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36 CFR Ch. II (7-1-07 Edition)

under the Act of March 3, 1925, as amended (43 Stat. 1133, 64 Stat. 82; 16 U.S.C. 555).

(c) In cases where a State, or an agency, or a political subdivision thereof, reserves minerals, oil, gas, or other inorganic substances, in the conveyance of land to the United States under authorized programs of the Forest Service and there are provisions in the laws of such State or in conditions, rules and regulations promulgated by such State, agency or political subdivision thereof, which the Chief, Forest Service, determines are adequate to protect the interest of the United States in the event of the exercise of such reservation, the Chief, Forest Service, is hereby authorized, in his discretion, to subject the exercise of the reservation to such statutory provisions or such conditions, rules and regulations in lieu of the conditions, rules and regulations set forth in paragraphs (a) (1) through (7) of this section. In that event, such statutory provisions or such conditions, rules and regulations shall be expressed in and made a part of the deed of conveyance to the United States and the reservation shall be exercised thereunder and in obedience thereto.

All regulations heretofore issued by the Secretary of Agriculture to govern the exercise of mineral rights reserved in conveyances of lands to the United States under authorized programs of the Forest Service shall continue to be effective in the cases to which they are applicable, but are hereby superseded as to mineral rights hereafter reserved in conveyances under such programs.

[28 FR 4440, May 3, 1963]

RIGHTS OF GRANTORS

§251.17 Grantor's right to occupy and use lands conveyed to the United States.

Except as otherwise provided in paragraph (h) of this section, in conveyances of lands to the United States under authorized programs of the Forest Service, where owners reserve the right to occupy and use the land for the purposes of residence, agriculture, industry, or commerce, said reservations shall be subject to the following conditions, rules and regulations which

shall be expressed in and made a part of the deed of conveyance to the United States and such reservations shall be exercised thereunder and in obedience thereto:

(a) Except when provided otherwise by statute, the reservation so created shall not be assigned, used, or occupied by anyone other than the grantor without the consent of the United States.

(b) All reasonable precautions shall be taken by the grantor and all persons acting for or claiming under him to prevent and suppress forest fires upon or threatening the premises or other adjacent lands of the United States, and any person failing to comply with this requirement shall be responsible for any damages sustained by the United States by reason thereof.

(c) The premises shall not be used or permitted to be used, without the written consent of the United States, for any purpose or purposes other than those specified in the instrument creating the reservation.

(d) The grantor and all persons acting for or claiming under him shall maintain the premises and all buildings and structures thereon in proper repair and sanitation and shall comply with the National Forest laws and regulations and the laws and lawful orders of the State in which the premises are located.

(e) Except when provided otherwise by statute, the reservation shall terminate: (1) Upon the expiration of the period named in the deed; (2) upon failure for a period of more than one calendar year to use and occupy the premises for the purposes named in the deed; (3) by use and occupancy for unlawful purposes or for purposes other than those specified in the deed; and (4) by voluntary written relinquishment by the owner.

(f) Upon the termination of the reservation the owners of personal property remaining on the premises shall remove same within a period of three months, and all such property not so removed shall become the property of the United States except that when such removal is prevented by conditions beyond the control of the owners the period shall be extended in writing

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by the Forest Service to allow a reasonable time for said removal, but in no event longer than one year.

(g) The said reservation shall be subject to rights-of-way for the use of the United States or its permittees, upon, across, or through the said land, as may hereafter be required for the erection, construction, maintenance and operation of public utility systems over all or parts thereof, or for the construction and maintenance of any improvements necessary for the good administration and protection of the National Forests, and shall be subject to the right of officials or employees of the Forest Service to inspect the premises, or any part thereof, at all reasonable times and as often as deemed necessary in the performance of official duties in respect to the premises.

(h) The conditions, rules, and regulations set forth in paragraphs (a) through (g) of this section shall not apply to reservations contained in conveyances of lands to the United States under the Act of March 3, 1925, as amended (43 Stat. 1133, 64 Stat. 82; 16 U.S.C. 555).

[33 FR 11452, Aug. 13, 1968, as amended at 36 FR 156, Jan. 6, 1971]

§ 251.18 Rights-of-way reserved by the grantor on lands conveyed to the United States.

This section governs the use, occupancy, and operation of rights-of-way reserved by a grantor of lands to the United States.

(a) Brush and refuse resulting from the exercise of the right-of-way reservation shall be disposed of to the satisfaction of the Forest Officer in charge.

(b) Timber cut and destroyed in the exercise of the right-of-way reservation shall be paid for at rates to be prescribed by the Forest Officer in charge, which rates shall be the usual stumpage prices charged in the locality in sales of national forest timber of the same kind or species; for injury to timber, second growth, and reproduction, the amount of actual damage shall be ascertained by the Forest Supervisor according to the rules applicable in such cases.

(c) All improvements built or maintained upon the right-of-way shall be

kept in an orderly, safe and sanitary condition. Failure to maintain such conditions shall be cause for the termination of the reservation after 30 days' notice in writing to the occupant or user that unsatisfactory conditions exist and that the Department intends to terminate all rights under the reservation unless such conditions are forthwith corrected to the satisfaction of the Regional Forester.

(d) Upon the abandonment of a reserved right-of-way, either by formal release, by termination, or by non-use for a period of one calendar year, all improvements thereon not the property of the United States shall be removed therefrom within three months from the date of the abandonment, otherwise such improvements shall vest in and become the property of the United States.

(e) All reasonable precautions to prevent and suppress forest fires shall be taken by the grantor and all persons acting for or claiming under him; suitable crossings shall be constructed by grantor and/or said persons where the reserved right-of-way intersects existing roads and trails; borrow pits shall not be opened outside of the immediate graded section except under a special use permit from the Forest Supervisor.

(f) Officers of the Forest Service shall have free ingress and egress on and over the reserved rights-of-way for all purposes necessary and incidental to the protection and administration of the national forest.

[3 FR 1953, Aug. 9, 1938]

§ 251.19 Exercise of water rights reserved by the grantor of lands conveyed to the United States.

This section governs the exercise of water and related rights reserved by the grantor of lands conveyed to the United States under the provisions of the act of March 1, 1911 (36 Stat. 961).

(a) All reasonable precautions shall be taken by the grantor and all persons acting for or claiming under him to prevent and suppress forest fires upon or threatening the premises or other adjacent lands of the United States, and any person failing to comply with this requirement shall be responsible for any damages sustained by the United States by reason thereof.