Circular No. 1732

UNITED STATES
DEPARTMENT OF THE INTERIOR
WASHINGTON

CODE OF FEDERAL REGULATIONS
TITLE 43--PUBLIC LANDS: INTERIOR

CHAPTER I--BUREAU OF LAND MANAGEMENT

PART 250--PUBLIC SALES

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AUTHORITY: Secs. 250.1 to 250.13, inclusive, issued under R.S. 453, 2478; 43 U.S.C. 2, 1201.

Section 250.1 Statutory authority. The sale at public auction of isolated or disconnected tracts of public land not exceeding 1520 acres, and tracts not isolated, of not exceeding 760 acres, the greater parts of which are mountainous or too rough for cultivation, is authorized by section 2455 of the Revised Statutes, as amended by section 14 of the Act of June 28, 1934 (48 Stat. 1274; 43 U.S.C. 1171) and the Act of July 30, 1947. [Circ. 1666, Nov. 19, 1947] (61 Stat. 630).

250.2 Definitions. When used in this part:

(a) "Secretary" means Secretary of the Interior.
(b) "Director" means Director, Bureau of Land Management.

Reprint, April 1949 of Circular No. 1666, Nov. 19, 1947, as amended by Circular No. 1693, Aug. 27, 1948, and Circular No. 1727, April 5, 1949.

(c) "Regional Administrator" means the regional administrator for the region in which the land is situated. Where there is no district land office in the State in which the land is situated, however, it means the "Director".

(d) "Manager" means Manager of the land office for the district in which the land is situated. Where there is no district land office in a state, it means the Director.

(e) "Applicant" or "purchaser" includes an individual, a partnership, an association or a corporation.

[Circ. 1666, Nov. 19, 1947; Circ. 1693, Aug. 27, 1948]

250.3 Application. An application to have tracts ordered into the market must be executed in duplicate on Form 4-008e. The application must be filed with the manager of the land office for the district within which the land is situated. If the land is in a State in which there is no district land office, the application must be filed with the Director. 1/

The application need not be under oath but must be signed by the applicant and two corroborating witnesses having personal knowledge of the facts stated therein. [Circ. 1666, Nov. 19, 1947]

250.4 Action upon the application or in the absence of application. If an application is not properly executed or not corroborated, if the applicant does not show himself qualified, or if the tract appears not to be subject to disposition, the application will be rejected. If part of the tract is appropriated, the application will be rejected as to that part, and, in the absence of an appeal, the description thereof eliminated from the application, and such further action will be taken as though it had never been included therein.

The Regional Administrator may classify under section 7 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315f) as amended, land for offering under this part, and he may authorize such offering of the land for sale if he determines, in accordance with the existing regulations and procedures, that such land is suitable for disposal as an isolated or as a rough or mountainous tract, as the case may be.

The Regional Administrator may authorize the offering of an isolated tract for sale either upon application or on his own motion. [Circ. 1666, Nov. 19, 1947; Circ. 1693, Aug. 27, 1948]

250.5 Effect of application. The filing of an application in conformity with the regulations in this Part will not segregate the lands applied for from other application under the public land laws, or defeat a prior valid right initiated under any such law. However, until the issuance of a cash certificate, the Regional Administrator may at any time determine that the lands should not be sold, the applicant or any bidder has no contractual or other rights as against the United States, and no action taken will create any contractual or other obligation of the United States. [Circ. 1666; Nov. 19, 1947; Circ. 1693, Aug. 27, 1948]

1/ An application filed with the Director will be transmitted by him to the regional administrator for action, in accordance with B.L.M. Order 346, October 14, 1948. (13 F.R. 6149).

250.6 Land subject to sale as isolated tracts. There is no limitation as to the number of isolated tract applications which may be filed, nor as to the amount of such land which may be applied for or purchased by any one person or group. An application may include several incontiguous tracts, but it may not embrace an aggregate area in excess of 1520 acres, and tracts with an area over 1520 acres will not be ordered into the market. Each isolated tract will be offered separately and a separate cash certificate will be issued for each tract, except to the extent that they are bought by the same person.

As a general rule, no tract will be deemed isolated unless it is completely surrounded by lands held in non-Federal ownership, or is so effectively separated from other Federally owned lands by some permanent withdrawal or reservation as to make its use with such lands impracticable. A tract is considered isolated if the contiguous tracts are all patented, even though there are other public lands cornering upon the tract. /Circ. 1666, Nov. 19, 1947/

250.7 Land subject to sale as mountainous or too rough for cultivation; qualifications of applicant. Legal subdivisions not exceeding 760 acres, the greater part of which is mountainous or too rough for cultivation, may be offered for sale only upon the application of any person who owns land or holds a valid entry on lands adjoining such tract and regardless of the fact that such tract may not be actually isolated.

An applicant for sale of a tract which is mountainous or too rough for cultivation must show that he is the owner of the whole title, that is, the fee owner, of land adjoining the land applied for, or that he holds a valid entry embracing adjoining land, in connection with which entry he has met the requirements of the law. A showing that the applicant owns cornering land or holds a valid entry of a cornering tract would not qualify him.

An application under this section may not embrace more than 760 acres. An applicant may file any number of applications provided the land applied for together with such land previously purchased does not exceed 760 acres in area. The limitation under this section relates only to applications under this section. In acting on applications for rough or mountainous tracts, regard will be had to the character of each subdivision applied for. An entire tract composed of more than one legal subdivision will not be offered upon the ground that the greater part of the tract is mountainous or too rough for cultivation, if taken as a whole. /Circ. 1666, Nov. 19, 1947/

250.8 Mineral lands. Mineral lands may not be sold except under specific statutory authority which exists for the sale of lands valuable for certain minerals with a reservation of those minerals to the United States. The regulations relating to applications for the surface of such lands are contained in 43 CFR, Part 102. They must be complied with whenever an application is filed for land, withdrawn, classified, or valuable for such minerals, where such land is embraced by mineral permits or leases, or applications for such permits or leases, or where the land lies within the geological structure of a producing oil or gas field.

The notice of sale for publication and posting will provide that the land will be sold subject to reservations to the United States of the appropriate minerals, and in accordance with the provisions of the applicable act or acts which authorize the making of the reservation. The cash certificate and patent will provide for such reservation and will refer to such act or acts. /Circ. 1666, Nov. 19, 1947/

250.9 Publication of notice; time and proof of publication posting required. Upon the issuance of a decision authorizing the sale, a notice for publication will be sent the applicant with instructions that he publish it at his expense in the newspaper designated. Payment for publication must be made by the applicant directly to the publisher. The notice must be published prior to the date of sale in the designated newspaper, if a daily paper, in the Wednesday issue for 5 consecutive weeks; if a weekly, in 5 consecutive issues; and if a semi-weekly, or tri-weekly, in the same issue of the same day of each week, for 5 consecutive weeks. The manager will cause a similar notice to be posted in his office during the entire period of publication.

The applicant must file in the district land office, prior to the date fixed for the sale, evidence that publication has been had for the required period. Such evidence may consist of the affidavit of the publisher accompanied by a copy of the notice published. /Circ. 1666, Nov. 19, 1947/

250.10 The bidding. The land will be offered for sale at public auction, at not less than its appraised value, at the time and place fixed in the public notice.

Bids may be made by the principal or his agent, either personally at the sale or by mail.

Bids sent by mail will be considered only if received at the district land office prior to the hour fixed for the sale. These bids must be enclosed in sealed envelopes and must be accompanied by certified checks or post office money orders for the amounts of the bids. The envelopes must be marked in the lower-left-hand corner as prescribed in the notice of sale. The envelopes containing the sealed bids will not be opened by the manager until the time fixed for the sale. However, he will note on each envelope the hour and date of its receipt.

The manager will commence the sale by reading the public announcement thereof and by opening the sealed bids and announcing such bids. He will then receive bids from the persons present.

All bidders are warned against violation of the provisions of Title 18, U.S.C., section 1860, prohibiting unlawful combination or intimidation of bidders.

250.11 Action at close of bidding.

(a) Declaration of highest bidder. When all persons present shall have ceased bidding, the manager will, in the usual manner, declare the bidding closed, subject to the preference right of purchase of owners of contiguous land (see paragraph (b) of this section), announce the amount of the highest bid and declare the offerer thereof (or his principal) the highest bidder, provided that the latter immediately pays to the manager the amount of the bid, if he has not already done so. In the absence of such payment, the manager will at once proceed with the sale, excluding the bid may be the highest bidder and starting with the next highest bid not withdrawn. In the event the bids of two or more persons sent by mail are the same in amount and are the highest offered, the first received, as shown by the hour and date noted on the envelope, will be accepted by the manager. In no event may the land be sold or a purchaser declared before the end of the 30 day period for the assertion by contiguous

land owners of their preference right of purchase.

(b) Preference right of purchase; declaration of purchaser. The owners of contiguous lands have a preference right, for a period of 30 days after the highest bid has been received, to purchase the land offered for sale at the highest bid price or at three times the appraised price if three times such appraised price is less than the highest bid price. Such preference right may also be asserted at any time prior to the commencement of such period. Such preference right is not extended to the owner or owners of cornering lands.

1. A preference right to purchase must be supported by proof of the claimant's ownership of the whole title to the contiguous lands (that is, he must show that he had the whole title in fee), and must be accompanied by the purchase price of the land. 2/

2. If there is only one qualified preference right claimant, or if there are conflicting qualified preference right claimants and there is an amicable agreement among them, the manager will declare such claimant or claimants the purchasers.

3. Where there is a conflict between two or more persons claiming a preference right of purchase, they will be allowed 30 days from receipt of notice within which to agree among themselves upon a division of the tracts in conflict by subdivisions. In the absence of an agreement, the Regional Administrator will make a determination equitably apportioning the various subdivisions among the claimants, ordinarily so as to equalize as nearly as possible the tracts they should be permitted to purchase. Where only one subdivision is offered for sale and it adjoins the lands of two or more preference right claimants, it will generally be awarded to the applicant for the sale if he is a qualified preference right claimant; if he is not it will be awarded to the first qualified person who properly asserts such a preference right within or prior to the 30 day preference right period. The manager will make the award by declaring the appropriate claimant or claimants purchasers of the land.

4. If, by the end of the preference right period, no preference right has been asserted, the sale will be declared closed and the manager may declare the highest bidder the purchaser.

/Circ. 1666, Nov. 19, 1947; Circ. 1693, Aug. 27, 1948/

250.12 Action after purchaser is declared.

(a) Payment of cost of publication by purchaser. If the applicant for the sale is an unsuccessful bidder, the person awarded the land must reimburse and pay directly to him the amount expended for publication of notice and file evidence thereof in the district land office within 10 days from the date he is declared the purchaser. If the evidence is not furnished, the manager will reject the bid and will accept the bid next in order, subject to the same

2/ Although one who holds a valid adjoining entry may file an application for the adjoining lands which are mountainous or too rough for cultivation, he may not assert a preference right of purchase unless he has acquired the whole title to adjoining lands.

conditions. Where an equitable apportionment of the land is made between two or more claimants, pursuant to paragraph (b) of section 250.11, each of the claimants must bear an equal share of the expense.

(b) The purchaser must, within 10 days after he has been so declared, also file with the manager evidence that he is a citizen of the United States, or if a partnership, evidence of the citizenship of its members. If the purchaser is an unincorporated association, evidence must be filed that such of its officers are citizens. Such associations shall indicate the citizenship of each member. A corporation is required to file a certified copy of its articles of incorporation showing that it is organized under the laws of the United States, or of some State, Territory or possession thereof, and that it is authorized to acquire and hold real estate in the State in which the land is situated, and it must furnish a statement showing the percentage of each class of its stock, and the percentage of all of its stock, which is owned or controlled by or on behalf of persons whom the corporation knows to be or has reason to believe are aliens, or who have addresses outside of the United States indicating which classes of stock have voting rights. If more than 10 percent of the voting stock, or all of the stock, is owned or controlled by or on behalf of such persons, the corporation must give their names and addresses, the amount and class of stock held by each, and, to the extent known to the corporation or which can be reasonably ascertained by it, the facts as to the citizenship of each such person.

If any appreciable number of the members of an unincorporated association are aliens or any appreciable percentage of the stock of a corporation is held by aliens, the bid of said association or corporation will be rejected. (R.S. 453, 2478; 43 U.S.C. 2, 1201)
/Circ. 1727, April 5, 1949/

(c) Where the purchaser has fully complied with the regulations in this Part, the manager will issue a cash certificate. /Circ. 1666, Nov. 19, 1947/

250.13 Appeals. An appeal pursuant to the Rules of Practice (43 CFR, Part 221) may be taken from any decision of the manager to the Director, and, from the decision of the Director to the Secretary. /Circ. 1666, Nov. 19, 1947/

Note: The reporting requirement of this regulation has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

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