

PART 402—SALE OF LANDS IN FEDERAL RECLAMATION PROJECTS

Subpart A—Public Lands

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Subpart A—Public Lands

AUTHORITY: Sec. 10, 32 Stat. 390, as amended, sec. 6, 46 Stat. 368, sec. 5, 64 Stat. 40; 43 U.S.C. 373, 424e, 375f. Interpret or apply 41 Stat. 605, 46 Stat. 367, sec. 11, 53 Stat. 1197, 64 Stat. 39; 43 U.S.C. 375, 424 through 424d, 375a, 375b through 375f.

SOURCE: 18 FR 316, Jan. 15, 1953, unless otherwise noted.

§ 402.1 Purpose of this subpart.

The regulations in this subpart apply to the sale of certain classes of lands that are subject to the reclamation laws and that may be sold under one of the following statutes:

- (a) The Act of May 20, 1920 (41 Stat. 605; 43 U.S.C. 375);
- (b) The Act of May 16, 1930 (46 Stat. 367; 43 U.S.C. 424 through 424e); or
- (c) The Act of March 31, 1950 (64 Stat. 39; 43 U.S.C. Sup. 375b through 375f).

§ 402.2 What lands may be sold; method of sale; limit of acreage.

(a) Lands which may be sold under the Act of May 20, 1920 (41 Stat. 605; 43 U.S.C. 375) are lands, not otherwise reserved, which have been withdrawn in connection with a Federal irrigation project and improved at the expense of the reclamation fund for administration or other like purposes and which are no longer needed for project pur-

poses. Not more than 160 acres of such lands may be sold to any one person. With one exception, such lands must be sold at public auction. If, however, a tract is appraised at not more than \$300, it may be sold at private sale or at public auction and without regard to the provisions of the Act of May 20, 1920 respecting notice of publication and mode of sale.

(b) Lands which may be sold under the Act of May 16, 1930 (46 Stat. 367; 43 U.S.C. 424 through 424e) are tracts of temporarily or permanently unproductive land of insufficient size to support a family. A purchaser must be a resident farm owner or entryman on the Federal irrigation project where such lands are located and is permitted to purchase not more than 160 acres or an area which together with lands already owned or entered on such project, does not exceed 320 acres. A resident farm owner means a farm owner who is actually residing on the farm he owns, and a resident entryman means a homestead entryman who is actually residing on the land in his homestead entry. These lands may be sold either at public auction or at private sale.

(c) Lands which may be sold under the Act of March 31, 1950 (64 Stat. 39; 43 U.S.C. Sup., 375b through 375f) are tracts of land too small to be classed as farm units under the Federal reclamation laws. A purchaser must be a resident farm owner or entryman (as defined in paragraph (b) of this section) on the Federal irrigation project where such lands are located and is permitted to purchase not more than 160 acres or an area which, together with land already owned or entered on such project, does not exceed 160 irrigable acres. These lands may be sold either at public auction or at private sale.

§ 402.3 Power to sell.

The Commissioner of Reclamation may, in accordance with the regulations in this subpart, sell lands under each of the three statutes listed in § 402.1. An Assistant Commissioner or an official in charge of an office, region, division, district, or project of the Bureau of Reclamation, if authorized in writing by the Commissioner of Reclamation, may also sell lands under the statutes mentioned in accordance

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with this subpart, and whenever the term "Commissioner" is used in this subpart, it includes any official so authorized.

§ 402.4 Citizenship requirement.

Before patent may be issued to a purchaser under the regulations in this subpart, he must furnish satisfactory evidence that he is a citizen of the United States.

§ 402.5 Procedures within the Department.

(a) Before offering any land for sale under any of the statutes listed in § 402.1, the Commissioner should determine that the sale will be in the best interest of the project in which the lands are located and, if the lands sold are to be irrigated, that there is a sufficient water supply for such irrigation.

(b) When a decision is made to offer lands for sale under any of the statutes listed in § 402.1: (1) The Commissioner should notify the State Supervisor of the Bureau of Land Management in whose State the lands are located, (2) a report showing the status of the lands should be obtained from the Manager of the appropriate office of the Bureau of Land Management, and (3) a report should be obtained from the Geological Survey with respect to the mineral resources of the lands. A copy of the report of the Geological Survey should be furnished to the Manager of the appropriate land office of the Bureau of Land Management for his use in preparing the final certificate.

§ 402.6 Price.

The price of land sold under this subpart shall be not less than that fixed by independent appraisal approved by the Commissioner.

§ 402.7 Notice of sale.

The sale of lands at public auction under this part shall be administered by the Commissioner. Notice of such sales shall be given by publication in a newspaper of general circulation in the vicinity of the lands to be sold for either not less than 30 days or once a week for five consecutive weeks prior to the date fixed for any such sale. Under the Act of May 20, 1920 (41 Stat. 605; 43 U.S.C. 375) notice of sales of

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lands appraised at more than \$300 shall also be given by posting upon the land. In the case of all sales under this subpart notice may be given by such other means as the Commissioner may deem appropriate. Where lands are to be sold at private sale, no public notice shall be required.

§ 402.8 Terms of sale.

(a) Under the Acts of May 16, 1930 (46 Stat. 367; 43 U.S.C. 424 through 424e) and March 31, 1950 (64 Stat. 39; 43 U.S.C. Sup., 375b through 375f) lands may be sold either for cash or upon deferred payments. A sale providing for deferred payments shall be upon terms to be established by the Commissioner, except that the Commissioner shall require the annual payment of interest at six percent per annum on the unpaid balance.

(b) Under the Act of May 20, 1920 (41 Stat. 605; 43 U.S.C. 375) lands may be sold either for cash or upon deferred payments. In connection with a sale providing for deferred payments the Commissioner shall require that not less than one-fifth the purchase price in cash be paid at the time of sale and that the remainder be payable in not more than four annual payments with interest at six percent per annum on the unpaid balance.

(c) All payments shall be made to the official of the Bureau of Reclamation specified in the contract of sale.

§ 402.9 Contracts.

A contract in form approved by the Commissioner shall be signed by the purchaser at the time of sale and executed on behalf of the United States by the Commissioner. A copy of the contract shall be furnished to the appropriate land office of the Bureau of Land Management for entering in the tract books. The contract shall contain a description of the land to be sold, the price and terms of sale, a full statement by the purchaser respecting his qualifications, including citizenship, a description by the purchaser of his present holdings, and a statement by him of the irrigable acreage of those holdings. The contract shall also contain a statement by the purchaser with respect to his knowledge as to whether the land is mineral or non-mineral in