands laws -- among them the Homestead Act of 1862 which had provided one million and a half settlers with virtually free public land.

14/ In additon, the Federal Government holds in trust, properties totaling 51.8 million acres. The principal holder of trust lands is the Department of the Interior, mainly for Indian tribal lands. The trust properties are located in 28 States and the District of Columbia, and range in size from 80 acres in Maryland to 19.8 million acres in Arizona.

15/ The Federal Government will soon cede much of its Alaska landholdings to the State or to Alaskan Natives as explained in a later chapter of this report. When it does, Federal holdings in Alaska will decrease accordingly. Completion of the selection process however may take many months.

Percentage of Land by State in Federal Ownership or Control



Source: Western Coalition on Public Lands - 1978

Note: Federal ownership in Alaska will eventually drop to approximately 60% as selections of State and Native entitlements are completed.

Fifty-two percent -- 404 million acres -- of Federally owned land has never been in private ownership nor has it been designated by the Government for a specific purpose. These lands, known as the Nation's unappropriated or national resource lands, are managed by the Bureau of Land Management. In additon, 24 percent or 187 million acres of Federal land have been designated as national forest lands and are the responsibility of the U.S. Forest Service. Five Western States -- Alaska, California, Oregon, Idaho, and Montana -- contain approximately 50 percent of the national forest acreage. BLM and Forest Service holdings in the West are shown in Table 2.

TABLE 2. Acreage of BLM and Forest Service Holdings in the Western States

State	BLM Lands	Forest Service Lands
Alaska 1/	222,235,135	20,400,620
Arizona	12,588,917	11,270,186
California	16,609,375	20,343,493
Colorado	7,993,938	14,415,189
Idaho	11,945,940	20,423,090
Montana	8,141,652	16,753,701
Nevada	48,844,808	5,143,891
New Mexico	12,840,456	9,243,614
Oregon	15,745,064	15,608,221
Utah	22,052,628	8,046,186
Washington	311,157	8,902,422
Wyoming	17,793,105	9,253,085

1/ As a result of P.L. 96-487, BLM lands in Alaska will eventually decrease to 77,000,000 acres and Forest Service lands will increase to 22,000,000 acres.

Source: Bureau of Land Management, Public Land Statistics - 1979.

In an effort to convey the vastness of Federally owned lands, it can be noted that the public lands in Utah alone are about equal to the total area of the state of Florida, and that the entire area of Pennsylvania is smaller than Federal public land holdings in either Wyoming or Oregon. Not all of the public lands, however, can be characterized as large, wild or semi-developed expanses. Often times BLM lands consist of relatively small tracts which are scattered among privately owned lands, a situation largely created by the permissive land selection policy which existed during the 1800s. Furthermore, due to the fact that at first the Government exercised relatively little control over the distribution of its land and resources in the West, the best and most productive land became private. This left in public ownership land with the least profitable development thus making it less suited for continued private use. Exceptions to this, of course, do exist. For example, some of the national park areas were potentially valuable not only for their scenery, but also for their commodity resource values; some of the timberlands that were placed in the national forests of the Pacific Northwest, during the early conservation period from 1891 to 1920, were recognized even then as having great commercial value. Most of the land suitable for farming and extensive livestock grazing, however, was in private ownership by the 1930s. 16/

Today the public lands are managed under a multiple-use policy encompassing diverse, yet traditional, functions such as mining, grazing, logging, recreation, and watershed and wildlife protection. Since many of the unappropriated, unreserved lands are mainly arid or semi-arid, the most

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16/ The large bodies of public land in the West to a certain degree reflect the inability of the land to attract agricultural users -- a major thrust of the disposal acts.

wideranging use of these lands has been and continues to be for the grazing of domestic livestock -- more than 21,000 livestock operators graze about nine million head of cattle, sheep, goats and horses on public lands. Only about four percent of the Nation's beef, however, is produced on these lands. Timber production is another widespread use of public domain lands which now support nearly one-third of the Nation's total timber production. About 100 million acres, classified as commercial forest, are being managed to maintained a sustained yield of wood products. Mineral extraction is a third major economic use of these lands. As of FY 79, there were 107,014 mineral leases in effect on 96 million acres of public domain lands. Mineral production from public domain, acquired, and other Federal lands during that year included 153.3 million barrels of petroleum; 1.1 billion cubic feet of natural gas; 280 million gallons of gasoline and liquid petroleum gas; and 75 short tons of coal, potash, and other minerals. 17/ In addition to those areas held in fee by the United States, the Government also owns mineral rights to approximately 63 million acres of land previously conveyed under various public land laws.

In many cases the most valuable economic use of the public lands includes occupancy uses dictated by essential human needs (e.g., permit rights for operation of service facilities, schools, rights of way for utility transmission lines, and use of land for urban expansion). In addition, many of the public lands are used for recreation -- in 1978 an estimated 200 million people visited the public lands -- and as protection for wildlife -- more than 200 species of fish and wildlife classified as threatened or endangered are provided protection and habitat enhancement on the public lands. Since many of the arid public lands contain fragile soils subject to erosion, management

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17/ Bureau of Land Management, U.S. Department of the Interior, Public Land Statistics. Washington, U.S. Govt. Print. Off., 1979. p. 92.

of these lands for watershed protection and wildlife habitat purposes is important. Furthermore, the principal value of many of these lands lies in the fact that they constitute a major source of water for downstream communities.

II. DISPOSAL OF FEDERAL LAND BY AGENCIES WITHIN THE DEPARTMENT OF THE INTERIOR

A. Bureau of Land Management

1. Principal Disposal Provisions of the Federal Land Policy and Management Act. 18/

The Bureau of Land Management (BLM) within the Department of the Interior is the agency within the Federal Government which is responsible for managing the Nation's unreserved, unappropriated public domain or national resource lands. As mentioned in the previous chapter, the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1701-1781) provides BLM with a comprehensive legislative charter which outlines the agency's authority to permanently manage over 400 million acres of public land according to multiple use and sustained yield principles, and to enforce rules and regulations to accomplish these goals. While this major piece of legislation repealed most prior law pertaining to disposal of the public lands, including the Homestead Act of

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18/ It should be noted that Section 302 of FLPMA calls for procedures to be established under which the Secretary of the Interior would regulate through easements, permits, leases or other instruments, the use, occupancy and development -- as opposed to the disposal -- of the public lands. Easements would be issued as a long-term covenant between the Federal Government and a private, State or local entity to insure that specific tracts of public lands be used for designated purposes or that certain specified uses will not occur on specified tracts; a permit with limited tenure would be issued to short-term users; and a lease would be issued for long-term or relatively permanent uses. The regulations (as found in the Federal Register, v. 46, no. 12, January 19, 1981, p. 5777-5782) make all land use authorizations subject to BLM's land use planning system and require the payment of fair market value for the use of the public lands, including provisions for the Government to recover costs for issuing authorizations for the use of public lands. The rules provide for BLM to offer permits, leases and easements on its own inititative and they categorize the major types of uses which could be authorized (residential, agricultural, industrial and commercial). Provisions are made for issuing land use authorizations on a competitive or non-competitive basis.

1862, and declared a national policy favoring the retention of the remaining public lands in Federal ownership (unless it is determined that the disposal of a given parcel of land would serve the National interest) criteria for sales and exchanges of BLM-managed lands are provided in Title II of the act, making it possible to obtain public land under certain circumstances. The act's principal disposal provisions are discussed below, and the final and proposed regulations to implement the law, as published in the Federal Register, are referenced where possible.

Land Sales. Under the provisions of FLPMA, the Secretary of the Interior is authorized to sell public lands where, as a result of the land use planning processes required by the act, it is determined that the sale of such tract meets any or all of three disposal criteria. 19/ The criteria are:

(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.

The regulations governing the sale provison of FLPMA also provided a way for individuals to recommend that specific tracts of land be offered for sale.

19/ Exceptions include (1) lands in units of the National Wilderness Preservation System, National Wild and Scenic River System, and National System of Trails; (2) lands within the Oregon-California Railroad and Coos Bay Wagon Road grants which are more suited for management and administration for permanent forest protection; and (3) public lands classified, withdrawn, reserved or otherwise designated as not subject to sale.

In such cases, BLM officials would analyze the proposal through the agency's planning system. If the tract in question meets the Bureau's disposal and public interest criteria, a sale would be scheduled.

FLPMA requires BLM to determine the size of the tract to be sold on the basis of the land use and economic capabilities as well as development requirements of the land. If the land is to be sold for agricultural purposes, for example, the unit size is to be determined according to what is needed in the specific area to support a "family farm." Factors to be considered include, but are not limited to, climatic conditions, availability of irrigation, soil character, production costs, and marketability of the crop(s).

Qualified conveyees of tracts of public land sold by BLM include (1) U.S. citizens who are at least 18 years of age, (2) corporations subject to the laws of any State or of the United States, (3) a State, State instrumentality or political subdivision authorized to hold property, and (4) an entity legally capable of conveying and holding lands or interest therein under the laws of the State within which the lands to be conveyed are located.

The sale of a tract of public land is to be made at not less than fair market value, as determined by a Federal or independent appraiser. In general, the sale is to take place through a competitive bidding process, but appropriate BLM officials also have authority to offer land on a modified competitive or even noncompetitive basis. Factors to be considered in determining when modified procedures shall be used include the needs of a State and/or local government, adjoining landowners, historical users, and other needs for the tract. Non-competitive sales may be utilized when the public interest would best be served by a direct sale -- for example, when an existing business would be threatened if the tract were purchased by other than the authorized user. This is a modification of the more selective "preference right" provision in

prior law, which allowed adjoining landowners to purchase a tract of land offered through competitive bidding either by paying three times the assessed value, or meeting the highest offer, whichever price was lower.

Before any land is sold, a notice is to be published in the Federal Register and advertised in local media. Notices will also be sent to the Governor of the State where the land is located, to other appropriate State and local officials, and to interested parties, not less than 60 days prior to the sale. The purpose of the notification is to give the governments involved an opportunity to amend zoning or other regulations to take into account the impending change in land status. In addition, FLPMA prohibits BLM from requiring terms or conditions pertaining to a conveyance that would violate State or local land use plans and programs.

Sales of public land that involve more than 2,500 acres cannot be made until the Congress is notified and given an opportunity to disapprove of the sale. The vetoing procedure is similar to that specified for withdrawals and for land management decisions (i.e., Congress must be given 90 legislative days to adopt a resolution of disapproval; such resolution can be discharged from a committee to which it has been referred if the committee has not reported the resolution within 30 calendar days; and if the Congress adopts the resolution, the proposed sale must be cancelled).

Land Exchanges. The Federal Land Policy and Management Act authorizes the Secretary of the Interior to dispose of public land by exchange for non-Federal land if (1) the public interest would be well served by the exchange, (2) the land has been deemed suitable for exchange under the land use planning process, and (3) the land is located in the same State as the non-federal land to be acquired. According to the law, in assessing the public interest, the Secretary is to 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."

The procedures to be used by the Secretary in carrying out the exchange authority granted by Section 206 of FLPMA were published in the Federal Register of January 16, 1981, and became effective on April 15, 1981. 20/

Public land can be exchanged only for non-Federal lands located in the same State. The lands involved are to be of equivalent value as determined by the Secretary. However, the regulations permit a money payment for equalization of value not to exceed 25 percent of the value of the public lands or interests being conveyed.

Notice of realty action is required. At the end of the period provided in the notice, and upon a determination by the authorized officer that a particular exchange is acceptable, the owner or holder of the non-Federal land shall provide the necessary legal documents such as evidence of title, warranty deeds, etc.

2. Other Laws that Pertain to the Disposal of the Public Lands

The Federal Land Policy and Management Act did not repeal all of the laws that pertain to the disposal of the public lands. Several other laws will remain in effect, although many of these have been modified by P.L. 94-579. Among the still existing laws are: the Desert Land Act, the Carey Act, the Recreation and Public Purposes Act, and the Color of Title Acts. These laws are briefly discussed on the following pages.

20/ U.S. Department of Interior. Bureau of Land Management. Exchange Procedures for the Public Lands. Federal Register, v. 46, no. 3, January 16, 1981: p. 1634-1642. The regulations will be codified at - C.F.R. -

Desert Land Act (43 U.S.C. 321-323). The purpose of the Desert Land Act of March 3, 1877, is to promote the reclamation of arid or semi-arid public lands of the Western States by providing land at minimal cost to people willing to irrigate the land at their own expense. Individuals may apply to reclaim 320 acres of public domain land, in sufficiently close tracts to be managed satisfactorily as an economic unit, if the land has been classified by BLM as eligible for disposal under the Desert Land Act. The land must be surveyed, unreserved, unapproprited, non mineral, 21/ non-timbered, and able to be irrigated. In addition, it must be land which without artificial irrigation will not produce any reasonably profitable agricultural crop by usual means of cultivation.

The legal cost of obtaining title to the land is very low. Persons must pay $0.25 an acre upon acceptance of their entry (application), and an additional $1.00 an acre when the title is actually transferred. In addition, entrymen (persons seeking to obtain land under the act) must spend at least $3.00 an acre on irrigation, reclamation and permanent improvements -- the actual cost of irrigating the land, however, is likely to be much higher.

Once BLM approves an entry, the entryman has four years to prove the claim, at which time one-eighth of the land is to be irrigated and cultivated. Final proof of the claim includes such requirements as testimony, with witnesses, as to source, acquisition and maintenance of water, and actual tillage of the land.

21/ Except lands withdrawn, classified or valuable for coal, phosphate, nitrate, potash, sodium, sulpher, oil, gas, or asphaltic minerals which may be entered with a reservation of such deposits.

Under the provisions of the 1976 Federal Land Policy and Management Act, desert land of agriculture value that is determined eligible for disposal may be sold either through the competitive bidding procedure established by the 1976 act, or disposed of through the provisions of the Desert Land Act, at the Secretary of the Interior's option.

A detailed listing of the requirements of the Desert Land Act can be found in 43 Code of Federal Regulations Part 2520 et seq. Actual processing of the applications is made through the State BLM offices. Most of the land eligible for desert land entry is located in Idaho and Nevada. 22/ It should be noted, however, that in the 100-year history of the act, only about a third of all original entries were "proved up."

Carey Act (43 U.S.C. 641). The Carey Act is similar to the Desert Land Act in that it is designed to foster reclamation of desert lands by irrigation. Under the Carey Act, however, Federal desert lands are granted to States for reclamation and transfer to private agricultural interests. The original Carey Act, passed in 1894, authorized each of the 11 Western States to receive one million acres in this fashion; subsequent laws authorized Colorado, Nevada and Wyoming to receive two million acres, and Idaho three million.

22/ At the end of 1980, BLM placed a two year moratorium on the filing of "new" applications for entry under the Desert Land Act on 438,259 acres of BLM-managed lands near the Snake River in southern Idaho. The action is intended to eliminate the large backlog of applications which has created administrative problems threatening to interfere with orderly development of desert land along the river. Of the acres involved, only about 148,000 are considered by BLM to be suitable for eventual development. About 111,000 acres appear eligible for farming if justified by water availability and economic studies, and 37,000 are estimated to be reserved for public needs associated with agricultural land use. BLM officials say that only five years will be required under their plan to process all pending Desert Land applications. The State has agreed not to file any Carey Act applications during that time.

Regulations for implementing the Carey Act were removed from the Code of Federal Regulations in 1970 because of a lack of activity under the act (no applications had been received from States for several years and virtually all of the Carey Act entitlements originally authorized to States remained unclaimed). However, in March 1977, BLM proposed new regulations to reimplement the Carey Act in response to a renewed interest on the part of several Western States in obtaining Carey Act lands. At about this same time, a declaratory judgment suit brought by Idaho claiming 2.4 million acres of Federal land was denied by the Supreme Court in favor of the Federal Government (Andrus v. Idaho, 445 U.S. 715 (1980)). In effect, the court said the Department of the Interior will make the ultimate decision on which lands can be transferred under the Act. In total, up to 17 million acres were at stake in the Supreme Court case. Following this Supreme Court ruling, BLM issued final regulations. 23/

The new regulations, effective as of June 20, 1980, clarify a number of points, eliminate unnecessary requirements and forms and require classification of all lands before they are segregated under the act. The lands subject to appropriation must be unclaimed desert lands capable of producing ordinary agricultural crops by irrigation and must be either non-mineral or subject to reservation of mineral rights by the Federal Government. The regulations provide that the State shall submit maps and reclamation plans to the appropriate BLM State Director. If plans are satisfactory, the Secretary of the Interior (with approval of the President) may enter into a giant contract with the State for reclamation of the lands within a ten year period. The State Director may extend the period for up to five years or he may restore the land to the public domain if (1) the lands are not reclaimed within the ten year period

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23/ U.S. Department of Interior. Bureau of Land Management. Carey Act Grants. Federal Register, v. 45, no. 100, May 21, 1980: p. 34230-34235.

or (2) actual construction for reclamation has not begun within three years of the contract. When the State wishes to patent the lands for agricultural uses to settlers, the rules provide that it will list with BLM the lands to be transferred along with a certificate that the lands have been reclaimed and that ample water is provided. The State shall also publish the list for patents in a reputable newspaper in the area. If upon publication, the lists are free from protest, patents will be issued.

Recreation and Public Purposes Act (43 U.S.C. 869). The Recreation and Public Purposes Act authorizes the Secretary of the Interior to lease or convey public domain land 24/ to States or their political subdivisions and to nonprofit corporations or associations for recreational and public purposes. In all, more than 300,000 acres have been conveyed for State or local government projects under the act, particularly in California, Arizona, Nevada and Utah. As amended by FLPMA, the act permits a State park agency or any local government to receive up to 6,400 acres annually for recreational purposes and any State, State agency or local government to receive up to 6,400 acres for each of its programs involving public purposes other than recreation. Non-profit organizations may be eligible to receive up to 640 acres each for recreational and public purposes. A maximum of 25,600 acres can be conveyed in a given State in any year. Conveyance for recreational purposes to State, county or other Federal instrumentalities or political subdivisions shall be issued without monetary consideration. All other conveyances, however, are to be made at prices established by the Secretary of the Interior through

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24/ Except National Forest System lands, national parks and wildlife refuge lands, lands set aside for the Indians, lands acquired for specific purposes, revested Oregon and Californina Railroad grant lands and reconveyed Coos Bay Wagon Road grant lands.

appraisal or otherwise. All leases and patents issued under the act shall reserve to the United States all minerals and the right to mine and remove the same under applicable laws and regulations established by the Secretary of the Interior.

The act, as amended, requires that before the land can be conveyed, the Secretary must be satisfied that (1) the land is to be used for established or definitely proposed projects for which a detailed schedule of development and management can be demonstrated; (2) the land is not of national significance and disposal and planned development will serve the national interest; (3) the land is "reasonably" necessary for the proposed use; and (4) land use and zoning regulations will be applied in any area of over 640 acres. Patent provisions allow for title reversion to the United States under several circumstances, including, for example, if the lands are being used for purposes other than those for which they were conveyed.

Color of Title Acts and Unintentional Trespass Act. Several laws have remained in effect that pertain to the conveyance of public land to persons who have occupied the lands or whose ancestors occupied the lands for a specific time period without knowledge that the land belonged to the United States. There are numerous Color of Title acts pertaining to small areas in Arkansas, Louisiana, Idaho, etc., but the principal act is that of December 22, 1928, as amended, (43 U.S.C. SS1068,1068a) which authorizes issuance of patents for 160 acres or less of public land held under claim upon payment of the sale price. The two classes of claims recognized by the act are: (1) claims to land held "in good faith" (i.e., without knowledge that the land is owned by the United States) for more than 20 years on which valuable improvements have been placed or on which some part of the land has been reduced to cultivation; and (2) claims held "in good faith" for the period commencing not later than

January 1, 1901, to the date of application during which time State and local taxes have been levied and payed. The land applied for is to be appraised on the basis of fair market value, taking into consideration and subtracting from the cost the estimated value of the improvements on the land. However, in no case will land be sold for less than $1.25 an acre. Regulations for implementing the Color of Title acts can be found at 43 Code of Federal Regulations Part 2540, et seq.

A similar law is the Unintentional Trespass Act of 1968 (43 U.S.C. 1431). This law permitted owners of land adjacent to public land to apply for up to 120 acres of public land which had been subject to unauthorized use by the applicant. The BLM could sell the land if: the trespass had been unintentional; the land was not suitable for disposal under other public land laws; and the land was not needed for a public purpose.

The right to apply for land under this act expired several years ago, but BLM has yet to complete the processing of applications. Section 214 of the Federal Land Policy and Management Act (1976) established a five year deadline for completing the processing of these applications. It also modified the sales provision in the 1968 Act by requiring the Secretary of the Interior to determine the fair market value of the land and to offer it to those with a preference right at that price. Under the prior law, the price set at a public auction would provide a basis for exercise of the preference right. In addition, P.L. 94-579 (FLPMA) provides for Congressional review of Interior Department decisions not to sell the land.

3. Mining Claims and Patents

It is still possible to stake a mining claim on unreserved, unappropriated Federal public lands administered by the Bureau of Land Management 25/ --

in fact, since enactment of the Federal Land Policy and Management Act in 1976, BLM has received over a million and a half mining claim applications. 26/ The areas open to claim are mainly in Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. In addition, there are some lands (e.g, those that were available under the Stock-raising Homestead Act) on which the surface estate has been patented to private individuals or agencies, but some or all of the mineral rights have been reserved to the Federal Government. Many of these lands, while subject to certain restrictions, are also open to mineral entry and location. National parks and monuments, Indian reservations, most reclamation projects, military reservations, scientific testing areas, some wildlife protection areas and lands segregated under the Classification and Multiple Use Act are closed to mining. Mining on national forest lands is discussed in Chapter III of this report.

Under the General Mining Law of 1872, as amended, only locatable mineral deposits may be staked and claimed on public domain lands belonging to the United States. These include both metallic (gold, silver, lead, etc.) and non-metallic (fluorspar, mica, asbestos, etc.) minerals. Mineral deposits on the Outer Continental Shelf, deposits of common varieties of mineral materials such as sand, stone, pumice, clay or cinders (classified as "salable" mineral materials), mineral deposits on lands which are disposable only under special provisions of law, and those minerals commonly referred to as "Leasing

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25/ A valid mining claim may also be bought, sold, willed or inherited.

26/ There are, however, certain lands under the jurisdiciton of BLM which are reserved form the public domain and said to be "withdrawn" from mineral entry and location either under the General Mining Law, by Acts of Congress, or by public land orders. The various BLM State Offices keep up-to-date records of which lands are withdrawn.

Act Minerals" (i.e., oil, gas, coal, potash, phosphate, sodium, oil shale, bitumen, asphalt, bituminous rock or sand, and in Louisiana and New Mexico, sulfur) are not open to prospecting and location.

Anyone who is a U.S. citizen or who has declared an intention to become a citizen, and any corporation organized under State law may locate a mining claim on BLM land. The claim becomes valid only after a valuable mineral deposit has been discovered. Discovery of a valuable mineral deposit is determined by what the courts have established to be and which the Federal Government follows as the "prudent man and marketability test." 27/ There is no limit as to the number of claims a person may hold, but there must be an actual physical discovery of a valuable mineral deposit on each and every mining claim -- traces, minor indications, geological inferences, or hopes of future discovery do not suffice.

When staking a mining claim, Federal law specifies only that the claim boundaries be distinctly and clearly marked so as to be readily identifiable. The claimant, however, must also comply with State regulations. As a general rule, staking a claim includes erecting corner posts or monuments plus posting notice of location in a conspicuous place such as the point of discovery.

All owners of unpatented mining claims or sites on Federal lands, including lands where the U.S. Government owns only the minerals, must record their holdings with the Federal Government in addition to filing certain notice forms with county and State offices. Recordation must be done within

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27/ To meet the requirements of the test, minerals must be found and the evidence must be such that a person of ordinary prudence would be justified in further expenditure of his labor and means, with a reasonable prospect of success, in developing a valuable mine. This evidence must also show that the minerals can be extracted, removed and marketed at a profit.

90 days at a BLM State Office having jurisdiction over the area in which the claim is located. There is a $5 filing fee for each claim or site.

Once a mining claim is established, an owner must verify an active interest in the claim by performing labor or making improvements worth at least $100 each year. FLPMA provides that an affidavit that the assessment work or surveys have been completed must be filed with both the local county office where such records are kept and with the proper BLM State Office. The assessment year begins at 12 noon on the first of September following the date of location and goes to 12 noon of the following September. Upon failure to comply with assessment work requirements, the claim is reopened to location by others.

A mining claimant may use only as much of the surface and surface resources as are reasonably necessary to carry out mining operations and may not build any structures unless they are reasonably related to mining activities. The Federal Government maintains the right to manage the surface and surface resources, including use of the area for recreational purposes that do not interfere with the mining activity. The mining laws give locators and owners of mining claims the right of entry and exit across public lands for purposes of removing minerals and maintaining their claims. This, however, does not translate into the right to cause unnecessary loss or injury to U.S. property or unreasonable damage to public lands under a guise of gaining access to a claim.

It is also possible to "patent" a valid mining claim on public lands. A patent gives exclusive title to the locatable minerals, and in most cases, to use of the surface and other resources. As with any mining claim, patenting requires a discovery of a valuable mineral deposit such as satisfies the "prudent man and marketability test." In addition, the applicant needs to: have

the claim surveyed by a mineral surveyor selected from a roster maintained by the BLM; post for a 60-day period and publish a notice of intention to apply for a patent; and pay a filing fee of $25.00. Evidence of right of possession to the claim and the basis of the right to patent (including proof of discovery of a valuable mineral deposit and proof that not less than $500 worth of development work has been made on or for the benfit of each claim) also must be demonstrated. A patent application for lode and placer claims 28/ must fully describe the reasons why the deposit claimed is believed to be a valuable mineral deposit. A field examination by a Government mineral examiner is then conducted as part of BLM's processing procedures to confirm the facts contained in the application. Therefore, applications should include, as appropriate, data, discussions, and analysis covering such items as minerals applied for, general and economic geology, results of drilling, sampling, nature of mineralization, likely mining method, estimated mining and milling costs, benefication or metallurgical process, transportation factors, market data and analysis, sales prices, costs, etc. Finally, to receive full title to the land and its minerals, the applicant must pay a purchase price of $5 an acre, or any fraction of an acre, for lode claims and $2.50 an acre for place claims.

When a final certificate has been issued in connection with an application for a mineral patent, the mining claimant (in most cases) may thereafter use the land as any other private property. The land is subject to taxes and local ordinances.

28/ Deposits subject to lode claims include classic veins having well-defined boundaries or broad zones of mineralized rock such as quartz-bearing gold. Deposits subject to placer claims are all those not subject to lode claims (e.g., sand containing free gold or other minerals and many non-metallic, bedded deposits).

Regulations regarding the disposal of minerals from public lands can be found in 43 Code of Federal Regulations, Part 3800 (see appendices). Environmental requirements for mining operations in wilderness study areas 29/ and for locatable minerals 30/ have both been issued. The final rulemaking requires mining claimants to complete reasonable reclamation on Federal lands during and upon termination of exploration and mining activities under the mining laws, and was designed to ensure the Federal lands are protected from unnecessary and undue degradation. The regulations for hardrock mining allow most exploration activities and some extraction activities by filing a "notice." Activities that exceed a certain level (e.g., disturbance to more than five acres in one year) or that will take place on certain lands such as areas of "critical environmental concern" or areas "closed to off-road vehicles" require that a "plan of operations" be approved and/or a bond furnished.

4. A Note About Alaska

Despite the enormous amount of Federal land in Alaska 31/, and the fact that several laws relating to homesteading and disposal of land, otherwise repealed by the Federal Land Policy and Management Act, will remain in effect in that State until 1986, Federal land is simply not widely available for

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29/ U.S. Department of the Interior. Bureau of Land Management. Exploration and Mining, Wilderness Review Program. Federal Register, v. 45, no. 43, March 3, 1980, p. 13968-13979.

30/ U.S. Department of the Interior. Bureau of Land Management of Public Lands Under U.S. Mining Laws. Federal Register, v. 45, no. 230, November 26, 1980, p. 78902-78915.

31/ Although Congress has authorized the conveyance of 148 million acres of Federal land to the State and the Alaskan Natives, approximately 225 million acres will remain in Federal ownership.

conveyance to private individuals at this time. It is possible, however, that some Alaskan Federal land will be open for disposition in the future.

Under the provisions of the Alaska Statehood Act of 1958, the State Government was given until January 1984 to select over 103 million acres of Federal land -- most of it vacant, unappropriated, unreserved public domain land. Soon after the State began making its land selections, however, Alaskan Natives raised the objection that they had a prior, aboriginal right to the State's Federal lands. Accordingly, in 1966 the Department of the Interior froze further conveyance of Federal land to the State and/or private interests.

In 1971, Congress passed the Alaska Native Claims Settlement Act which authorized Alaskan Natives to select 44 million acres of Federal land for their own. The same act, under section 17 (d)(2), established procedures for transferring public domain land to the national land conservation systems. The Congress ordered the Interior Department to temporarily withdraw no more than 80 million acres of Federal land to protect the "national interest" while decisions were to be made about establishing new national parks, wildlife refuges, wild and scenic river areas, and national forests.

On November 16, 1978, given congressional failure to resolve the "d-2" issue and given the approaching expiration of "d-2" withdrawals, Secretary of the Interior, Cecil Andrus, used the "emergency" withdrawal authority provided in section 204(e) of FLPMA "to preserve values that would otherwise be lost" on 116.2 million acres for another three years -- for 40.1 million acres of that land the withdrawal period was increased to 20 years in February of 1980. In addition, President Carter, citing an urgent need to provide permanent protection for certain Alaskan land, on December 1, 1978 used

his authorities under the 1906 Antiquities Act to designate 56 million acres as permanent new national monuments (52.5 million of which were already affected by the previous month's temporaty three-year withdrawal). 32/

The issue of the Alaska "national interest" or "d-2" lands came to a close on December 2, 1980, when President Carter signed into being P.L. 96-487. This legislation established a total of 107.1 million acres of new conservation units including parks, wildlife refuges, national forests, wild and scenic rivers, and BLM-managed recreation areas. In addition, wilderness protection was extended to 56.4 million acres in new and exisiting conservation units. Among other things, the law permitted development of mineral resources in selected areas; restricted any future Federal action to create conservation units larger than 5,000 acres in Alaska; and, finalized State selections of 98 million acres granted under the Alaska Statehood Act.

Even though the "national interest" lands review process has been completed, and the conveyance of State and Native entitlement lands nearly finalized, the chances are slim that much land will be disposed of in Alaska before the Homestead Laws expire in 1986. First, before any land will be made available by the BLM for homesteading, FLPMA requires compliance with the land use planning process. Furthermore, available Federal land meeting the agricultural suitability requirements of the Homestead Laws is limited.

For the remainder of this calendar year, BLM expects to be reviewing Alaska public lands to determine which areas should be open for disposition or location under several Alaskan occupancy and use laws. For example, section 10 of the Act of May 14, 1898 (72 Stat. 730), also extended to 1986

32/ The executive withdrawals creating Alaskan monuments and refuges were later revoked by P.L. 96-487.

by FLPMA, authorizes the sale of 80 acres or less of Alaskan land, possessed and occupied in good faith by persons, associations or corporations as trade and manufacturing sites (e.g., wilderness lodges, rental cabins, etc). Cost of the land would be $2.50 an acre. In addition, under the Act of March 3, 1927, as amended, (43 U.S.C. 687a) fishermen, trappers, traders, manufacturers, or others engaged in productive industry in Alaska, and/or any citizen, after occupying a habitable house on unreserved non-mineral public land not less than three months each year for three years, is eligible to purchase five or less acres at the rate of $2.50 an acre. The regulations regarding applications and approvals for such sales can be found in 43 Code of Federal Regulations, parts 2562-2563.

Although Federal land is not readily available for disposal, the State of Alaska periodically sells fairly substantial amounts of land. In fact, since statehood in 1958, Alaska has disposed of 422,685.88 acres of State land and a legislative mandate currently exists which requires the State to dispose of 100,000 acres of land per year. Lottery, homesite, and agricultural interest sales are the major land programs in Alaska. To be eligible, one must be a resident of the State for one to three years prior to filing. The auction program, however, is open to nonresidents who are at least 18 years of age. Auctions generally involve commercial/industrial or utility lands and a person may appoint an authorized agent to attend a public "outcry" auction to present the bid.

Table 3 following, details the various land disposal programs of the Alaskan Department of Natural Resource (DNR). Further information about the availability and means of dispostion of State land in Alaska can be obtained by contacting the Department directly.

TABLE 3.

DNR* Land Disposal Programs

DISPOSAL PROGRAM	PARCEL SIZE	PRICE TO PURCHASER	TERMS	FREQUENCY OF PARTICIPATION	METHOD OF DETERMINING WINNER	OVER THE COUNTER	APPLICANT QUALIFICATIONS		ON SITE REQUIREMENTS FOR TITLE	
							AGE	AK.RESID.		
LOTTERY	ANY	APPRAISED FAIR MARKET VALUE MIN. $400/ACRE	5% DEPOSIT, MAXIMUM 20 YEAR PAYOFF	1 PER 8 YEARS EXCEPT FOR SALE BY LOTTERY OF PLANNED AGRI. PROJECTS	LOTTERY	APPLIES TO REMAINING PARCELS	18	1 YEAR EXCEPT HOMESITE	USUALLY NONE EXCEPT HOMESITE AND REMOTE PARCEL	● DEVELOPMENT OR USE MAY BE REQUIRED ● LAND DISCOUNT APPLICABLE (EXCEPT FOR COMMERCIAL OR INDUSTRIAL PARCELS)
AUCTION SALE	ANY	BID PRICE (MINIMUM BID: APPRAISED VALUE)	10% DEPOSIT, 10 YEAR PAYOFF	1 PARCEL PER AUCTION	HIGH BID AT PUBLIC AUCTION	MAY APPLY	18	NONE	NONE	LAND DISCOUNT APPLICABLE (EXCEPT FOR COMMERCIAL OR INDUSTRIAL PARCELS)
HOMESITE	MAXIMUM 5 ACRES	SURVEY AND PLATTING COSTS ONLY	PAYMENTS SPECIFIED BY CONTRACT	1 IN A LIFE-TIME PER HOUSEHOLD	LENGTH OF RESIDENCY OR BY LOTTERY	APPLIES TO REMAINING PARCELS	18	3 YEARS IMMED. PRIOR–OR 20 YEARS CUMMUL.	CONSTRUCT DWELLING; OCCUPY LAND 35 MONTHS IN 5 YEARS	ENTRY PERMIT NON-ASSIGNABLE
REMOTE PARCEL	MAXIMUM 40 ACRES MINIMUM 2 ACRES	APPRAISED FAIR MARKET VALUE AT DATE OF APPROVAL OF PLAT	$150 FOR 2-5 ACRES PLUS $50 FOR EACH ADDITIONAL ACRE FOR YEARLY LEASE RENTAL, THEN 5% DEPOSIT WITH 20 YEAR PAYOFF	SEE LOTTERY	LOTTERY	APPLIES TO REMAINING PARCELS	18	1 YEAR	CONSTRUCT DWELLING; CONSTRUCT OTHER IMPROVEMENTS FOR ADDITIONAL ACREAGE; SURVEY BOTH AREAS	● LEASE CANNOT BE ASSIGNED, CONVEYED OR OTHERWISE TRANSFERRED ● LAND MAY NOT BE SOLD, LEASED, CONVEYED OR SUBDIVIDED FOR 10 YEARS FROM DATE OF SALE CONTRACT ● LAND DISCOUNT APPLICABLE
LEASE	ANY	% OF APPRAISED VALUE OR HIGH BID	PAYMENTS SPECIFIED BY CONTRACT	1 PARCEL PER AUCTION	HIGH BID AT PUBLIC AUCTION	MAY APPLY	18	NONE	NONE	DEVELOPMENT PLAN FOR COMMERCIAL/INDUSTRIAL USE REQUIRED
AGRICULTURAL INTEREST	20 ACRES MINIMUM	MIN. $100/ACRE APPRAISED VALUE OR HIGH BID	SEE LOTTERY OR AUCTION TERMS		BY LOTTERY OR HIGH BID AT PUBLIC AUCTION	APPLIES TO LOTTERY; MAY APPLY TO AUCTION	18	1 YEAR	● A FARM DEVELOPMENT PLAN MAY BE REQUIRED ● A FARM CONSERVATION PLAN IS REQUIRED	● MAY REQUIRE PRE-QUALIFICATION ● RECEIVES AGR. INTEREST ONLY ● LAND DISCOUNT APPLICABLE

SEPTEMBER, 1980

* Alaska Department of Natural Resources
Division of Forest, Land and Water Management
323 E. Fourth Avenue
Anchorage, Alaska 99501
(907) 279-5577

B. Bureau of Reclamation

The Bureau of Reclamation, established in 1902 as the Reclamation Service, is responsible for the Reclamation program 33/ and the development and management of water resources in the West. The Bureau manages over 6.6 million acres in 17 Western States. It is the policy of the Bureau to retain under its jurisdiction only those lands necessary for Reclamation project purposes. Productive acres are recommended for disposal if it is apparent that upon transfer to private ownership they would contribute to the repayment contract on the project.

Withdrawn lands upon which no improvements have been made may be reported to the Bureau of Land Management for sale under provision of Section 203 of the Federal Land Policy and Management Act, unless the legislation authorizing the project gives specific land disposal authority. Public lands which have been withdrawn and improved for reclamation purposes and which are no longer needed for those purposes may be sold at not less than the appraised value to the highest bidder under the provision of the Act of May 20, 1920 (43 U.S.C. 375). On operating projects, small isolated parcels of withdrawn lands which remain unneeded by the project may be sold under the authority of either the Act of May 16, 1930, or the Act of March 31, 1950 (43 U.S.C. 424 and 43 U.S.C. 375b, respectively).

Lands acquired by the Bureau of Reclamation through direct purchase, donation, exchange, or eminent domain, and which are no longer needed, may be sold by the Bureau providing the value of the sale is less than $1,000.

33/ The basic objectives of the Federal Reclamation program are to assist the States, local governments and Federal Agencies to stabilize and stimulate local and regional economies, enhance and protect the environment, and improve the quality of life through development of water and related land resources throughout the 17 contiguous Western States and Hawaii.

If the value exceeds $1,000, then these unneeded lands must be reported to the General Service Administration for disposal (See Chapter V). GSA may authorize the Bureau to act as the disposal agency under certain circumstances.

When the Bureau of Reclamation determines that a new townsite is necessary for project development, it may, through the Secretary of the Interior, designate such a site. After the lots are surveyed, the Bureau may sell the lots at public auction at not less than the appraised value under the provison of the Act of April 16, 1906 (43 U.S.C. 561).

In most cases, the impending sale of Reclamation lands is advertised in area newspapers 30 days prior to the sale. Depending on the circumstances, the regional director may opt to sell the land through a public drawing, auction, or sealed bid. Sales by the Bureau have dwindled in the last 5-10 years due to a reduction in irrigation projects. Most irrigation projects now are to serve lands already in private ownership. The Bureau, however, has recently identified over 1,051 parcels of potentially unneeded land totaling 318,000 acres. The portion of these lands which was "acquired" will most likely be disposed of by the General Services Administration; those lands which were withdrawn will be reported to the Bureau of Land Management for future management or sale.

On occasion, the Bureau of Reclamation also exchanges land on which there are facilities which interfere with a project and need to be relocated. The exchange authority comes under the Reclamation Act of 1939. Approximately 2,000 acres in small parcels (i.e., 200 acres or less) have been exchanged by the Bureau over the last five years. A proposal to broaden the Bureau's exchange authority is in the very early stages of development. Exchanges of

Reclamation land are also possible under Section 206 of FLPMA. However, reclamation officials claim such exchanges have been infrequent due to the extent of restrictions referenced earlier in this chapter.

Further questions regarding disposal of land by the Bureau of Reclamation should be directed to Staff Assistant, Land Resources Management, Operation and Maintenance Policy Staff, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240 (202-343-5204).

C. National Park Service

The National Park Service administers for the American people an extensive system of national parks, monuments, historic sites, and recreation areas. There are approximately 300 units within the System for a total of over 26 million acres.

The Service is not permitted to sell any of its lands. In authorizing the addition of a new unit to the System, the Congress has, on occasion, authorized the Secretary of the Interior to acquire land for the unit through exchange. The exchange normally involves Federal acquisition of land within the boundaries of a park by providing Federal land of comparable value outside the park -- such as BLM land. The Federal land to be exchanged would not normally be Park Service land.

D. United States Fish and Wildlife Service

The U.S. Fish and Wildlife Service administers the National Wildlife Refuge System which consists of over 400 wildlife refuges comprising more than 89 million acres in 49 States, and a number of wildlife production areas. While the majority of the System's land was reserved from the public domain,

approximately four and a half million acres within the System were acquired through the Migratory Bird Conservation Fund.

Land within the National Wildlife Refuge System may not be transferred or otherwise disposed of (except by exchange) unless the Secretary of the Interior determines (with the approval of the Migratory Bird Conservation Commission) that the land is no longer needed for the purposes for which the System was established. Upon making such a determination, the Secretary must make a recommendation to the Congress and seek its approval to dispose of the land. On occasion (approximately once a month nationwide), however, exchanges of small parcels of land do take place. Authority for such exchanges is granted by the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668). The exchange process is strictly used as a tool to improve or upgrade the System, therefore benefiting the national interest, and is not undertaken unless it will result in equal or greater wildlife benefits than would occur without it. Cash equalizations are also sometimes possible.

All land within the National Wildlife Refuge System is open to exchange. Inquiries about exchange possibilities should be directed to the local refuge manager of the System's individual units.

III. DISPOSAL OF FEDERAL LAND BY THE U.S. FOREST SERVICE WITHIN THE DEPARTMENT OF AGRICULTURE

The National Forest System is administered by the Department of Agriculture's Forest Service. One hundred and fifty-four national forests with 184 million acres, 19 national grasslands with 3.8 million acres, and 17 land utilization projects with 59,000 acres, comprise the 188 million acre National Forest System in 43 States, Puerto Rico and the Virgin Islands. About 160 million acres of the National Forest System are located in the 17 western-most States, including Alaska.

The National Forest System lands operate by law under a multiple use land management concept designed to obtain sustained flows of goods and services. The 1960 Multiple Use Act (16 U.S.C. 528-531), the 1974 Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600-1614), and the 1976 National Forest Management Act (16 U.S.C. 1600 note) set the major parameters for the Forest Service's general land management activities, providing for orderly management, while protection of resources and compliance with applicable air and water quality standards provide for land planning, and permitted uses. Land-ownership planning activities involve analysis of areas within the boundaries of a national forest and are directed toward improving landownership patterns to facilitate protection, management, and development of System lands. Land exchange authority provides a way to adjust ownership designed to benefit both the public and private sectors and provides cost savings in resource administration, protection and management. The FY 80 program provided for examination and appraisal of 100,000 acres of the National Forest System and the approval of exchanges involving 77,600 acres of land.

The circumstances under which parcels of land are made available by the Forest Service to governments, citizens, or corporations, and mining regulations

in national forests are both discussed below. Persons seeking specific information about Forest Service lands, however, should contact either the Forest Supervisor of the national forest in which the land in question is located, or the appropriate regional office of the Forest Service (see appendix).

A. Exchanges and Sales

The exchange and sale authorities of the Forest Service are specified in several acts, but the decision to dispose of National Forest System land is entirely discretionary on the part of the Service and the Secretary of Agriculture. The Service's sale authority is limited to public agencies however exchanges may be made with private or public owners. Usually, lands to be exchanged must be in the same State and of approximately equal value. In order to permit the exchange of lands that are not of exactly comparable value, the Federal Land Policy and Management Act of 1976 authorizes cash equalization payments of up to 25 percent of the value of the Federal land to be exchanged. Forest Service disposal authorities, briefly outlined, are:

Weeks Act of March 1, 1911 (36 Stat. 962, as amended; 16 U.S.C 516, 519)

> Sec. 7. Authorizes the Secretary of Agriculture, when it is in the public's interest, to accept title to lands (outside the boundaries of National Forests) which he deems chiefly valuable for forest conservation, and in exchange, to convey the grantor to cut and remove an equal value of timber within such national forests in the same State. Requires that notice of the lands to be exchanged appear each week for four successive weeks in newspapers in the counties in which the lands are situated.
>
> Sec. 10. Authorizes the Secretary of Agricultue to sell up to 80 acres of acquired land to "actual settlers" for agricultural purposes, provided the land is suited for such and is not needed for public purposes. The lands are to be offered for sale as homesteads at their true value.

Since virtually all of the national forest lands were sub-marginal in character and/or were needed for public purposes, little or no land has

actually been sold under the Weeks Act. Nevertheless, the regulations for implementing it still exist in 36 Code of Federal Regulations, 281, et seq.

General Exchange Act of March 20, 1922 (42 Stat. 465, as amended; 16 U.S.C. 485-486)

Authorizes the Secretary of Agriculture, when it is in the public's interest, to accept title to lands (outside the boundaries of national forests) which he deems chiefly valuable for national forest purposes. In exchange, authorizes the Secretary of the Interior to patent surveyed, non-mineral lands of equal value wihtin the National Forest System of the same State and established from the public domain, or authorizes the Secretary of Agriculture to allow the grantor to cut and remove an equal value of timber within the national forests of the same State. Notice of the lands to be exchanged must appear each week for four successive weeks in newspapers in the counties in which the lands are situated before the exchange can be finalized. Allows either party to an exchange to make reservation of timber, minerals, or easements, the value of which shall be duly considered in determining values of the exchanged lands.

Bankhead-Jones Farm Tenant Act of July 22, 1937 (50 Stat. 525, as amended; 7 U.S.C. 1011)

Sec. 31. Directs the Secretary of Agriculture to develop a program of land conservation and land utilization for purposes of correcting maladjustments in land use and thus assisting in controlling soil erosion, reforestation, preservaiton of natural resources, etc.

Sec. 32. States that in order to effectuate the program provided for in Section 31, the Secretary is authorized to sell, exchange, lease or otherwise dispose of any property so acquired to public authorities and agencies on the condition that the property is used for public purposes. Allows an exchange of lands of equal value to be made with private owners and with subdivisions of State governments provided it would not conflict with the purpose of the act.

National Forest Townsite Act of July 31, 1958 (72 Stat. 438, as amended; 7 U.S.C. 1011)

Allows the Secretary of Agriculture to set aside and sell, at not less than fair market value, tracts of National Forest System land, located adjacent to an established community in Alaska or the 11 contiguous Western States. Stipulates that the land may not exceed 640 acres for any given application and can only be sold to a governmental subdivision. Limits conveyances to essential community needs resulting from internal growth and the need to improve and modernize community facilities and services.

Regulations governing the set-aside and designation of tracts of land from the National Forest System lands for townsite development can be found in 36 Code of Federal Regulations, Chapter II, Part 254, Subpart B. Sales to individuals were eliminated by Section 213 of the Federal Land Policy and Management Act of 1976.

Forest Service Omnibus Act of 1958 (72 Stat. 216; 16 U.S.C. 565b)

Sec. 5. Authorizes the Secretary of Agriculture to transfer, without reimbursement or at such prices as he may impose, land and structures (outside the national forest boundaries) previously used in connection with, but no longer needed by the Forest Service for, fire prevention and suppression. Stipulates that the property may only be transferred to States and political subdivisions or agencies and that title will revert back to the United States if the property is not used within two years for State of local fire protection purposes.

Forest Service Omnibus Act of 1962 (76 Stat. 1157; 16 U.S.C. 555a)

Authorizes the Secretary of Agriculture to exchange lands (under the jurisdiction of the Forest Service which have been acquired and are being administered under laws which contain no provisions for their exchange) for title to any lands which in his opinion are suitable for use in connection with activities of the Service. Prohibits the conveyance of lands which exceed in value the lands to be accepted.

Act of December 4, 1967 (81 Stat. 531; 16 U.S.C. 484a)

Authorizes the Secretary of Agriculture upon the suggestion of a public school district to exchange national forest lands or other lands administered by the Forest Service, not to exceed 80 acres, for lands suitable for the same purposes as the selected lands or for a deposit of a portio nor all of the value of the selected land. Provides for any such deposit to be kept for the acquisition of lands in the same State as the selected lands.

Wild and Scenic Rivers Act of October 2, 1968 (82 Stat. 906, as amended; 16 U.S.C. 1277)

Sec. 6(d). Authorizes the appropriate Secretary to accept title to non-Federal property within the boundaries of any Federally administered component of the National Wild and Scenic Rivers System and in exchange therefor, convey to the grantor any Federally owned property which is under his jurisdiction within the State in which the component lies and which he classifies as suitable for exchange or other disposal. Stipulates that the values of the properties are to be approximately equal or equalized by the payment of cash as the circumstances require.

Federal Land Policy and Management Act of 1976 (90 Stat. 2756; 43 U.S.C. 1716)

> Sec. 206. Authorizes the Secretary of Agriculture to exchange a tract of public land or interests therein within the National Forest System provided the public interest will be well served. Requires that the land to be exchanged be located in the same State as the non-Federal land or interest to be acquired, and that they be of equal value or be equalized by the payment of money not to exceed 25 percent of the total value of the lands or interest transferred out of Federal ownership.

B. Mining in the National Forests

Approximately 85 percent of National Forest System land is open to mineral exploration and development. The General Mining Law of 1872, as amended, governs the prospecting for and appropriation of metallic and most non-metallic minerals on the 140 million acres of national forest created from the public domain. Many of the national forest lands open to mining under the 1872 law are west of the Mississippi River. Mining is also possible in the national forest lands which are public domain in Alabama, Arkansas, Florida, Louisiana, Mississippi, Michigan, Minnesota and Wisconsin.

The Department of the Interior generally issues leases or patents to Federally owned locatable and leasable minerals on national forest lands. The Forest Service, however, remains fully responsible for management of the surface resources. The procedures described in the preceding chapter of this report for for staking a mining claim under the 1872 act on Bureau of Land Management public domain lands also apply to national forest lands. This includes recording the claim with a BLM State office and meeting the requirement of confirmation of the discovery of a valuable mineral deposit. If legal title to the surface and mineral rights on the claim is desired, an application must be filed with BLM. On National Forest lands, however, the Forest Service will conduct a mineral examination to determine if a valuable deposit has been

found and accordingly will then recommend to Interior whether or not the patent should be granted. The Department of the Interior then considers the Forest Service's mineral report, plus the information provided by the claimant, to determine whether the patent should be issued. Once a patent is granted, legal title is conveyed and the title rests with the private owner.

On August 28, 1974, the Forest Service issued regulations concerning mining and prospecting operations in national forests (see 36 Code of Federal Regulations 252). The regulations apply to the protection of nonmineral resources affected by mineral-related activities and are in line with the National Environmental Policy Act of 1969. They reflect the need for surface resource protection resulting from increased prospecting and mining activity in recent years. The regulations apply only to "locatable minerals" on National Forest System lands open to operation under the General Mining Law of 1872, as amended, and to operations conducted under those laws. They cover those lands reserved from the public domain for national forest purposes (and not otherwise withdrawn from their operation), as well as a very small portion of lands acquired by the Federal Government for national forest purposes.

Under the regulations, one proposing to prospect or mine in the National Forest System in a way that causes surface disturbance of resources must give the local Forest Service office a "notice of intention to operate." If the authorized forest officer determines that such operations will cause a significant disturbance to the environment, the operator must then submit a proposed "plan of operations" in which he describes the type of operation proposed, how it will be conducted; proposed roads, access routes and means of transportation to the site; and, the time period during which the proposed activities are to take place. The plan must also show what steps the

operator will take for feasible rehabilitation of the area once the mining is completed. Upon filing the plan of operations, the operator may be required to furnish a bond commensurate with the expected cost of rehabilitating the area. The plan is analyzed by the Forest Service officer and must be approved before any operations can be conducted. In analyzing each plan, consideration is given to the economics of the operation and an assessment is made of the environmental impacts.

IV. DISPOSAL OF FEDERAL LAND BY THE DEPARTMENT OF DEFENSE

The Department of Defense (DOD) administers approximately 24.5 million acres. 34/ Of this, 15.5 million acres represent land set aside from the public domain (whether administratively or by Act of Congress); 6.5 million acres have been acquired from private parties over the years; and the remainder includes leased lands, lands under temporary use, or lands on which easements have been acquired. In addition, DOD holds a major portion of Federal real property outside of the United States.

The Department makes a conscientious effort to regularly review lands within its jurisdiction to identify property which is no longer needed for defense purposes. Land so identified, if originally part of the public domain, is returned to the Bureau of Land Management and becomes subject to disposal under the applicable public land laws. Should BLM decide, however, that the land being returned would not serve Department of the Interior purposes (e.g., the return of an airstrip), it would recommend that the property be transferred to the General Services Administration for disposal (see Chapter V). Most of the public domain land administered by the Defense Department is used regularly for purposes of military maneuvers and bombing ranges, consequently very little of it has been returned over the years.

Acquired land which DOD determines it no longer needs becomes subject to the surplus property disposal procedures administered by the General Services Administration. In the past nine years, the Defense Department has identified 1.5 million acres for dispoal under the Federal Property and Administrative Services Act of 1949.

34/ Current as of September 30, 1979, but subject to increase significantly if deployment of a multiple protective structure basing system for the MX missile occurs with its concomitant withdrawal of public lands.

The Department of Defense is authorized to exchange parcels of land up to a value of $50,000, but such exchanges rarely occur. Occasionally, an exchange of land of value greater than $50,000 occurs, either carried out through GSA or by an Act of Congress.

V. DISPOSAL OF SURPLUS PROPERTY OF THE GENERAL SERVICES ADMINISTRATION

In addition to the Federal land management agencies already described, there are other Federal agencies which from time to time may dispose of land. 35/ Examples include disposition of (1) residential properties (which have been in use as housing for families or individuals of low or moderate income) by the Department of Housing and Urban Development, (2) recreational and industrial sites by the Tennessee Valley Authority, and (3) farm properties acquired as a result of mortgage foreclosure by the Department of Agriculture. The principal agency in this category of disposals, however, is the General Services Administration (GSA) which, under the Federal Property and Administrative Services Act of 1949, is provided with the statutory means to dispose of real property which other Federal agencies find they no longer require.

Once a Federal agency determines that it no longer has valid need for a property it has been using, it informs GSA by submitting a report and descriptive data to the appropriate GSA regional office. GSA then notifies other executive agencies (whose functions require use of real property) of the property's availability. During the required 30-day notification period, GSA inspects the land and arranges for an appraisal of its "fair market value." The appraisal process helps GSA determine the highest and best use of the lands so appropriate disposal plans can be generated. Vital information and data on the local market condition and on the potential physical characteristics and capabilities of the property are collected. In addition, local development plans and assessments of the potential environmental impact of dispostion are considered.

35/ Surplus structures and other improvements located on land to be retained by the Government are normally offered for sale by the agency having care and custody over the land.

If no Federal agency shows an interest in assuming the property, State and local government agencies are given opportunity to obtain the land. These public agencies may even be afforded a discount or price preference in acquiring surplus real property if they indicate an intention to use the land for public park or recreational purposes, as an historic monument, for wildlife conservation, public health or educational facilities, or as a public airport.

Only if no public agency wishes to buy the land does it become eligible for private sale. Surplus properties offered for sale to private parties are ordinarily handled by GSA regional offices on a competitive bid basis. However, sales for private use may also be negotiated under certain circumstances. Scheduled sales are widley publicized in newspapers, magazines and trade journals and by means of radio and television. They are listed in the publication "Commerce Business Daily" which is available on a subscription basis from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. In addition, GSA regional offices maintain mailing lists of persons who have indicated an interest either in a particular property in the region or in a type of property which might become available in the region. Request forms for inclusion on these mailing lists can be obtained from the disposal officer in the appropriate region. Addresses of the GSA regional offices can be found in the Appendix to this report. Additional information on GSA disposal programs may be obtained by writing to the Director of Real Property, General Service Administration, in the appropriate regional office.

APPENDIX

STATE OFFICES
U.S. Department of the Interior
Bureau of Land Management

Alaska
701 C Street
Box 13
Anchorage, AK 99513

Arizona
2400 Valley Bank Center
Phoenix, AZ 85073

California
Federal Building, Room E-2841
2800 Cottage Way
Sacramento, CA 95825

Colorado
Colorado State Bank Building
1600 Broadway
Denver, CO 80202

States East of the Mississippi River, Plus Iowa, Minnesota, Missouri, Arkansas and Louisiana
Eastern States Office
350 S. Pickett Street
Alexandria, VA 22304

Idaho
Federal Building, Room 398
550 West Fort Street
P.O. Box 042
Boise, ID 83724

Montana, North Dakota and South Dakota
222 No. 32nd Street
P.O. Box 30175
Billings, MT 59107

Nevada
Federal Building, Room 3008
300 Booth Street
Reno, NV 89509

New Mexico, Oklahoma and Texas
U.S. Post Office and Federal Building
P.O. Box 1449
Sante Fe, NM 87501

Oregon and Washington
729 N.E. Oregon Street
P.O. Box 2965
Portland, OR 97208

Utah
University Club Building
136 East South Temple
Salt Lake City, UT 84111

Wyoming, Kansas and Nebraska
2515 Warren Avenue
P.O. Box 1828
Cheyenne, WY 82001

REGIONAL OFFICES
U.S. Department of Agriculture
Forest Service

Northern Region
Federal Building
Missoula, MT 59807

Rocky Mountain Region
11177 West Eighth Avenue, Box 25127
Lakewood, CO 80225

Southwestern Region
Federal Building
517 Gold Avenue, S.W.
Albuquerque, NM 87102

Intermountain Region
Federal Building
324 25th Street
Ogden, UT 84401

Pacific Southwest Region
630 Sansome Street
San Francisco, CA 94111

Pacific Northwest Region
319 S.W. Pine Street
P.O. Box 3623
Portland, OR 97208

Southern Region
1720 Peachtree Road, N.W.
Atlanta, GA 30309

Eastern Region
633 West Wisconsin Avenue
Milwaukee, WI 53203

Alaska Region
Federal Office Building
P.O. Box 1628
Juneau, AK 99802

REGIONAL OFFICES
General Services Administration

Region 1
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
John W. McCormack
Post Office and Courthouse
Boston, MA 02109
(617) 223-2651

Region 2
New York, New Jersey, Puerto Rico, Virgin Islands
26 Federal Plaza
New York, NY 10007
(212) 264-2650

Region 3
District of Columbia, Delaware, Maryland, Pennsylvania, Virginia, West Virginia
7th and D St., SW
Washington, D.C. 20407
(202) 472-1921

Region 4
Alabama, Florida Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee
1776 Peachtree St., NW
Atlanta, GA 30309
(404) 881-4631

Region 5
Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
230 South Dearborn St.
Chicago, IL 60604
(312) 353-6045

Region 6
Iowa, Kansas, Missouri, Nebraska
1500 East Bannister Rd.
Kansas City, MO 64131
(816) 926-7237

Region 7
Arkansas, Louisiana, New Mexico, Okalahoma, Texas
819 Taylor Street
Fort Worth, TX 76102
(817) 334-2331

Region 8
Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
Building 41, Denver
Federal Center
Denver, CO 80225
(303) 234-3934

Region 9
American Samoa, Arizona, California, Guam, Hawaii, Nevada, the Trust Territory of the Pacific Islands
525 Market Street
San Francisco, CA 94105
(415) 556-5314

Region 10
Alaska, Idaho, Oregon, Washington
GSA Center
Auburn, WA 98002
(206) 833-6500 Ext. 264