

§ 521g. Road rights-of-way subject to State or local law

Conveyance of any road rights-of-way under sections 521c to 521i of this title shall not be construed as permitting any designation, maintenance, or use of such rights-of-way for road or other purposes except to the extent permitted by State or local law and under conditions imposed by such law.

(Pub. L. 97-465, § 5, Jan. 12, 1983, 96 Stat. 2536.)

§ 521h. Regulations; contents

The Secretary shall issue regulations to carry out the provisions of sections 521c to 521i of this title, including specification of—

- (1) criteria which shall be used in making the determination as to what constitutes the public interest;
- (2) the definition of and the procedure for determining “approximately equal value”; and
- (3) factors relating to location or size which shall be considered in connection with determining the lands to be sold, exchanged, or interchanged under clause (1) of section 521e of this title.

(Pub. L. 97-465, § 6, Jan. 12, 1983, 96 Stat. 2536.)

§ 521i. Unaffected lands

Nothing in sections 521c to 521i of this title shall authorize conveyance of Federal lands within the National Wilderness Preservation System, National Wild and Scenic Rivers System, National Trails System, or National Monuments. Nothing in sections 521c to 521i of this title shall authorize sale of Federal lands, within National Recreation Areas.

(Pub. L. 97-465, § 7, Jan. 12, 1983, 96 Stat. 2536.)

§ 522. Omitted

CODIFICATION

Section, acts Feb. 15, 1901, ch. 372, 31 Stat. 790; Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628, insofar as it relates to rights-of-way through public lands, forests, and reservations, and the Yosemite, Sequoia, and General Grant National Parks is set out as section 79 of this title and section 959 of Title 43, Public Lands, and insofar as it related to rights-of-way through national forests was set out as this section. Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, repealed this section insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

§ 523. Rights-of-way through national forests for power and communications facilities

The head of the department having jurisdiction over the lands is authorized and empowered, under general regulations to be fixed by him, to grant an easement for rights-of-way, for a period not exceeding fifty years from the date of the issuance of such grant, over, across, and upon the national forests of the United States for electrical poles and lines for the transmission and distribution of electrical power, and for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to the extent of

two hundred feet on each side of the center line of such lines and poles and not to exceed four hundred feet by four hundred feet for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to any citizen, association, or corporation of the United States, where it is intended by such to exercise the right-of-way herein granted for any one or more of the purposes herein named: *Provided*, That such right-of-way shall be allowed within or through any national forest only upon the approval of the chief officer of the department under whose supervision or control such national forest falls, and upon a finding by him that the same is not incompatible with the public interest: *Provided further*, That all or any part of such right-of-way may be forfeited and annulled by declaration of the head of the department having jurisdiction over the lands for nonuse for a period of two years or for abandonment.

Any citizen, association, or corporation of the United States to whom there has been issued a permit prior to March 4, 1911, for any of the purposes specified herein under any law existing at that date, may obtain the benefit of this section upon the same terms and conditions as shall be required of citizens, associations, or corporations making application under the provisions of this section subsequent to said date.

(Mar. 4, 1911, ch. 238, 36 Stat. 1253; May 27, 1952, ch. 338, 66 Stat. 95.)

REPEALS

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

CODIFICATION

Section, insofar as it relates to rights-of-way in national parks, military, and other reservations, is set out as sections 5 and 420 of this title, and insofar as it relates to rights-of-way on public lands generally, and Indian reservations, is set out as section 961 of Title 43, Public Lands.

AMENDMENTS

1952—Act May 27, 1952, inserted reference to rights-of-way for radio, television, and other forms of communication, and increased from 40 feet to 400 feet the maximum width of rights-of-way for lines and poles.

SAVINGS PROVISION

Repeal by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 524. Rights-of-way for dams, reservoirs, or water plants for municipal, mining, and mill- ing purposes

Rights-of-way for the construction and maintenance of dams, reservoirs, water plants, ditches, flumes, pipes, tunnels, and canals, within and across the national forests of the United States, are granted to citizens and corporations of the United States for municipal or mining

purposes, and for the purposes of the milling and reduction of ores, during the period of their beneficial use, under such rules and regulations as may be prescribed by the Secretary of the Interior, and subject to the laws of the State or Territory in which said forests are respectively situated.

(Feb. 1, 1905, ch. 288, § 4, 33 Stat. 628.)

REPEALS

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

CODIFICATION

“National forests” and “forests” substituted in text for “forest reserves” and “reserves”, respectively, on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

SAVINGS PROVISION

Repeal by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 525. Rights-of-way for wagon roads or railroads

In the form provided by existing law the Secretary of the Interior may file and approve surveys and plats of any right of way for a wagon road, railroad, or other highway over and across any national forest when in his judgment the public interests will not be injuriously affected thereby.

(Mar. 3, 1899, ch. 427, § 1, 30 Stat. 1233.)

REPEALS

Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

CODIFICATION

As originally enacted, this section contained following the word “forest” the words “or reservoir site”. See sections 665 and 958 of Title 43, Public Lands, which represent the phase of the section here omitted.

“National forest” substituted in text for “forest reserve” on authority of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

SAVINGS PROVISION

Repeal by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 526. Establishment and protection of water rights

There are authorized to be appropriated for expenditure by the Forest Service such sums as

may be necessary for the investigation and establishment of water rights, including the purchase thereof or of lands or interests in lands or rights-of-way for use and protection of water rights necessary or beneficial in connection with the administration and public use of the national forests.

(Sept. 21, 1944, ch. 412, title II, § 213, 58 Stat. 737.)

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

INTERIM MORATORIUM ON BYPASS FLOWS

Pub. L. 104-127, title III, § 389, Apr. 4, 1996, 110 Stat. 1021, as amended by Pub. L. 104-180, title VII, § 736, Aug. 6, 1996, 110 Stat. 1607, provided that:

“(a) MORATORIUM.—There shall be a 20-month moratorium on any Forest Service decision to require by-pass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use authorization permit.

“(b) LIMITATIONS.—Subsection (a) shall not affect—

“(1) obligations or authority of the Secretary of Agriculture to protect public health and safety; and

“(2) obligations or authority under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or applicable State law.

“(c) RULES OF CONSTRUCTION.—

“(1) EXISTING NON-FEDERAL WATER RIGHTS.—Nothing in this section prevents or inhibits the exercise of the use and operation of existing non-Federal water rights on or above the National Forest land that require land use authorization permits from the Forest Service to access water supply facilities.

“(2) RENEWAL OR REISSUANCE OF EXPIRING LAND USE AUTHORIZATION FOR DECREED WATER RIGHTS.—Nothing in this section prevents or inhibits the renewal or reissuance of expiring land use authorizations for decreed water rights. The Forest Service may extend, as needed, any expiring land use authorization for such time as is necessary to incorporate the results of the study authorized by subsection (d).

“(d) STUDY OF WATER RIGHTS ACROSS FEDERAL LANDS.—

“(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act [Apr. 4, 1996], there shall be established a Water Rights Task Force to study the subjects described in paragraph (3).

“(2) MEMBERSHIP.—The Task Force shall be composed of 7 members appointed as follows:

“(A) 1 member shall be appointed by the Secretary of Agriculture.

“(B) 2 members shall be appointed by the Speaker of the House of Representatives and 1 member shall be appointed by the Minority Leader of the House of Representatives.

“(C) 2 members shall be appointed by the Majority Leader of the Senate and 1 member shall be appointed by the Minority Leader of the Senate.

“(3) SUBJECTS TO BE STUDIED.—The Task Force shall study and make recommendations on—

“(A) whether Federal water rights should be acquired for environmental protection on National Forest land;

“(B) measures necessary to protect the free exercise of non-Federal water rights requiring easements and permits from the Forest Service;

“(C) the protection of minimum instream flows for environmental and watershed management purposes on National Forest land through purchases or exchanges from willing sellers in accordance with State law;

“(D) the effects of any of the recommendations made under this paragraph on existing State laws, regulations, and customs of water usage; and

“(E) measures that would be useful in avoiding or resolving conflicts between the Forest Service’s re-