

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

**Forest Service Manual 5500 – Landownership Title Management
Zero Code**

Amendment: 5500-2012-1

Effective date: May 17, 2012

Duration: This amendment is effective until superseded or removed.

Superseded Directive: 5500_zero_code (Amendment 5500-2003-1, 5/21/2003)

Approved by: Fay L. Krueger, Associate Deputy Chief, NFS

Date approved: May 15, 2012

Responsible Staff:

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

5509.12: Adds a new code and caption to establish FSH 5509.12, Land Status Records System Handbook.

Table of Contents

| | |
|---|----------|
| 5501 - Authority | 3 |
| 5501.1 - Constitutional..... | 3 |
| 5501.2 - Judicial Interpretation | 3 |
| 5501.3 - Laws..... | 4 |
| 5501.4 - Repealed Laws and Rules..... | 4 |
| 5501.5 - Private Laws | 4 |
| 5501.6 - Decisions and Opinions..... | 4 |
| 5502 - Objectives..... | 4 |
| 5503 - Policy..... | 4 |
| 5504 - Responsibility | 5 |
| 5504.1 - Secretary of Agriculture..... | 5 |
| 5504.2 - Director of Lands, Washington Office..... | 5 |
| 5504.3 - Regional Forester | 6 |
| 5504.4 - Forest Supervisor..... | 6 |
| 5504.5 - District Ranger..... | 7 |
| 5504.6 - Attorney General, Department of Justice, and General Counsel, Department of Agriculture | 7 |
| 5504.7 - Regional Attorney | 7 |
| 5506 - Program Planning and Financing | 7 |
| 5506.1 - Planning..... | 7 |
| 5506.2 - Financing..... | 8 |
| 5509 - Handbooks..... | 8 |
| 5509.1 - Internal Service-wide Handbooks | 8 |
| 5509.11 - Title Claims, Sales, and Grants Handbook | 8 |
| 5509.12 - Land Status Records System Handbook | 8 |

This Title concerns:

1. Title claims to and encroachments on National Forest land.
2. Administration of titles and interest in certain encumbrances, partial interest, and use restrictions many created under statutes and rules, which have been repealed.
3. Native American claims including certain treaty rights and aboriginal titles.
4. Sale of lands under the National Forest Townsite Act, the Small Tracts Act, and related acts.
5. Grants of lands under the Bankhead-Jones, Indian Allotment, Alaska Statehood Acts, and related acts.
6. Land status system, which includes an accurate and current inventory of and the condition of title to all National Forest System lands, including all interests in lands, administered by the Secretary of Agriculture through the Forest Service.

5501 - Authority

5501.1 - Constitutional

Article IV, section 3, clause 2 provides:

"The Congress shall have power to dispose of and make all needful Rules and Regulations respecting the Territory or Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State."

5501.2 - Judicial Interpretation

Federal courts have interpreted the Property Clause of the Constitution and the laws, rules, and regulations that relate to the authority of Federal officials to exercise their power to acquire, hold, and dispose of property on behalf of the United States. These interpretations further specify the expressed or implicit powers granted by Congress. For example, the Courts have held that:

1. Congress has exclusive jurisdiction over the land and other property of the United States and that Federal officials, in the acquisition and disposition of land, can exercise only such powers as have been granted to them expressly or implicitly by Congress.
2. When a statute specifies that a thing must be done in a particular mode, it restricts the use of any other mode, and the expressed mode causes that which is implied to cease.
3. Estoppels, mistake, laches, adverse possession, or acquiescence cannot divest the United States of America of title to land owned by it.

5501.3 - Laws

The laws in this section impose a duty upon and grant Federal officials the power to exercise authority over lands and property of the United States relative to the conveyance and protection of title interest, Native American claims, the sale and grant of lands and the inventory and confirmation of title to lands within the National Forest System.

5501.4 - Repealed Laws and Rules

Numerous repealed statutes and rules affect certain title claim cases and the current administration of land and interest in land.

5501.5 - Private Laws

Congress may enact private laws authorizing and directing one time specific case action.

5501.6 - Decisions and Opinions

In addition to the laws, rules, and regulations that contain the authority, direction, and limitations on handling title claims, Native American claims, sale and grant cases, the courts and others have issued numerous decisions and opinions that interpret the intent of those rules (FSH 5509.11).

5502 - Objectives

1. Provide resource administrators readily accessible and understandable title information affecting the use of lands and interest in lands and resources they administer.
2. Establish standards and procedures to protect the interests of the United States and bona fide claimants.
3. Expedite the investigation, reporting, and processing of all title claims and encroachments, sales, and grants.
4. Settle land claims equitably and promptly.
5. Cooperate with the Bureau of Land Management, Bureau of Indian Affairs, and other agencies in resolving cases of common interest.
6. Act promptly and objectively to halt unauthorized occupancy, to cause removal, and to recover damages.
7. Achieve Resource Planning Act objectives by eliminating encroachments by the year 2000.

5503 - Policy

1. Inventory, ascertain, and maintain the current landownership status (FSM 5590) of all National Forest System lands including interests therein.

2. Investigate claims to and request for conveyance of land or interest in lands promptly and objectively.
3. Provide all parties with fair, uniform, and prompt treatment under the applicable law(s) and implementing rules, regulations, and instructions.
4. Consider all claims as potentially valid until the Office of the General Counsel reviews them and determines otherwise.
5. Handle clearly valid claims and requests promptly by issuing quitclaim deeds or taking other authorized action to relieve the Forest Service of administrative responsibility and to clear the records.
6. Handle invalid claims or requests by first attempting to obtain withdrawal of the claim or request and acknowledgement of the Government's ownership. If claimant persists, enters into occupancy, or commits other overt acts, recommend legal action to quiet the Government's title and recover any damages.

5504 - Responsibility

5504.1 - Secretary of Agriculture

The Secretary of Agriculture has retained the authority and responsibility to execute all documents involving disposal of land by transfer under sections 32(c) and (d) title III of the Bankhead-Jones Farm Tenant Act.

5504.2 - Director of Lands, Washington Office

The Director of Lands, Washington Office, has the responsibility to:

1. Represent the Chief in all land title management matters.
2. Conduct compliance reviews and functional assistance trips to ensure that direction on procedures for processing cases is being interpreted and applied uniformly.
3. Make final review and dispensation of landownership title management matters not delegated to the Regional Forester.
4. Review, recommend action, and forward all litigation reports to the Department of Justice through the Office of the General Counsel (OGC).
5. Upon recommendation of the Regional Forester, secure appropriate delegations of authority to allow local line officers to resolve routine title claim litigation cases on an individual basis. This includes a request to OGC to obtain a companion delegation of authority from the Attorney General to the U.S. Attorney.
6. Approve all litigation settlement offers.

7. Approve final legislative reports in subject area.

5504.3 - Regional Forester

The Regional Forester has the responsibility to:

1. Investigate claims to National Forest System land and, with assistance from the Regional Attorney or Attorney in Charge, obtain relinquishment of those found not valid or complete reconveyances of land in those found valid.
2. Approve cases and execute all documents for acquisition and disposition of lands and interest in lands pursuant to these acts:
 - a. Quitclaim Act of April 28, 1930 (43 U.S.C. 872).
 - b. Adjustment of Land Titles Act of July 8, 1943 (7 U.S.C. 2253).
 - c. Small Tracts Act of January 12, 1983 (96 Stat. 2535; 16 U.S.C. 521c).
 - d. National Forest Townsite Act of July 31, 1958 (16 U.S.C. 478a).
3. Direct preparation and processing of complete and factual litigation reports (FSH 5509.11, sec. 12.22).
4. Direct preparations and processing of complete and factual title claim and encroachment, sale, and grant reports (FSH 5509.11, sec. 13.11).
5. In consultation with the Regional Attorney, review all cases involving litigation before transmitting the final report to the Chief.
6. Prepare information for legislative reports for the Chief's use.
7. Coordinate and monitor action taken under the Secretary of the Interior's authorities.
8. Maintain decision and opinion file or reference listing to provide basis for administrative decisions and references for litigation reports.

5504.4 - Forest Supervisor

The Forest Supervisor has the responsibility to:

1. As delegated, carry out land adjustments under the Small Tracts Act, including approval of surveys.
2. Train and advise District Rangers in procedures.
3. Identify a forest officer knowledgeable in real estate who can assist the District Ranger in investigations, as needed.

4. Accumulate all available information for litigation reports within the time limits imposed by court filing dates (FSH 5509.11, sec. 12.22).
5. Review and prepare all title claim and encroachment, sale and grants reports (FSH 5509.11, sec. 13.11).
6. Contact and work with applicants or claimants.

5504.5 - District Ranger

The District Ranger has the responsibility to:

1. Identify and inventory all unauthorized occupancies of National Forest System land.
2. Prevent, reduce significantly, or eliminate the incidence of title claims and encroachments through planned, aggressive efforts.
3. Gather information and prepare processing reports on title claims, encroachments, and sales cases.

5504.6 - Attorney General, Department of Justice, and General Counsel, Department of Agriculture

The Attorney General and the General Counsel protect the United States' interest in National Forest System lands involved in litigation.

5504.7 - Regional Attorney

The Regional Attorney provides the Regional Forester with legal counsel.

5506 - Program Planning and Financing

5506.1 - Planning

1. In the program of work, use realistic time and cost estimates for identifying and resolving individual title claim, encroachment, sale or grant cases.
2. Include in lands resources elements the programming for aspects of this work associated with inventory, investigation, and resolution of title claims, sales, and grants (FSH 5509.11, sec. 11).
3. Include realistic time and cost estimates associated with investigation, reporting, and processing of unforeseen and unplanned title claim, encroachment, sales, and grant cases based on past experience (FSH 5509.11). These cases normally emerge in the form of litigation or legislation.

5506.2 - Financing

1. Use the normal budget process to finance the resolution of the identifiable caseload revealed by inventories.
2. Use general administration funds or funds from benefiting functions to finance unexpected litigation, legislation, and other cases.
3. Realign previously financed and programmed surveys to finance necessary cadastral surveys.

5509 - Handbooks

5509.1 - Internal Service-wide Handbooks

5509.11 - Title Claims, Sales, and Grants Handbook

This handbook contains the direction and procedures necessary for carrying out the investigation and processing of title claims, sales, and grants.

5509.12 - Land Status Records System Handbook

This handbook contains the policy, procedures and direction for the Land Status Records System.