

Forest Service, USDA

§ 254.36

(2) Who in good faith relied on an erroneous survey, title search, or other land description which did not reveal such encroachment.

(b) Forest Service officials shall consider the following factors when determining whether to convey lands upon which encroachments exist:

(1) The location of the property boundaries based on historical location and continued acceptance and maintenance,

(2) Factual evidence of claim of title or color of title,

(3) Notice given to persons encroaching on National Forest System lands,

(4) Degree of development in the encroached upon area, and

(5) Creation of an uneconomic remnant.

§ 254.33 Road rights-of-way.

(a) Reserved or acquired road right-of-way parcels subject to conveyance under this subpart are limited to those which are substantially surrounded by lands not owned by the United States.

(b) Forest Service officials shall consider public road system right-of-way needs based on National Forest transportation planning and State and local law before making any conveyance of rights-of-way.

(c) Reimbursement will be required for the value of any improvements made by the United States or other highway authorities, unless waived by the Chief of the Forest Service.

§ 254.34 Mineral survey fractions.

(a) Mineral survey fractions subject to conveyance under this subpart are limited to those tracts which:

(1) Cannot be efficiently administered because of size, shape, or location;

(2) Are occupied or could be occupied or used by adjoining owners; and

(3) When sold separately or aggregated in one transaction, do not exceed 40 acres.

(b) Forest Service officials shall consider the following criteria in determining whether to convey mineral survey fractions under this subpart:

(1) The mineral survey fractions are interspersed among and are more or less an integral part of private land holdings;

(2) The feasibility and cost of surveying the parcels in order to manage them effectively;

(3) The size, shape, and location of the parcels as they affect management, utility, access, occupancy or use of the parcels or the lands with which they are interspersed.

§ 254.35 Limitations.

(a) Lands within the National Wilderness Preservation System, the National Wild and Scenic Rivers System, the National Trails System, and National Monuments are excluded from any conveyance under these provisions.

(b) Lands within National Recreation Areas may not be conveyed by sale under this subpart.

(c) The value of Federal lands conveyed in any transaction, pursuant to this subpart, shall not exceed \$150,000.

(d) Compensation for lands conveyed shall be of at least equal value, or in the case of interchange, of approximately equal value, and may be in the form of land, interest in land (including minerals), or cash, or any combination thereof.

(e) The sale, exchange, or interchange of lands or interest in lands under these rules are discretionary and shall be made only if found to be in the public interest.

(f) The abutting landowner(s) shall have the first right of acquisition.

(g) The area of land conveyed shall be limited to the minimum necessary to resolve encroachment or land management problems.

[49 FR 1185, Jan. 10, 1984; 49 FR 2762, Jan. 23, 1984]

§ 254.36 Determining public interest.

(a) The requirements of § 254.35 and of one of § 254.32, § 254.33, or § 254.34 must be met before a determination of public interest can be made.

(b) Before a conveyance is made under this subpart, such conveyance must be determined to be in the public interest.

(c) Forest Service officials shall consider the following criteria in determining when the public interest will be served:

(1) Sale, exchange, or interchange of the affected lands is not practicable

under any other authority of the Secretary;

(2) Administration and management of National Forest System lands will be more efficient and will result in improved utilization;

(3) Access to and use and enjoyment of National Forest System lands by the general public will not be unduly impeded or restricted;

(4) New or extensive inholdings which would create management problems will not be established;

(5) Scenic, wildlife, environmental, historical, archaeological, or cultural values will not be substantially affected or impaired;

(6) Existence of structures authorized under a special use permit or easement, and

(7) Applicable Federal, State, and local laws, rules, regulations, and zoning ordinances will not be violated.

§§ 254.37–254.39 [Reserved]

§ 254.40 Applications.

(a) A request for conveyance of National Forest System land must be made in writing to the District Ranger or the Forest Supervisor who has administrative jurisdiction over the land.

(b) The applicant shall bear all reasonable costs of administration, survey, and appraisal incidental to the conveyance.

(c) Costs incidental to the conveyance may be waived at the discretion of the Chief of the Forest Service.

§ 254.41 Public sale or exchange in absence of application.

(a) Mineral survey fractions or road rights-of-way which have not been applied for by an abutting landowner may be offered to the public for sale or exchange at not less than fair market value.

(b) Public notice of a proposed sale of land for which there is no applicant shall be published once a week for four consecutive weeks in a local newspaper prior to the date of sale.

(c) The public notice shall describe the lands to be sold, minimum acceptable price, conditions of sale, sealed or oral bid procedures, date and location of sale.

§ 254.42 Valuation of tracts.

(a) Approximately equal value shall be determined by comparing and evaluating the elements of value on the lands or interest in lands to be interchanged. Elements of value to be considered include size, shape, location, physical attributes, functional utility, proximity of other similar sites, and amenities in the immediate environs of the parcel. Findings that tracts are approximately equal in value shall be documented. An applicant must signify acceptance of the value determination by signing the documented findings prior to the interchange.

(b) Equal value in sale or exchange transactions shall be developed by recognized appraisal methods following Forest Service appraisal procedures and the Uniform Appraisal Standards for Federal Land Acquisition. The date of the value estimate will be current with the date of sale or exchange.

(c) Improvements to National Forest System land made by any persons other than the Government may be excluded from the property value determinations.

§ 254.43 Surveys.

All necessary tract surveys of National Forest System land shall be conducted by a licensed private surveyor under Forest Service instructions, contracted by the person applying for the conveyance, or by a Forest Service surveyor. The person will also be required to have all Federal property boundaries resulting from a conveyance marked and posted to Forest Service standards.

§ 254.44 Document of conveyance.

(a) Title to the United States may be conveyed by quitclaim or warranty deed. The United States will convey title only by quitclaim deed.

(b) Deeds shall be free of terms, conditions, and covenants except those deemed necessary to ensure protection of the public interest.

(c) A copy of all documents of conveyance will be transmitted after recordation, where applicable, to the appropriate State Office of the Bureau of Land Management.