

12/06/10 (2)

RG 95 RECORDS OF THE FOREST SERVICE

**DEPARTMENT OF AGRICULTURE.
FOREST SERVICE. REGION 10
(ALASKA REGION). JUNEAU, AK.**

Subject Correspondence, 1908 - 1976

ARC#: 1137914

BOX 56 OF 109

RECREATION AND LANDS

Submitted by Kenai Division

Special Uses

Mining Claims 1. The Forest Service issued a special use residence charge permit for a certain plot of ground. 2. Another party held a valid mining claim which completely includes the permit area. 3. The Forest Service changes permit to a homesite at a time when mining claim is still valid. 4. As of July 1 following issuance of the homesite permit, the mining claimant does not file intention to hold his claim for the following year.

Question: Can previous residence on this plot of ground be allowed in lieu of the fact that both the residence permit and homesite permit were issued and in effect while the valid claim existed?

Solution: Residence time counted toward elimination can probably be counted since no adverse claim was entered by the mining claimant.

Reference: Case folder of Henton's homesite permit, Kenai Division.

It is suggested that if this question is used, Lands could provide more accurate references for checking the solution. It is noted that Henton's original permit was not a residence as stated in the question but a resort.

Homesite residence requirements.

1. John Doe moves on a homesite October 1, 1948, and resides there to the exclusion of a home elsewhere for two years. He builds a substantial home and lives up to the terms of his special use permit.
2. March 1, 1950, Mr. Doe is forced to move to a town 50 miles away to obtain necessary employment and finds that it is impossible to commute back and forth to his special use site. He rents a house in the town where his work is located and lives there until October 1, 1951.

QUESTION: How long will it be before Mr. Doe can have the homesite

Recreation and Lands - submitted by the Kenai Division continued - 2

eliminated from the National Forest if he moves back on October 1, 1951?

Does the time spent on the homesite for the first two years count toward elimination?

Answer: Mr. Doe can apply for elimination on October 1, 1954.

The first two years do not count, since residence was broken.

Ref: NF-H5-60(3) & U-530

Special Uses.

A local citizen, Mr. "A" made application for and was granted a Special Use Permit for a given lot. Several months lapsed and another party, Mr. "B" called at the office and stated that he wished to make application for the lot that was now under permit to Mr. "A".

He was informed that the lot was already under permit and in turn he produced an inked note, signed by Mr. "A", stating that in the event Mr. "A" did not make any improvements he would turn the lot over to Mr. "B". To further complicate the case, a month later Mr. "A"

brought in a third party Mr. "C" and stated that he wished to relinquish his special use site to this third man.

During the entire period the original permittee had constructed no improvements and therefore did not live up to the terms of his application and permit. His calendar year rental was paid until Dec. 31 which was approximately three months away.

Question: 1. (a) Was Mr. "B" entitled to take immediate possession?

(b) If not, what answer should be given to Mr. "B"?

2. Did Mr. "A" have the right to relinquish his site to Mr. "C"?

If not, explain.

Answers: 1. (a) No. Mr. "A" had paid rental on his site until the end of the calendar year and in our opinion was entitled to utilize that time to construct his improvements.

(b) Mr. "B" was informed that in the event Mr. "A" had not constructed any improvements by Dec. 31 the permit would be closed and that Mr. "B" ^{as first applicant after his permit was cancelled?} would be given first priority in making application for the lot.

2. Mr. "A" does not have the right to relinquish his lot to another party until such time that he has ^{substantial} constructed ^{substantial} [necessary] improvements and shows good faith other than using his permit for speculation.

Question

A homesite permittee has completed the required period of residence on his homesite. He has constructed a habitable dwelling and other improvements which compare favorably with improvements in the vicinity. He now wishes to sell his improvements to another party and asks if this is possible, what steps he should take to comply with Forest Service requirements and what rights, in connection with the homesite, he can pass on to the buyer. It is assumed that elimination from the Forest has not been requested.

(A) How would you answer this man's question? (B) What steps should the Forest Officer take before approving the sale? (C) What steps should the Forest Officer take after the sale of improvements is completed?

Ref: NF-H5-6 (1) & (2) - NF-H5 (1) - NF-H5 (18) Circular 1342-Dept. of Interior, Information Bulletin 1939 Series #2.

Answer:

A.- The man's question should be answered by telling him that it is possible to sell his improvements but that he should first get the permission of the Forest Service. The reason for requiring permission to sell should be explained to the Permittee. The fact that he can sell the improvements but does not own the land should also be explained. The fact that the seller can't pass on his residence period to the buyer but that the buyer must complete his own residence requirements should be explained. If possible these points should be explained to both the buyer and the seller

*Better answer
clearer*

*Does F.O. give permission for sale?
Results in this actually but not needed right.*

B.- Before giving his permission for sale of the property the Forest Officer in charge should check through the files to see whether there are outstanding obligations against the improvements. If there are outstanding obligations in the form of a mortgage the written permission of the mortgagee to the sale ^{Must} ~~should~~ be secured. After this point is cleared up the seller should be required to execute a "Form of Relinquishment of Special Use Permit" This form should be completed in as many copies as is necessary to give all interested parties a copy. The minimum number of copies would be one for the buyer, one for the Division office and one for the Regional office. *Mortgage? -*

C. - When the above steps have been completed the Division Supervisor should prepare as many copies as is necessary of form 832, "Special Use Permit". This should be made out to the new permittee in a minimum of three copies. One copy for the buyer, one copy for the Division. It is also wise to make sure that the buyer is eligible for a homesite. The Forest Officer should ascertain that he is a citizen and if he is not explain to him that he is not eligible for a homesite. It would also be wise to find out whether he has previously obtained patent to a homesite in Alaska. If he has the fact that there may be a question regarding his eligibility for another homesite should be explained to him.

These answers could be briefed and clarified.

RECREATION AND LANDS

Submitted by Southern Division

Question: What action should a Forest officer take when observing a violation of commercial fishing in the mouth of a posted salmon stream?

Answer: Forest officers will assist in fish and wildlife law enforcement. With reference to illegal commercial fishing the date, hours, location and names and numbers of boats will be recorded. The Fish and Wildlife Service will be advised as soon as possible by radiophone or other means.

Ref: R-10 Supplement of 8/4/50 NF-D4 (3)

Note - Good photographs showing boat and shoreline would be a great help.

Question: A Forest officer on duty apprehends a hunter who has just killed a doe. In making the necessary approach and questioning of the violator, the latter gets hostile and threatens the Forest officer with his gun which accidentally discharges and slightly wounds the officer in the leg. What would be the maximum penalty the violator would be subject to?

Answer: Besides a fine by the U. S. Commissioner the violator would be subject to a fine of not more than \$10,000 or imprisonment for not more than 10 years, or both.

See NF-D4-7(1).

*W.A.C. could both fines be levied? Can man be
plaid in jeopardy twice!*

RECREATION AND LANDS

Submitted by Southern Division

Special Uses

Question: In considering the Division Recreation Plan how large can the individual units be?

Answer:

The Division will be divided into units. A unit will contain all areas along a given highway and connecting lateral roads, all areas around settlements, and logical units along water ways. Ordinarily it will have natural geographic boundaries but may include more than one watershed. The chief purpose of the unit is a subdivision of the Division into areas which will be convenient size to describe and refer to in the Plan.

Ref: R-10 Supplement Dated 3/24/50 NF-G2

and have somewhat similar characteristics or can be developed into a large recreational unit. }

RECREATION AND LANDS

Boundaries

Question: What methods can be followed to obtain patent to lands having National Forest Status?

Answer: At the present time title to lands within the National Forests of Alaska may be obtained through one of the following methods:

1. The Forest Home stead Act of June 11, 1906.
2. The Mining Laws as they apply to the Territory.
3. By elimination from the Forest of not to exceed 5 acres as a homesite.
4. By elimination from the Forest of not to exceed 80 acres for a resort or an industrial site under the Trade and Manufacturing Site Act of May 14, 1898.

Eliminated land immediately assumes public domain status and falls within the jurisdiction of the Department of the Interior.

Reference is the statement by Regional Forester B. Frank Heintzleman dated July 20, 1945, on the Policies and Procedures governing the acquisition and use of lands in the National Forests of Alaska.

5. By use of script on areas eliminated ?

Question:

1. What is the primary objective of a roadside zone?

Ans: Maintenance of attractive and natural conditions in the landscape closely visible to the traveler. Ref: NF-G3(20)

2. Is there any road or trail use within a Scenic Area?

Ans: Yes. That which is necessary to reach and enjoy the area Ref NF-G3(28)

3. If lot lines are within the set-back distance from the road, are they to be adjusted to the standard distance?

Ans: Yes, whenever possible Ref: NF-G3(20)

4. Can timber sales of more than ten acres be made along the shore in "Wide Steamer Lane Zones"?

Ans: Yes, if approved by the Regional Forester. Ref; NF-G3(20a)

Question

1. What is the maximum acreage which may be eliminated as an Industrial Site and for a Homesite?

Ans: Industrial - 80 acres; Homesite 5 acres. Ref: GA-A3 (41d)

2. Under a Special Use Homesite Permit, a permittee must live as a yearlong resident in a habitable house for what length of time before he may apply to the Secretary of Agriculture for elimination from the National Forest?

Ans: 3 years Ref: GA-A3 (41c) *unless military credits*

3. When adjustments in boundaries crossing unsurveyed areas are proposed, all adjustments of this character must be reviewed by the Chief of the Forest Service and approved by what office?

Ans: General Land Office Ref: LA-B5 (4)

4. If it is found that title to certain land is legally insufficient for the purposes for which such land or interest was acquired, is it possible to have this defect rectified?

Ans: Yes. Ref: GA-A2-10

Questions

1. Ordinarily, what percent of the ultimate net area should have been acquired or be under purchase contract before formal establishment of a National Forest is recommended?

Not pertinent here

Ans: 40% Ref: LA-B5 (1)

2. What 3 markers are recommended in marking temporary survey boundaries?

Not clear

Ans: Stakes, cruising posters, and paint marks. Ref: NF-L2-2(4)

3. Is the Forest Service authorized to make official surveys of land boundaries or property lines?

Ans: No. Ref NF-L2-2(2)

4. Into what 3 general classes may National Forest boundaries be divided?

Not pertinent here

Ans: Exterior, Inter-forest, and Interior. Ref: NF-L2-2(3)

A permittee has occupied a homesite as a permanent home to the exclusion of a home elsewhere for the prescribed period of 3 years. Application for elimination was made and approved. He was notified in the early part of the year that the homesite was recommended for elimination. During the month of September the permittee sent a check to the Regional Fiscal Agent to be applied to his next years rental. At that time the permittee had received no word that his homesite had been eliminated from the national forest.

Question.

1. (a) Due to the fact that elimination proceedings have begun is the permittee obligated to keep up on his rental payments?

(b) If so, for how long a period?

2. Should the check received in September be applied to the next years rental - what action should be taken?

3. Permittee asks why must his homesite be eliminated from the national forest before he can obtain patent to it and how much is it going to cost him to purchase the tract after it has been eliminated.?

Answers

1.(a &b) Yes. Permittee must pay the calendar year rental fee until the area is actually eliminated. (Refer: Lands Manual page 6 "Rental" and NF-H5-6 "Elimination").

2. There are two alternatives:(1) The rental fee for the next calendar year may be held in suspense until January 1 and then applied as payment or it may be refunded in the event the area is eliminated before December 31.

(2) The rental fee may be applied to the next calendar year and if the homesite is eliminated before Dec. 31, of the current year, the permittee may submit a written request and will receive refund of the unearned rental.

(Ref: Lands Manual page 6 "Rental".)

3. Due to an ammendment made in 1934 to a Public Lands Act, a citizen of the U.S. who has occupied a tract of land, in a habitable house with the exclusion of a home elsewhere, for a period of 3 years, may purchase the tract, not exceeding 5 acres, upon payment of \$2.50 per acre (minimum charge of \$10.00), under rules and regulations prescribed by the Secretary of the Interior. This Act does not apply to National Forest lands but to unreserved public domain and therefore the homesite are eliminated from the National Forest to change their status to Public Domain land in order that they may be included under the above mentioned act.

(Refer NF-H5-6 (1))

A new road is in the making and is to be situated on national forest land. The road will open new country and at its proposed terminus is located a very scenic glacier. The general public is aware of the new project and both individuals and groups are eager to take out special use permits in the area near the glacier. A recreation plan is being devised for the area. There have been inquiries in relation to the establishment of summer homes, a possible hotel, summer camps to be maintained by fraternal organizations, the city wants to establish a picnic ground, and private clubs wish to erect club houses.

Questions:

1. What policy should the Forest Supervisor adopt to accommodate the above applicants and to complete a suitable unit plan?
2. What order of preference should be assigned to the above groups?

Answers:

1. The Forest Supervisor should adopt a plan that will permit occupancy resulting in the highest utilization of the area on the basis of broad public service and interest. The above applications show that the area will receive heavy use by the public and a public campground and picnic area is definitely in order. *of approx 5125*
2. The following preference list should be established:
 1. A municipally controlled picnic ground.
 2. Summer camps, maintained by fraternal organizations.
 3. Commercial hotel.
 4. Club houses for use by private clubs.
 5. Summer homes.

These are subject to exceptional cases where administrative decisions will be necessitated.

(Answers 1 and 2 - Refer: pages 98L¹ and 99 L, N.F. Manual)

RECREATION AND LANDS

Adjustments Submitted by PWS Division

A local citizen filed a mineral claim that extended onto a homesite. The homesite permittee had 1 month left to complete his residence requirements and intended to apply for elimination. The Claimant informed the homesite permittee of his doings and stated he was going to cut some of the timber located on the homesite (which is now included in the mineral claim) to be used to develop his claim. The permittee was very perturbed over the matter and asks the following questions:

Question:

1. Has the claimant any right to cut timber from the homesite?
2. Will the homesite be eliminated under present conditions?

Answers (Assuming the claimant has a valid claim)

1. The claimant may cut the timber located on his claim if this timber is to be used for purposes of developing the mineral resources on the claim. (Refer: NF-H-6(3) "Rights of Claimant")
2. No, If the claim is proved to be valid - the homesite will not be eliminated.

(Refer: NF-H5-6(3) "Requirements necessary for elimination")

guess this is right but certainly screwball

Discuss the fundamental factor to be considered prior to the issuance of a requested special use permit. NF-H5 (2) to NF-H5 (3)

Answer

The fundamental factor to be considered prior to the issuance of a special use permit, On National Forest Land, is the principal of the most good to the largest number of people. With this thought in mind the public should be provided for first and priority of uses should be kept in mind. Special uses should be coordinated with other uses and should not be allowed to interfere, to an unjustified degree, with other uses such as, the utilization of timber and other resources and the use of the area by the general public.

Question

As Foresters and Land Managers it is essential that our special use business be correlated with other land uses. With this thought in mind; you have received an application for a residence permit, upon an area where there is a possibility that needs for the following uses may arise in the future:
(1) a public camp and picnic area (2) a migratory water fowl resting area.

Discuss the priorities involved and tell what your solution to the above problem would be NF-H5 (2) & (3)

Answer

The forest officer, as a land manager, must decide which of the possible uses is of highest priority. He must then decide which of the uses there is apt to be a demand for within the foreseeable future and which of the possible uses the area is most suited for.

All things being equal, the use which will involve the most benefit to the greatest numbers of people will dominate. It might be possible, however, to allow a less desirable use until such time as the dominant use is actually eminent. or imminent?

Recreation and Lands Special Uses submitted by Petersburg

If the area is suitable for a residence site, and a public camp and picnic ground isn't planned or needed in the foreseeable future, it would be possible to issue the residence permit with the stipulation that it will be revoked when it becomes possible and desirable to develop the public camp and picnic area. If there are definite plans to develop the area for public use the residence permit should not be issued.

The same principal is involved in the case of the migratory water fowl resting area. If the plans for the resting area are definite no private use should be allowed to interfere with the dominant use. If the plans for the resting area are vague and based on the belief that future population and hunting pressure might make such an area desirable, the residence permit ^{can} should be issued. This is predicated on the assumption that the area requested is suitable for a residence site and that there will be a stipulation in the permit that the residence permit may be terminated should the area be included in a future water fowl resting area.

It is believed that the guiding principal is that it is necessary to make plans for the future and that provisions to carry out these plans should be made. It is also necessary, especially at the present stage of development in Region 10 to provide for immediate needs. It is important that large areas of land be not closed to desirable use and development simply because there are vague plans for some future use which might be more desirable. It is difficult to see into the future and these plans might not materialize and, if they do, might not come to pass for a long time in the future.

Establishing zones of aesthetic values.

I. There is a natural wilderness area of over 100,000⁰⁰ acres in extent. You desire to set aside all or part of this area under one of the following designations: (1) Wilderness area (2) Wild Area (3) Roadless Area (4) Virgin Area (5) Natural Area. There are large potential commercial values in pulp and spruce saw timber on the area.

IA. - Discuss the various methods, listed above, under which all or part of this area could be set aside.

IB. - What solution would you recommend under conditions now existing in Region - 10 NF-G3 (23) to NF - G3 (28)

ANSWER

IA. - The entire area could be set aside as a wilderness area. A Wilderness Area is an area of at least 100,000 acres which is characterized by primitive conditions of habitation and transportation. All uses such as resorts, summer homes, homesites, camps and other commercial uses are excluded.

The entire area could be set aside as a "Roadless Area". Permanent roads and special uses would be excluded but the utilization of the timber and other values would be allowed, under conditions which would provide for the preservation of many of the wilderness values.

A portion of the tract could be set aside as a "Wild Area". This is the same as a Wilderness Area except that it is less than 100,000 acres in size. In all of the areas listed above the fact that there may have been cutting in the past would not necessarily influence the establishment of the area.

A portion of the area could be set aside as a Virgin Area. This is an area which has been virtually undisturbed in the past and the purpose of setting is aside is to provide for the enjoyment of association with undisturbed nature

- 2 - Recreation and Lands - Establishing zones of aesthetic values by (P)

as found in the forest. A Virgin Area should not be smaller than 5,000 acres. There will be no commercial uses of any sort and no provisions for camping or picnicking. A road may be permitted if necessary and well located trails will be built. The area is designed for use by the public but disturbance or damage, caused by public use, should be held to a minimum.

An even smaller portion of the tract could be set aside as a Natural Area. This is an area, which is not large enough to qualify as a Virgin Area, and which is set aside to preserve certain botanical or biological values. It also differs from a Virgin Area in that public use will not be encouraged. No roads will be permitted in Natural Areas.

IB. It isn't believed that Region 10 has reached the stage of development where the setting aside of large areas such as Wilderness or Roadless Areas is justified. Much of our forest area is, in effect, a Wilderness Area. Should future large scale development become imminent, over large portions of our forests; we could then consider the advisability of setting aside such large areas as are stipulated in Wilderness, Roadless Areas or Wild Areas.

When we get down to such areas as Virgin or Natural Areas it's probable that we should soon consider setting aside relatively small tracts such as these. This is especially true, at the present time, in connection with saw timber stands. It's probable that in the near future most of the predominately spruce saw timber stands, that are accessible to the general public, will have been cut. I would recommend that a portion of this large tract be set aside as a Virgin spruce sawtimber area. In later years if use became so heavy that the natural values were being endangered a portion of this Virgin Area could then be set aside as a Natural Area.

Who approves appointment of a mineral surveyor? *Deputy Mineral Surveyor?*

Ans. General Land Office? *Commissioner? Surveyor General? Some persons in the office.*

Who has authority to revoke the appointment? Ans: Surveyor General

Ref GLO cir 430 p. 72

Can an ~~official~~ official surveyor employ a claimant to help survey a mineral claim? Ref GLO cir 430 p 79 par. 168 *No*

How many placer claims can be legally located by an individual during the period of one calendar month? *2.*

GLO 430 p 32 Ans: 2 claims

What is an Official Survey?

One made according to instructions approved by the Surveyor General.

Made by whom?

How can an official Survey be identified in the field/?

By the distinctive type of corner posts or stakes on which the survey number is stamped.

When rock instead of brass cap stakes are used for marking section corners and you found a rock with 5 horizontal ^{grooves} ~~bars~~ chiseled on the South face and 3 on the east face it would be the common corner to what 4 sections?

3, 4, 9, and 10.

Are there used any more?

What is the distinction between a U.S. Survey, H.E.S., MS and Exchange Survey?

HES, MS & Exchange surveys are all U.S. Surveys.

A HES is only for June 11 homesteads.

A MS is only for Mineral Claims.

An exchange Survey is a special survey for use in Forest Service land exchange.

What do the following survey markings denote?

B. O. Bearing Object

B. R. Bearing Rock

B. T. Bearing Tree

W Witness

M.C. Meander Corner

W. C. Witness Corner

H. Homestead

HES
H. S. Homesite

S. U. Special Use

P.S.S. Public Service Site

R. Administrative Site

Juneau, Alaska
March 16, 1951

K
PERSONNEL
Training
Manual Examinations
ANSWERS AND COMMENTS

MANUAL EXAMINATIONS
RECREATION AND LANDS NO. 2
ANSWERS AND COMMENTS

Answer No. 1.

- | | |
|-----------------------------|---|
| 1. Pipeline | 7. Airplane Landing Field Beacon & Hangar |
| 2. Water Transmission | 8. Residence |
| 3. Cannery & Packing Plant | 9. Water Transmission |
| 4. Warehouse & Cold Storage | 10. Road Bridge Driveway Trail |
| 5. Radio Station | 11. Mill & Factory |
| 6. Radio Station | 12. Mining & Prospecting. |

Ref. NF-H-Appendix (26)- (30)

Comments. The purpose of this question was to emphasize the limited number of approved designations there are for Special Use Permits. Only designations listed in the NF-H Appendix 26-30 should be used. When permits are assigned incorrect designations, the correct designation that is used in compiling the statistical report is generally shown in red ink on the 619 card record.

Answer No. 2.

$$\frac{12000}{30 \times 25} + \frac{150}{30} + 10 + 16 + 5 + 10 = \$31$$

Ref: Volume 3 NFH-5-2 (3)

Most answers were correct although a few overlooked adding the recreational space, (equivalent to 2 lots) to the 28 residence lots. The Government should bear its pro-rate cost in the amortization.

Answer No. 3.

Administrative map is a printed map on which is shown as much general detail as possible.

Compiled map. is compiled from other maps.

Constructed map is map compiled from field notes, aerial pictures and surveys.

Ref: NF-L Title 2, par. 103.2

Answer No. 4.

- A. yes. NF-L Chapter 1, p.4
- B. Surveyor General GLO 235
- C. Surveyor General GLO 235
- D. F.S. NF-L Chapter 1, p 4.
- E. No. NF-L Chapter 1 p.4.

Homestead entry survey corners are official and cannot be reestablished by F. offic

Answer No. 5.

- A. By patent of claim with shore frontage. GLO 491, p. (78)
B. No (The object of the reservation is to prevent patent.) - ELO 49, p. 78
C. Request petition to restore to entry. ELO 491 p 78
D. No. E 491 p 78
E. T & M Site GLO 491, p (80)

Answer No. 6

- A. 20 a. 660 x 1320
B 40 a. 660 x 2640 (max. in Alaska is 2 ordinary claims)
C. 20.6 a. 600x 1500
D. No.
E. Consecutive days at end and beginning of following month.
F. 80A. 80 rd. 20 Chains $\frac{1}{4}$ mile

Ref A. to E. Roden's Mining Laws, F. GLO 491 p. 112-113.

Answer No. 7.

Clauses B or C may replace No. 8 Form 832 (Clause A.) NF H-5.

Answer No. 9.

- A. No (it is so stated in the Act) NFH5 (6a)
B Yes (it is not stated in the Act) NFH5 (6a).
C. Public Convenience. Resorts, hotels, stores, filling station, etc. NF-H5(7).
D. No. NFH5 (7) + (6a)

Answer No. 10.

This question refers to Section 7 of the Granger Thye Act., Public Law 487, see GA-A1-16(3) and GA-A3 (41b) Ref. U. 12, par. 2. also explained in Cir. U-240.

Answer No. 11.

This question was poorly stated and no deductions were made in any of the papers if answers were not as intended. The question was intended to emphasize the difference between terminating, canceling or revoking Special Use Permits and the authority of different officers in this action. As a general guide to follow the issuing office can terminate a Special Use Permit for violation of the terms of the contract or in many cases it may be a t the request or concurrence of the permittee. If it is assumed that the permittee will object to the action it would be advisable to give him notice of the contemplated action and give opportunity to file his objections.

Ref: NFH5 (16)

Answer No. 12

Obtain advise from Regional Attorney NFH5 (17).

Answer No. 13

Yes Ref: BLM letter 5/10/50 L-Legislation.

Answer No. 14

A. Only to extent that other use may interfere with Highway.

B. BPR NFH 5 - 2 (15) (R-10 Supplement).

Land Quiz.

What is the date of establishing
The First Nall Forest.

What is the date Region 10
was established

Who was the first Regional
Forester of Region 10. What was
his official title at that time.

Who was the first Forest Super-
visor in Region 10. Who was
his Regional Forester, and
where located.

Can a homesite permit be
issued to two persons.

Can residence on an area
subsequent to H.A. and prior
to listing be credited to a
homestead.

Correct question regarding
ownership of improvements on
a relinquished homestead.

U. S. Forest Service

Washington 25, D.C.

R-101
[Handwritten signature]
[Handwritten signature]

Region 4

June 21, 1957

John Sicker, Director, Division of Recreation and Land Uses

U-SUPPLEMENT, Manual Revision, Regulation U-1.

Thank you for calling our attention to the discrepancies in Regulation U-1 (36 CFR 251.20) as it appears in Volume 1 and Volume 3 of the Forest Service Manual and the Federal Register Supplement for use in 1956. Unfortunately the error in the 1956 supplement has been carried over to the one just out for use in 1957.

We have checked all of these and find that the regulation as it appears in Volume 1 is correct with one inconsequential error; that is the word "above" is used rather than "of this section" in line 3 of paragraph "10." This resulted from a change in the Federal Register Division of the Archives from the Secretary's text to conform to Federal Register regulations with respect to references. Micrographed copy, dated November 1955, and transmitted with my classification letter of November 30, 1955, to all regions is correct and in accord with the regulation as it was published in the daily issue of the Federal Register for November 10, 1955 (20 F.R. 8122).

The Division of Operation has been requested to provide for pen and ink corrections in both volumes of the Manual and the Federal Register will make the necessary corrections in the next supplement to be issued for use during 1957. In the interim, all references or citations should be to (36 CFR 251.20), as amended November 4, 1955, and published in the daily issue of the Federal Register for November 10, 1955 (20 F.R. 8122). (The revision in paragraphs (b) and (c) were made in the supplements but not in paragraph (a).)

JOHN SICKER

Corrections made in Vols. 1 + 3, FSM. mfs.

- 1 cc: 1-2
- 1 cc: 1-3
- 1 cc: 1-4
- 1 cc: 1-5
- 1 cc: 1-6
- 1 cc: 1-7
- 1 cc: 1-8
- 1 cc: 1-9
- 1 cc: 1-10 ✓

FILE COPY

1785

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

R-10

Address Reply to
CHIEF, FOREST SERVICE
and Refer to



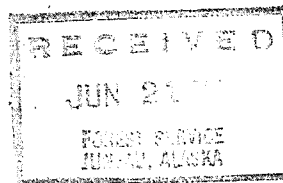
WASHINGTON 25, D. C.

U
SUPERVISION
Manual Revision
Mining

In Circ file

May 15, 1956

REPLY DUE APRIL 1, 1957
Circular No. U-318



Regional Forester
All Regions

Dear Sir:

We are glad to forward you proposed Chapters NF-H6 and NF-H6-1 and an appendix for the Mining section of the National Forest Manual.

The first chapter is a General Statement of the various laws authorizing mining on the national forests. The second chapter is the first breakdown of the subject; it deals with the General Mining Laws. The appendix also deals with the general mining laws.

W.H.J.

These chapters are for your use and guidance the same as though they were parts of the Manual. They were prepared initially in 1954 and revised somewhat in April 1955. They do not take into consideration the act of July 23, 1955 (69 Stat. 368-373; Public Law 167 - 84th Congress), amending the Materials Act and the general mining laws, nor the act of August 11, 1955 (69 Stat. 681-683; Public Law 359 - 84th Congress), opening power withdrawals to mining. The Assistant General Counsel, on April 10, 1956, advised that these chapters are without legal objection "subject only to changes which might be necessary because of the recent legislation." The detailed instructions which you have received in circular letter form pursuant to those acts should be used in conjunction with the enclosed chapters. We think it more important to get this material to you now, than to take the time to revise these chapters to take into account the new acts.

W.H.J.

No date has been set for incorporation of these chapters in the Manual. Please use them and let us have your comments and suggestions for improving these chapters by April 1, 1957. We will then revise them and send them out as parts of the Manual.

*1-Johnson
1-Buschbold
Dist - 1 ea. 5
1 circ file*

Promise Card Prepared
Dated 3-15-57
Initials WMS

(Over)

1785b

(9)

it was issued. The President has delegated his authority to the Secretary of the Interior. (See Executive Order 10355 of May 26, 1952, 17 F.R. 4831, 43 U.S.C. 141, note, superseding Executive Order 9337 of April 24, 1943, 8 F.R. 5516).

Lands Appropriated by the Government for its Own Use. When lands are actually and obviously occupied or used by a Government agency for a purpose authorized by law, such lands have been appropriated to a lawful use and are not subject to mineral location. Any area appropriated to administrative use should be fenced or posted, so that the existence and extent of the appropriation will be obvious to potential mineral claimants. Formal withdrawal is advisable. The leading case on the appropriation of lands by the executive branch of the Government is Wilcox v. Jackson, 13 Pet. (U.S.) 496 (1839).

Lands Held under Permit. Lands occupied or used under a term permit for a purpose authorized by law are withdrawn from location. It is not known whether a valid mining location can be made on land used for summer home or resort purposes under a revocable special use permit. However, in a decision based on other legal grounds, it was stated that land was not subject to mineral location when it was covered by a special use permit which, though not so characterized by the court, was a revocable permit. (United States v. Mobley 45 Fed. Supp. 407, U. S. District Court, Calif.). It has been held that national forest land in Alaska was withdrawn from mineral location when it was covered by a designation, which was tantamount to a special use permit, providing for a source of road building material under the authority of the Alaska term permit act (48 U.S.C. 341) and sec. 17 of the Federal Highway Act 207 Fed. 2d. 325, U. S. Circuit Court of Appeals for

1785b

(10)

1785b

the Ninth Circuit, on appeal from the District Court for the Territory of Alaska.

Lands under Timber Sale Contract or Included in Sustained Yield Unit.

The execution of a timber sale contract or the establishment of a sustained yield unit is subject to all valid claims which were located: (1) prior to the first publication of the notice of sale or notice of hearing in connection with the establishment of a sustained yield unit; or (2) prior to the execution of the sale agreement where disposal is without publication of notice (see timber regulation, 7 FSM 104.1. Timber on such existing valid claims may be used by the mining claimant in the same manner and to the same extent as though no sale had taken place or no sustained yield unit had been established. Where a mining claim is located on land previously included in a sale or unit area, the Forest Service does not challenge the validity of the claim on that ground, nor does it object to free use of timber on the claim for mining purposes if such use will not interfere with the fulfillment of the timber sale contract or is not inimical to the purposes for which the sustained yield unit was established.

Lands Traversed by Forest Roads and Trails. Where a mining claim is located on national forest land which is traversed by a forest development road or trail used by the Forest Service or under its authority, any rights acquired by virtue of the location are subordinate to the uses for which the road or trail is maintained. (Ref. Sol. Op. No. 5520). A valid mining claim may be located across a road or trail but the locator may not interfere with the use of such road or trail or the maintenance thereof and the roadway would be excepted from the operation of mineral patent,