**Section 2501.31 Land Acquisition, Management and Disposal**

a) The Department shall acquire eligible land as necessary for reclamation when long term monitoring will be necessary, or when the benefits to the general public to be derived from reclamation activities on State owned lands would exceed the benefits from reclamation activities if the land were privately owned.

1) The Department will acquire only such interest or conservation rights in land which are necessary for successful reclamation.

2) Prior to acquisition the Department shall obtain from an independent professional appraiser an appraisal of the fair market value of the land or interest in land to be acquired. The appraisal shall state the fair market value of the land as adversely affected by past mining, and shall otherwise meet the quality of appraisal practices found in Regulation 10 of the American Institute of Real Estate Appraisers of the National Association of Realtors, Code of Professional Ethics, as amended November 4, 1984.

3) The Department shall obtain the prior written approval of the Federal Office before acquiring any land or interest in land with federal funds.

b) The Department shall make every reasonable effort to acquire land by purchase from a willing seller. The amount paid for interests acquired shall reflect the fair market value of the interests as adversely affected by past mining. If such efforts are not successful, land or interests in land may be acquired by condemnation.

c) The Department may accept donations of title to land or interest in land that are necessary for reclamation activities. A donation shall not be accepted if the terms or conditions of acceptance are inconsistent with the objectives or requirements of this part. If a donation is accepted, a deed of conveyance shall be executed, acknowledged, and recorded. If reclamation activities are to be carried out with federal funds, the deed shall state that it is made "as a gift under the Federal Surface Mining Control and Reclamation Act of 1977." Offers to make a gift of land or interest in land shall include:

1) A statement of the interest which is being offered;

2) A legal description of the land and a description of any improvements on it;

3) A description of any limitations on the title or conditions as to the use or disposition of the land existing or to be imposed by the donor;

4) A statement that:

A) The offeror is the record owner of the interest being offered;

B) The interest offered is free and clear of all encumbrances except as clearly stated in the offer;

C) There are no adverse claims against the interest offered;

D) There are no unredeemed tax deeds outstanding against the interest offered;

E) No person has a continuing responsibility under State or Federal Law for reclamation.

5) An itemization of any unpaid taxes or assessments levied, assessed or due which could operate as a lien on the interest offered.

d) The Department shall be responsible for the management of lands acquired pursuant to this Section. The lands shall be used only for purposes which are consistent with the reclamation activities and are in accordance with the State Property Control Act [30 ILCS 605]. Any user of land acquired under this Section shall be charged a use fee. The fee shall be determined on the basis of the fair market value of the benefits granted to the user, charges for comparable uses within the surrounding area, or the costs to the Department of providing the benefit, whichever is appropriate depending upon the particular circumstances of each case. If the Department finds, in writing, that a waiver of the use fee is in the public interest in a particular case, and states its reasons for such finding, the Department may so waive the fee. Unless otherwise provided by law, all fees collected shall be transmitted to the State Treasurer for deposit in the State fund currently entitled "Abandoned Mined Lands Reclamation Federal Trust Fund."

e) If the Department determines that it would be in the best interest of the State, *the* *Department* *shall* *transfer administrative responsibility for land acquired under this* *Section* *to an agency or political subdivision of the State* without cost to such agency or political subdivision. For land acquired with federal funds, such transfer must have the prior approval of the Federal Office. *The agreement under which a transfer is made shall specify:* 1) *The purposes for which the land may be used, which purposes shall be consistent with the authorization under which the land was acquired;* 2) *That the administrative responsibility for the land will revert to the* *Department* *if, at any time, the land is not used for the purposes specified in the agreement.* f) When ownership of any lands acquired pursuant to this Section is no longer necessary to further the goals of the Department, the Department shall notify the corporate authorities of the municipality in which such reclaimed lands are located and the county clerk of the respective county that the lands may be transferred for public use to one or more of such local governments who have complied with Section 2.07 of the State Act.

1) Upon receipt of plans for use of reclaimed lands from a unit or units of local government, the Department shall:

A) Publish a notice in the official newspaper and in a paper of general circulation in the area where the land is located for four successive weeks indicating that a plan has been submitted, and where a copy of the plan may be obtained. The notice shall provide at least 30 days for public comment;

B) Make copies of the disposition plan available in the locality of the property and the Department's offices;

C) If requested by any person, or if deemed advisable by the Department, conduct a public hearing to discuss the disposition plan. At least 30 days notice of any such hearing will be published in a newspaper of general circulation in the area in which the land is located.

2) If the Department finds that the proposed disposition is appropriate considering all comments received and is consistent with any applicable local, State, or federal laws or rules, the Department shall transfer title for the affected lands to the unit or units of local government submitting the plan.

g) If disposal of lands under subsection (f) of this Section is determined by the Department not to be in the public interest, and if the reclaimed lands are suitable for industrial, commercial, residential, or recreational development consistent with local, State, or federal land use plans for the area in which the land is located, then the land may be sold for not less than fair market value under a system of competitive bidding which includes:

1) Publication of a notice once a week for 4 weeks in a newspaper of general circulation in the locality in which the land is located. The notice shall describe the land to be sold, state the appraised value, state any restrictive covenants which will be a condition of the sale, and state the time and place of the sale;

2) Provisions for sealed bids to be submitted prior to the sale date followed by an oral auction open to the public;

3) All moneys received from disposal of land under this Section shall be transmitted to the State Treasurer for deposit in the State fund currently entitled "Abandoned Mined Lands Reclamation Federal Trust Fund."

(Source: Amended at 22 Ill. Reg. 11382, effective June 23, 1998)