

under the authority of section 521e of this title if the sale is a competitive sale.

(Pub. L. 97-465, § 2, Jan. 12, 1983, 96 Stat. 2535; Pub. L. 115-334, title VIII, § 8621(c), Dec. 20, 2018, 132 Stat. 4852.)

AMENDMENTS

2018—Pub. L. 115-334, § 8621(c)(1)–(3), designated first sentence as subsec. (a) and inserted subsec. heading, designated second sentence as par. (1) of subsec. (b), inserted subsec. and par. headings, and substituted “covenants” for “convenants”, and designated third sentence as par. (2) of subsec. (b), inserted par. heading, and substituted “Paragraph (1) shall not” for “The preceding sentence shall not”.

Subsec. (c). Pub. L. 115-334, § 8621(c)(4), added subsec. (c).

§ 521e. Small parcels and road rights-of-way

The National Forest System lands which may be sold, exchanged, or interchanged under sections 521c to 521i of this title are those the sale or exchange of which is not practicable under any other authority of the Secretary, which have a value as determined by the Secretary of not more than \$500,000, and which are—

(1) parcels of forty acres or less which are interspersed with or adjacent to lands which have been transferred out of Federal ownership under the mining laws and which are determined by the Secretary, because of location or size, not to be subject to efficient administration;

(2) parcels of ten acres or less which are encroached upon by improvements occupied or used under claim or color of title by persons to whom no advance notice was given that the improvements encroached or would encroach upon such parcels, and who in good faith relied upon an erroneous survey, title search, or other land description indicating that there was not such encroachment;

(3) road rights-of-way, reserved or acquired, which are substantially surrounded by lands not owned by the United States and which are no longer needed by the United States, subject to the first right of abutting landowners to acquire such rights-of-way;

(4) parcels of 40 acres or less that are determined by the Secretary—

- (A) to be physically isolated from other Federal land;
- (B) to be inaccessible; or
- (C) to have lost National Forest character;

(5) parcels of 10 acres or less that are not eligible for conveyance under paragraph (2) but are encroached on by a permanent habitable improvement for which there is no evidence that the encroachment was intentional or negligent; or

(6) parcels used as a cemetery (including a parcel of not more than 1 acre adjacent to the parcel used as a cemetery), a landfill, or a sewage treatment plant under a special use authorization issued or otherwise authorized by the Secretary.

(Pub. L. 97-465, § 3, Jan. 12, 1983, 96 Stat. 2535; Pub. L. 115-334, title VIII, § 8621(a), (b), Dec. 20, 2018, 132 Stat. 4852.)

AMENDMENTS

2018—Pub. L. 115-334, § 8621(a), substituted “\$500,000” for “\$150,000” in introductory provisions.

Pars. (4) to (6). Pub. L. 115-334, § 8621(b), added pars. (4) to (6).

§ 521f. Costs of conveyance and value of improvements

Any person to whom lands are conveyed under sections 521c to 521i of this title shall bear all reasonable costs of administration, survey, and appraisal incidental to such conveyance, as determined by the Secretary. In determining the value of any lands or interest in lands to be conveyed under sections 521c to 521i of this title, the Secretary may, in those cases in which the Secretary determines it would be in the public interest, exclude from such determination the value of any improvements to the lands made by any person other than the Government. In the case of road rights-of-way conveyed under sections 521c to 521i of this title, the person to whom the right-of-way is conveyed shall reimburse the United States for the value of any improvements to such right-of-way which may have been made by the United States. The Secretary may, in those cases in which the Secretary determines that it would be in the public interest, waive payment by any person of costs incidental to any conveyance authorized by sections 521c to 521i of this title or reimbursement by any person for the value of improvements to rights-of-way otherwise required by this section.

(Pub. L. 97-465, § 4, Jan. 12, 1983, 96 Stat. 2536.)

§ 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, act Feb. 15, 1901, ch. 372, 31 Stat. 790; Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793; Pub. L. 113-287, § 7, Dec. 19, 2014, 128 Stat. 3272, which authorized the Secretary of the Interior to permit the use of rights-of-way through the public lands, forest and other reservations of the United States, and the Yosemite, Sequoia, and General Grant national parks, California, for various public utility purposes, was omitted in view of the repeal of its provisions 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 by Pub. L. 94-579. Act Feb. 15, 1901 is also classified to section 959 of Title 43, Public Lands, and was also classified to section 79 of this title prior to its omission from the Code.

§ 523. Omitted

CODIFICATION

Section, acts Mar. 4, 1911, ch. 238, 36 Stat. 1253; May 27, 1952, ch. 338, 66 Stat. 95; Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793; Pub. L. 113-287, § 7, Dec. 19, 2014, 128 Stat. 3272, which authorized heads of departments to grant easements for rights-of-way on “the public lands, national forests, and reservations of the United States” for electrical power and communications purposes, was omitted because its provisions, as they related to public lands and lands in the National Forest System, were repealed by Pub. L. 94-579 and because act Mar. 4, 1911, is also classified to section 961 of Title 43, Public Lands. It was also classified to sections 5 and 420 of this title prior to their omission from the Code.

§ 524. Rights-of-way for dams, reservoirs, or water plants for municipal, mining, and milling 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.)

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 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.