

**Forest Service Handbook
National Headquarters - Washington Office
Washington, DC**

Forest Service Handbook 5409.17 – Rights-of-Way Acquisition Handbook

Chapter 40 – Related Miscellaneous Actions

Amendment: 5409.17-2013-1

Effective date: February 14, 2013

Duration: This amendment is effective until superseded or removed.

Superseded Directive: 5409.17,40 Contents, Amendment 5409.17-91-1, 09/03/1991;
5409.17,40, Amendment 5409.17-91-1,09/03/1991; 5409.17_65-66, Amendment
5409.17-94-6

Approved by: Calvin N. Joyner, Associate Deputy Chief, NFS

Date approved: February 13, 2013

Responsible Staff:

Explanation of changes: Following is an explanation of the changes throughout the directive by section.

Posting Instructions: Amendments are numbered consecutively by handbook number and calendar year. Post by document; remove the entire document and replace it with this amendment. Retain this transmittal as the first page(s) of this document. The last amendment to this handbook was 5409.17-94-6 to 5409.17_65-66.

40: Revises, updates, and sets forth new direction throughout the entire chapter.

Table of Contents

40.5 - Definitions	3
41 - Easement Terminations	3
41.1 - Authorities to Terminate Easements.....	3
41.2 - Quitclaim Deed	3
42 - Correcting Errors in Deeds.....	8
42.1 - Pen and Ink Changes	8
42.2 - Correction Deeds.....	8
43 - Supplemental Conveyances	9

40.5 - Definitions

Quitclaim Deed. A legal instrument by which the owner of real property or an interest in real property terminates (“quits”) his or her right and claim to the property, thereby allowing title to transfer to the recipient.

41 - Easement Terminations

For a variety of reasons it is sometimes necessary or desirable to terminate an easement in whole or in part.

41.1 - Authorities to Terminate Easements

The Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended (40 U.S.C. 101, 541-545) (FPASA), is the primary authority to quitclaim a right-of-way that is surplus to Forest Service needs. The Method of Disposition at 40 USC 543 states “[A]n executive agency designated or authorized by the Administrator of General Services to dispose of surplus property may do so by sale, exchange, lease, permit, or transfer, for cash, credit, or other property, with or without warranty, on terms and conditions that the Administrator considers proper.” Pursuant to this statute, the Federal Management Regulation, 41 CFR 102 authorizes the Forest Service to quitclaim rights-of-way surplus to Agency needs.

The Small Tracts Act (Pub. L. 97-465), 43 USC 1716, is the preferred authority for the disposal of road rights-of-way substantially surrounded by lands not owned by the United States when the easement is to be sold, exchanged or interchanged. See 36 CFR 254, subpart C and FSH 5509.11, chapter 20.

Pursuant to 7 CFR 2.60, 47 FR 36465, and 49 FR 34283-03, authority to terminate a right-of-way or right-of-way segment when it is no longer needed by the United States is delegated to the Regional Forester, Deputy Regional Forester, and Lands Director of each Forest Service Region. Accordingly, except where the Regional Forester or Deputy Regional Forester has reserved the authority, the Lands Director may sign right-of-way terminations on behalf of the United States.

41.2 - Quitclaim Deed

The common mechanism for the termination of a right-of-way or right-of-way segment no longer needed by the United States is the quitclaim deed.

Two standard quitclaim deeds are provided as examples. When the entire right-of-way will be terminated, use exhibit 01. When only a segment of the right-of-way will be released, use exhibit 02. Using the examples provided, draft each termination instrument individually and have it approved by the Office of the General Counsel before execution by the Lands Director.

Furnish the person responsible for maintaining the landownership status with copies of all termination documents to become part of the landownership records and for appropriate notation of the landownership status records.

41.2 - Exhibit 01

Quitclaim Deed

[Recording Requested by and
After Recording Return to:
USDA FOREST SERVICE
Address
Address
ATTN: Forest staff with lands responsibilities]

Correct as to Consideration, Description, and Conditions		
Name	Official Title	Date

UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE

QUITCLAIM DEED

WHEREAS, by Easement Deed dated _____ and recorded _____ in Volume ____, page ____
[alternatively use: as Instrument No. ____ - ____] of the Official Records of _____ County, Name State,
there was conveyed to the UNITED STATES OF AMERICA an easement for a road over the following tracts or
parcels of land situated, lying and being in the County of _____, State of _____:

T. __ N., R. __ E., Baseline and Meridian.

Sec. __, Aliquot parts as needed.

WHEREAS, said easement is no longer needed by the UNITED STATES OF AMERICA.

NOW, THEREFORE, the UNITED STATES OF AMERICA does hereby remise, release, and forever quitclaim
unto _____ [insert name of current landowner], owner of the above described parcel of
land all of its rights, title, and interest in said easement.

IN WITNESS WHEREOF, the UNITED STATES OF AMERICA has caused this quitclaim deed to be executed
and delivered this ____ day of _____, by its undersigned duly authorized official acting
pursuant to 40 U.S.C. 101, 541-545; 41 C.F.R. 102-75-296 and 102-75-936; and delegations of authority found at 7
CFR 2.60, 47 FR 36465 and 49 FR 34283-03.

UNITED STATES OF AMERICA

[Name of Authorized Signatory
Title of Director with Lands Responsibilities,
Region
Forest Service, U.S. Department of Agriculture]

41.2 - Exhibit 01 - Continued

Appropriate Acknowledgement

(This space is for the state specific acknowledgement and notary signature and seal)

41.2 - Exhibit 02

Partial Quitclaim Deed

[Recording Requested by and
After Recording Return to:
USDA FOREST SERVICE
Address
Address
ATTN: Forest Staff with lands responsibilities]

Correct as to Consideration, Description, and Conditions		
Name	Official Title	Date

UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE

QUITCLAIM DEED

WHEREAS, by Easement Deed dated _____ and recorded _____ in Volume ____, page ____
[alternatively use: as Instrument No. ____-_____] of the Official Records of _____ County, Name State there was
conveyed to the UNITED STATES OF AMERICA an easement for roads over the following tracts or parcels of land situated,
lying and being in the County of _____, State of _____:

T. __ N., R. __ E., Baseline and Meridian.

Sec. __, Aliquot parts as needed.

WHEREAS, a segment of said easement is no longer needed by the UNITED STATES OF AMERICA.

NOW, THEREFORE, the UNITED STATES OF AMERICA does hereby remise, release, and forever quitclaim unto
_____ [insert name of current landowner], owner of the above described parcel of land all rights, title,
and interest in said easement segment particularly described as follows:

T. __ N., R. __ E., Baseline and Meridian.

Sec. __, Aliquot parts as needed.

All other rights, title, and interest conveyed in the above described deed of [insert date of deed], and the terms and provisions
thereof, not surrendered herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the UNITED STATES OF AMERICA has caused this quitclaim deed to be executed and delivered
this ____ day of _____, by its undersigned duly authorized official acting pursuant to 40 U.S.C. 101, 541-
545; 41 C.F.R. 102-75-296 and 102-75-936; and delegations of authority found at 7 CFR 2.60, 47 FR 36465 and 49 FR 34283-
03.

UNITED STATES OF AMERICA

[Name of Authorized Signatory
Title of Director with Lands Responsibilities,
Region
Forest Service, U.S. Department of Agriculture]

41.2 - Exhibit 02 - Continued

Appropriate Acknowledgement

(This space is for the state specific acknowledgement and notary signature and seal)

42 - Correcting Errors in Deeds

There are two ways to correct a deed that has been executed and recorded:

1. Pen and ink change.
2. A correction deed.

42.1 - Pen and Ink Changes

A pen and ink change is acceptable when a minor change is needed in the existing wording of a deed. Some examples include: incorrect spelling of the grantor's name, an error in a bearing or distance, or an error in the parcels crossed such as listing the SW ¼ when the SE ¼ should have been recorded.

When a pen and ink change is appropriate, take the following action:

1. Change by crossing out the incorrect words or numbers and adding above it the correct word or numbers.
2. Have the grantor initial and date the deed next to the correction.
3. Have the deed re-acknowledged and re-recorded.

42.2 - Correction Deeds

If the error is minor, but additional wording or description is needed to clarify the intent of the deed, then a correction deed may be appropriate. However, a correction deed cannot be used to alter the scope of the estate conveyed.

Do not use correction deeds to reconvey portions of easements granted by mistake or to reduce or expand the interest originally conveyed. Some examples of errors that can be corrected by a correction deed are: incorrect spelling of the grantors name; adding a bearing or distance that was omitted; correcting a beginning or ending tie; and correcting the description of the parcels crossed.

Whether or not to undertake a correction deed depends on the circumstances. Seek the advice of the Office of the General Counsel as to the proper action to take in each case. When a correction deed is appropriate take the following action:

1. Draft a correction deed.

2. Submit the draft to the Regional Office Lands staff for review. Include an explanation why the correction is needed.
3. After the correction deed has been reviewed, have it signed, notarized, and recorded.

43 - Supplemental Conveyances

When the Government already owns a limited easement it may be advantageous to acquire additional interests. An example would be the acquisition of an unlimited easement for a road where the original easement was for a road to use only for administration and protection of National Forest land and resources. In other cases, the need may be to acquire additional width to accommodate reconstruction of the road.

Supplemental deeds can only add to the interest originally granted to the United States. They cannot reconvey any interest previously granted. Therefore, supplemental deeds should convey only the additional interests sought and should not include a restatement of the original grant.

Ask the Office of the General Counsel to draft supplemental deeds individually. Furnish them with the original deed, as well as all the facts related to the additional interests sought. Supplemental deeds submitted for title approval must include the original deed.

If the Office of the General Counsel advises that supplemental deed is not appropriate, treat the acquisition of the additional rights as if it is a new case.