

**§ 2623.4 Grant of mineral school sections effective upon restoration of land from reservation.**

(a) By the Act of January 25, 1927 (44 Stat. 1026; 43 U.S.C. 870, 871), which grants to the States certain school-section lands that are mineral in character, it is provided by subsection (c) of section 1 that where such lands are embraced within an existing reservation at the date of said Act of 1927, they are thereby excluded from the grant made by said act.

(b) Under the amendatory Act of May 2, 1932 (47 Stat. 140; 43 U.S.C. 870), it is provided that in the event of the restoration of the lands from such reservation, the grant to the State of such mineral school-section lands will thereupon become effective.

(c) Adjudications in connection with the State's title to school sections will be governed by the provisions of this amendatory Act of May 2, 1932.

**Subpart 2624 [Reserved]**

**Subpart 2625—Swamp-land Grants**

SOURCE: 35 FR 9610, June 13, 1970, unless otherwise noted.

**§ 2625.0-3 Authority.**

(a) Circular dated Mar. 17, 1896, containing the swamp-land laws and regulations, states:

As soon as practicable after the passage of the swamp-land grant of September 28, 1850, viz. on the 21st of November 1850, the commissioner transmitted to the governors of the respective States to which the grant applied copies of office circular setting forth the provisions of said Act, giving instructions thereunder, and allowing the States to elect which of two methods they would adopt for the purpose of designating the swamp lands, viz:

1. The field notes of Government survey could be taken as the basis for selections, and all lands shown by them to be swamp or overflowed, within the meaning of the act, which were otherwise vacant and unappropriated September 28, 1850, would pass to the States.

2. The States could select the lands by their own agents and report the same to the United States surveyor general with proof as to the character of the same.

The following States elected to make the field notes of survey the basis for determining what lands passed to them under the grant, viz: Louisiana, Michigan, and Wisconsin. Later the State of Minnesota adopted this method of settlement.

The authorities of the following States elected to make their selections by their own agents and present proof that the lands selected were of the character contemplated by the swamp grant, viz: Alabama, Arkansas, Florida, Illinois, Indiana, Iowa, Mississippi, Missouri, and Ohio. Later Oregon adopted this method.

The States of Alabama, Arkansas, Indiana, Mississippi, and Ohio adopted the second method at the beginning, but they changed to the first method, i.e., to the field notes of survey, as a basis of settlement, in recent years.

The authorities of California did not adopt either method, and the passage of the Act of July 23, 1866, rendered such action on their part unnecessary.

In Louisiana the selections under the grant of March 2, 1849, forming the bulk of the selections in said State, are made in accordance with the terms of said act by deputy surveyors, under the direction of the United States surveyor general, at the expense of the State.

(b) The grant of swamp lands, under Acts of March 2, 1849, and September 28, 1850, is a grant in praesenti. See United States Supreme Court decisions *Railroad Co. v. Fremont County* (9 Wall, 89, 19 L. ed. 563); *Railroad Co. v. Smith* (id. 95, 19 L. ed. 599); *Martin v. Marks* (7 Otto 345, 24 L. ed. 940); decisions of the Secretary of the Interior, December 23, 1851 (1 Lester's L.L. 549), April 25, 1862, and opinion of Attorney General, November 10, 1858 (1 Lester's L.L. 564).

(c) The Act of September 28, 1850, did not grant swamp and overflowed lands to States admitted into the Union after its passage. See decision of Secretary of the Interior, August 17, 1858; Commissioner, General Land Office, May 2, 1871 (Copp's L.L. 474), affirmed by Secretary June 1, 1871, and Commissioner, General Land Office, January 19, 1874 (Copp's L.L. 473), affirmed by Secretary July 9, 1875.

(d) A State having elected to take swamp land by field notes and plats of survey is bound by them, as is also the Government. (See Secretary's decisions, October 4, 1855 (1 Lester's L.L. 553), August 1, 1859 (id. 571), December