

In an opinion of March 14, 1947 (M.O. 47 - 50), from the Associate Solicitor to the regional attorney, San Francisco, California, the view was taken that there was no authority to include in a National Forest timber sale contract a provision that all or part of the timber products be made available to a particular local industry. The opinion states that "Although we would hesitate to say at this time that no requirement could be made in a national forest timber sale contract requiring local disposition of the products thereof, we have serious doubt that there is authority to single out a particular local industry and require the timber purchaser to make the end products of the sale available to it." (Emphasis supplied.)

In an opinion dated December 2, 1949 (M.O. 49 - 40), from the Associate Solicitor to the Chief, Forest Service, the conclusion was expressed that on the basis of a quoted administrative determination it appears that the purposes of the act of June 4, 1897, can be more fully accomplished by requiring the successful bidder for the timber involved to construct a pulp mill within a specified area and that therefore there is adequate legal authority for including a provision in the timber sale contract with respect to the location of the pulp mill. The administrative determination referred to included a statement that establishment of a suitably located pulp mill was the only known major possibility for marketing of the timber at rates which would make reasonably full use of the present stands of mature, overmature, and recently killed timber, and of the potential growing capacity of the particular National Forest lands. It further stated that such a plant should be located on the western slope in the State of Colorado in order to promote the utilization of National Forest timber and to facilitate management of National Forests.

We think the Secretary has authority to require that National Forest timber be processed in a stated area, or to a stated degree therein. Further, we think he may prohibit the award of sales under appropriate circumstances, if inimical to the accomplishment of the purposes for which the National Forests are established and administered. The authority could be exercised, for instance, if the sale otherwise would cause the abandonment of a local industry which should furnish a desirable permanent market for National Forest products. The quoted provisions of the Secretary's Regulations S-3 and S-10 are legally sound provided their application is adequately supported by a reasonable administrative determination that the