

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

**Forest Service Handbook 5509.11 – Title Claims, Sales, and Grants Handbook
Zero Code**

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Superseded Directive: Title Page; 5509.11, Contents; 00--1 thru 52; 5509.11,60 Contents; 5509.11,60; 5509.11-92-3, 2/25/92; 5509.11-92-2, 2/25/92; 5509.11-92-1, 2/25/92; Entire Handbook issued 2/88

Approved by: F. Dale Robertson, Chief

Date approved:

Responsible Staff:

POSTING NOTICE. Amendments are numbered consecutively by Handbook number and calendar year. Post document in numerical order of chapters (1109.12, sec. 4.32, ex. 01). Remove entire national text of the Handbook and replace with this amendment. DO NOT REMOVE SUPPLEMENTS OR INTERIM DIRECTIVES. Retain this transmittal as the first page of this document.

Explanation of changes:

This amendment is a reissuance of FSH 5509.11 to conform the format and structure of the Handbook to the requirements of electronic directive issuance.

This amendment makes no substantive changes to the text. The only changes made are those necessary to meet new format requirements or to correct spelling, punctuation, or unit names.

This Handbook is now available electronically in the National Information Center in the same format as the paper copy. Henceforth, amendments to this Handbook will be issued to Forest Service units electronically on a document basis.

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01 - Authority

The laws outlined in FSM 5501 and FSM 1020 specify the authority for the protection and adjustment of land title and interests. This authority also is expressed in numerous acts enacted to resolve specific situations, as well as in the rules, regulations, and directives implementing those laws and the court decisions interpreting those laws.

03 - Policy

Comply with the applicable direction and instructions fully. The Director of Lands, Washington Office, must approve any delegation to resolve routine litigation cases or variations deemed necessary for unusual or emergency cases (FSM 5504.2).

05 - Definitions

Adjudicate. To settle a case by court or administrative hearing of the factual issues involved in the case for the purpose of enforcing a right.

Adverse Possession. A method of title acquisition by possession for a specified period. Generally, possession must be actual, under claim of right, open, and notorious.

Record Chain of Title. A record of successive conveyances or transfers that evidences sources of title.

Claim of Title. A claim of land as a person's own based on any reasonable evidence which establishes the person's actual use of the land as though the person had obtained ownership in fee.

Color of Title. An instrument or writing purporting to convey title or interest in title to a tract of land.

Encroach. To enter by gradual steps or to intrude upon the lands, property, or authority of another.

Navigable. The test for navigability, as it relates to title to land, relies on the Federal definition applied at the date of statehood. Waters are "navigable" when they are used or susceptible of being used in their natural and ordinary condition as highways for commerce over which trade and travel could be conducted in the customary modes of trade and travel on water.

Occupancy. To take or maintain possession of.

Private Law. Private law is a law affecting an individual or a small number of persons. See also Public Law.

Public Law. As used in this Handbook, Public Law is "... a law or statute that applies to the people generally of the nation or state adopting or enacting it, is denominated a public law, distinguished from a private law, affecting only an individual or a small number of persons." (Black's Law Dictionary).

Quiet Title Action. A legal proceeding to establish the plaintiff's title to land; it may be brought against a particular claimant or to perfect a title.

Regional Attorney. As used in this text, the Regional Attorney is the field office representative of the Office of General Counsel, whether titled Regional Attorney or Attorney in Charge.

Title Claim. See Claim of Title.

Trespass. To go on another's land or property unlawfully; an illegal act causing injury to the person or to the relative rights of another's property; also, legal action for damages resulting from trespass.

06 - Reports

Initiation of title claim and encroachment, sale, and grant cases is usually upon the discovery of adverse occupancy or encroachment, discovery of title defects, receipt of an application, or through court action. In each case, conduct a prompt investigation and prepare a report.

The action taken and the report format depend on:

1. The authority for the filing of claims, sales, and grants.
2. Whether the case involves litigation, legislation, or is being considered under administrative procedures, rules, and regulations.

For cases involving court action against the United States or Forest Service officials, use the report format in section 12.22. Data listed in section 13.11 may suggest other information for use in the litigation report.

For all other cases involving title claim and encroachment, sale, and grant being handled administratively, or in preparation for court action by the United States, use the report outline in section 13.11.

06.1 - Program Activity Reports

Descriptions of reports for tracking program activity for management and budgeting purposes are at the end of each chapter in this handbook. These program activities include:

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1. Title claims and encroachments.
2. Sales, includes small tracts and townsites.
3. Grants.