

which is equal to the percentage of lands in issue in which either tribe is determined to have such interest.

(3) Neither laches nor the statute of limitations shall constitute a defense to such proceedings if they are either prosecuted as a part of the action authorized by this section or in a proceeding supplemental thereto, if instituted not later than twenty-four months following a final order of partition and exhaustion of appeals in an action filed pursuant to this section.

**(d) Denial of Congressional interest in merits of conflicting claims; liability of United States**

Nothing in this section shall be deemed to be a Congressional determination of the merits of the conflicting claims to the lands that are subject to adjudication pursuant to this section, or to affect the liability of the United States, if any, under litigation now pending before the Indian Claims Commission.

**(e) Payment of legal fees, court costs and other expenses**

The Secretary of the Interior is authorized to pay any or all appropriate legal fees, court costs, and other related expenses arising out of, or in connection with, the commencing of, or defending against, any action brought by the Navajo, San Juan Southern Paiute or Hopi Tribe under this section.

**(f) Provision of attorney fees for San Juan Southern Paiute Tribe**

(1) Any funds made available for the San Juan Southern Paiute Tribe to pay for attorney's fees shall be paid directly to the tribe's attorneys of record until such tribe is acknowledged as an Indian tribe by the United States: *Provided*, That the tribe's eligibility for such payments shall cease once a decision by the Secretary of the Interior declining to acknowledge such tribe becomes final and no longer appealable.

(2) Nothing in this subsection shall be interpreted as a congressional acknowledgement of the San Juan Southern Paiute as an Indian tribe or as affecting in any way the San Juan Southern Paiute Tribe's Petition for Recognition currently pending with the Secretary of the Interior.

(3) There is hereby authorized to be appropriated not to exceed \$250,000 to pay for the legal expenses incurred by the Southern Paiute Tribe on legal action arising under this section prior to November 16, 1988.

(Pub. L. 93-531, §8, Dec. 22, 1974, 88 Stat. 1715; Pub. L. 96-305, §2, July 8, 1980, 94 Stat. 929; Pub. L. 100-666, §9, Nov. 16, 1988, 102 Stat. 3933.)

REFERENCES IN TEXT

Act of June 14, 1934, referred to in subsecs. (a) and (c)(1), is act June 14, 1934, ch. 521, 48 Stat. 960, which was not classified to the Code.

The Indian Claims Commission, referred to in subsec. (d), terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

AMENDMENTS

1988—Subsec. (e). Pub. L. 100-666, §9(a), inserted “, San Juan Southern Paiute” after “Navajo”.

Subsec. (f). Pub. L. 100-666, §9(b), added subsec. (f).

1980—Subsec. (c). Pub. L. 96-305 substituted provision authorizing, as part of the determination of tribal

rights and interests in land, actions for accounting, fair value of grazing, and claims for damages, specifying the formula for determining recovery, and limiting defenses for provision authorizing exchange of reservation lands.

**§ 640d-8. Allotments in severalty to Paiute Indians now located on lands; issue of patents declaring United States as trustee**

Notwithstanding any other provision of this subchapter, the Secretary is authorized to allot in severalty to individual Paiute Indians, not now members of the Navajo Tribe, who are located within the area described in the Act of June 14, 1934 (48 Stat. 960), and who were located within such area, or are direct descendants of Paiute Indians who were located within such area, on the date of such Act, land in quantities as specified in section 331<sup>1</sup> of this title, and patents shall be issued to them for such lands having the legal effect and declaring that the United States holds such land in trust for the sole use and benefit of each allottee and, following his death, of his heirs according to the laws of the State of Arizona.

(Pub. L. 93-531, §9, Dec. 22, 1974, 88 Stat. 1716.)

REFERENCES IN TEXT

Act of June 14, 1934, referred to in text, is act June 14, 1934, ch. 521, 48 Stat. 960, which was not classified to the Code.

Section 331 of this title, referred to in text, was repealed by Pub. L. 106-462, title I, §106(a)(1), Nov. 7, 2000, 114 Stat. 2007.

**§ 640d-9. Partitioned or other designated lands**

**(a) Lands to be held in trust for Navajo Tribe; exception**

Subject to the provisions of sections 640d-8 and 640d-16(a) of this title, any lands partitioned to the Navajo Tribe pursuant to sections 640d-2 and 640d-3 of this title and the lands described in the Act of June 14, 1934 (48 Stat. 960), except the lands as described in section 640d-7 of this title, shall be held in trust by the United States exclusively for the Navajo Tribe and as a part of the Navajo Reservation.

**(b) Lands to be held in trust for Hopi Tribe**

Subject to the provisions of sections 640d-8 and 640d-16(a) of this title, any lands partitioned to the Hopi Tribe pursuant to sections 640d-2 and 640d-3 of this title and the lands as described in section 640d-7 of this title shall be held in trust by the United States exclusively for the Hopi Tribe and as a part of the Hopi Reservation.

**(c) Protection of rights and property of individuals subject to relocation**

The Secretary shall take such action as may be necessary in order to assure the protection, until relocation, of the rights and property of individuals subject to relocation pursuant to this subchapter, or any judgment of partition pursuant thereto, including any individual authorized to reside on land covered by a life estate conferred pursuant to section 640d-28 of this title.

<sup>1</sup> See References in Text note below.

**(d) Protection of benefits and services of individuals subject to relocation**

With respect to any individual subject to relocation, the Secretary shall take such action as may be necessary to assure that such individuals are not deprived of benefits or services by reason of their status as an individual subject to relocation.

**(e) Tribal jurisdiction over partitioned lands**

(1)<sup>1</sup> Lands partitioned pursuant to this subchapter, whether or not the partition order is subject to appeal, shall be subject to the jurisdiction of the tribe to whom partitioned and the laws of such tribe shall apply to such partitioned lands under the following schedule:

(A) Effective ninety days after July 8, 1980, all conservation practices, including grazing control and range restoration activities, shall be coordinated and executed with the concurrence of the tribe to whom the particular lands in question have been partitioned, and all such grazing and range restoration matters on the Navajo Reservation lands shall be administered by the Bureau of Indian Affairs Navajo Area Office and on the Hopi Reservation lands by the Bureau of Indian Affairs Phoenix Area Office, under applicable laws and regulations.

(B) Notwithstanding any provision of law to the contrary, each tribe shall have such jurisdiction and authority over any lands partitioned to it and all persons located thereon, not in conflict with the laws and regulations referred to in paragraph (A) above, to the same extent as is applicable to those other portions of its reservation. Such jurisdiction and authority over partitioned lands shall become effective April 18, 1981.

The provisions of this subsection shall be subject to the responsibility of the Secretary to protect the rights and property of life tenants and persons awaiting relocation as provided in subsections (c) and (d) of this section.

**(f) Development of lands in litigation; exception**

(1) Any development of lands in litigation pursuant to section 640d-7 of this title and further defined as "that portion of the Navajo Reservation lying west of the Executive Order Reservation of 1882 and bounded on the north and south by westerly extensions, to the reservation line, of the northern and southern boundaries of said Executive Order Reservation," shall be carried out only upon the written consent of each tribe except for the limited areas around the village of Moenkopi and around Tuba City. Each such area has been heretofore designated by the Secretary. "Development" as used herein shall mean any new construction or improvement to the property and further includes public work projects, power and water lines, public agency improvements, and associated rights-of-way.

(2) Each Indian tribe which receives a written request for the consent of the Indian tribe to a particular improvement, construction, or other development on the lands to which paragraph (1) applies shall respond in writing to such request by no later than the date that is 30 days after

the date on which the Indian tribe receives the request. If the Indian tribe refuse to consent to the improvement, construction, or other development, the response shall include the reasons why consent is being refused.

(3)(A) Paragraph (1) shall not apply to any improvement, construction, or other development if—

(i) such improvement, construction, or development does not involve new housing construction, and

(ii) after the Navajo Tribe or Hopi Tribe has refused to consent to such improvement, construction, or development (or after the close of the 30-day period described in paragraph (2), if the Indian tribe does not respond within such period in writing to a written request for such consent), the Secretary of the Interior determines that such improvement, construction, or development is necessary for the health or safety of the Navajo Tribe, the Hopi Tribe, or any individual who is a member of either tribe.

(B) If a written request for a determination described in subparagraph (A)(ii) is submitted to the Secretary of the Interior after the Navajo Tribe or Hopi Tribe has refused to consent to any improvement, construction, or development (or after the close of the 30-day period described in paragraph (2), if the Indian tribe does not respond within such period in writing to a written request for such consent), the Secretary shall, by no later than the date that is 45 days after the date on which such request is submitted to the Secretary, determine whether such improvement, construction, or development is necessary for the health or safety of the Navajo Tribe, the Hopi Tribe, or any individual who is a member of either Tribe.

(C) Any development that is undertaken pursuant to this section shall be without prejudice to the rights of the parties in the civil action pending before the United States District Court for the District of Arizona commenced pursuant to section 640d-7 of this title, as amended.

(Pub. L. 93-531, §10, Dec. 22, 1974, 88 Stat. 1716; Pub. L. 96-305, §3, July 8, 1980, 94 Stat. 929; Pub. L. 100-666, §6, Nov. 16, 1988, 102 Stat. 3932.)

## REFERENCES IN TEXT

Act of June 14, 1934, referred to in subsec. (a), is act June 14, 1934, ch. 521, 48 Stat. 960, which was not classified to the Code.

## AMENDMENTS

1988—Subsec. (f). Pub. L. 100-666 designated existing provisions as par. (1) and added pars. (2) and (3).

1980—Subsecs. (c) to (f). Pub. L. 96-305 added subsecs. (c) to (f).

**§ 640d-10. Resettlement lands for Navajo Tribe****(a) Transfer of lands under jurisdiction of Bureau of Land Management; State and private land exchanges; valuation; acquired private lands; lands to be held in trust**

The Secretary is authorized and directed to—

(1) transfer not to exceed two hundred and fifty thousand acres of lands under the jurisdiction of the Bureau of Land Management within the State<sup>1</sup> of Arizona and New Mexico

<sup>1</sup> So in original. No par. (2) has been enacted.

<sup>1</sup> So in original. Probably should be "States".