

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Section repealed by Pub.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.)

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As originally enacted, this section contained following the word “forest” the words “or reservoir site”.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.

REPEAL; SAVINGS PROVISION

Section repealed by Pub.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. Such repeal not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note 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 bypass flows or any other relinquishment of the unpaired 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 responsibilities for natural resource and environmental protection, the public interest, and the property rights and interests of water holders with special use permits for water facilities, including the study of the Federal acquisition of water rights, dispute resolution, mitigation, and compensation.

“(4) FINAL REPORT.—As soon as practicable, but not later than 14 months, after the date of enactment of