



United States
Department of
Agriculture

Forest
Service

Payette National Forest
McCall Ranger District

102 West Lake Street
McCall, ID 83638
208-634-0400

File Code: 2720

Date: November 2, 2017

RECEIVED
NOV 06 2017
WATER RESOURCES
WESTERN REGION

Jess and Brenda Baugh
P.O. Box 1459
Riggins, ID 83549

Dear Mr. and Mrs. Baugh,

I see that you have filed Application for Transfer No. 81805 with the Idaho Department of Water Resources (IDWR). This Application is to add or change the Point of Diversion (POD) for water right 77-14302. The source for this water right is Mackay Creek. The information we have is that the existing POD is on National Forest System (NFS) land. The transfer seeks to establish a new POD because of water administration problems between water right holders.

You have already contacted Adam McClory of the Nez Perce - Clearwater National Forests and submitted a written proposal (SF-299). Mackay Bar, as well as many other private lands along the Salmon River are in an unusual situation where the Salmon River Wild & Scenic River corridor runs most of the length of the river. Some NFS land above the corridor is wilderness and some is general forest without any special management designation. In this situation the existing POD is on NFS land administered by the Payette National Forest, McCall Ranger District.

You are aware that a special use permit is needed to authorize the use of NFS land proposed in your Transfer Application. At the present time you are not authorized to conduct any new activities or occupancy on NFS land as proposed in this application.

The purpose of this letter is to notify you of our concerns and advise you of the Forest Service requirements for occupancy and use of NFS land. I have the information you already provided to Mr. McClory. You need to contact me about your proposed new use of NFS land. I will need sufficient detail to evaluate your proposal against two levels of screening criteria and applicable laws and regulations such as the Organic Act (19 U.S.C. 551), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) and 36 Code of Federal Regulations (CFR) at 251 Subpart B – Land Uses. You also need to be aware of direction I have not to allow uses that can be accommodated on non-National Forest System land and not to authorize use of NFS land solely because it is less expensive or easier when compared with non-National Forest System land. I am enclosing a brochure on Special Uses that provides information about special use permits.

If your proposal is accepted you will have to provide all the clearances and environmental documentation required by law. I will then make a decision. This can be a lengthy process and it could be quite some time before a decision is made.



By a copy of this letter we are notifying IDWR that you do not have authorization to occupy and use NFS land as described in the documents filed with the department for this transfer and request that they not process this application until this matter can be resolved.

If you have any questions about this matter please contact me at 208-634-0401.

Sincerely,

A handwritten signature in blue ink, reading "Lisa J. Klinger".

LISA J. KLINGER
District Ranger

Enclosure

cc: Jeff Shinn; Steve Spencer; Adam McClory; Holly Becker; Idaho Department of Water Resources

How do I answer all the questions?

Name and Address - Include the full name(s) to be used. If the application includes real property, the name(s) on the legal document must match the application.

Applicant's Agent - This person must be at least 21 years old and may or may not be the same as the applicant. Documentation should be included to verify that this person may sign on behalf of the applicant.

Project Description - Include enough detail to enable the Forest Service to determine feasibility, environmental impacts, benefits to the public, the safety of the request, lands to be occupied or used, and compliance with applicable laws and regulations.

Environmental Protection Plan - Include proposed plans for environmental protection and rehabilitation during construction, maintenance, removal, and reclamation of the land.

Map - Provide a detailed map (U.S. Geological Survey quadrangle or equivalent) or plat (survey or equivalent) showing the requested use in relation to NFS land, identification of applicant's property (if applicable), scale, map legend, legal description, and a north arrow.

Technical and Financial Capability - Provide documentation to assure the Forest Service you are capable of constructing, operating, maintaining, removing the use off NFS land, and reclaiming the land after the authorization terminates.

Alternatives - You must first consider using nonfederal land. Lower costs or fewer restrictions are not adequate reasons for use of NFS lands. Provide alternative locations for the proposal in your application.

What does an authorization cost?

Cost Recovery Fees - An assessment of fees to recover agency processing costs for special use applications and monitoring costs for special use authorizations. These fees are separate from any fees charged for the use and occupancy of NFS lands.

Land Use Fees - This is an annual rental fee based on the fair market value for the uses authorized and is payable in advance. Fees are established by appraisal or other sound business management principles.

Other Associated Costs - You may be responsible for providing information and reports necessary to determine the feasibility and environmental impacts of your proposal; compliance with applicable laws and regulations; and terms and conditions to be included in the authorization.

Your local Forest Service office:

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To file a complaint of discrimination, write: USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

Obtaining a Special-Use Authorization with the Forest Service

The Application Process



U.S. Department of Agriculture
Forest Service

Forest Service Special-Uses Program

The Forest Service manages over 192 million acres of national forests and grasslands that comprise the National Forest System (NFS). Today, our growing population and mobile society have created a demand for a variety of uses of these federal lands. Often these diverse needs require specific approval. The Forest Service provides services that support our national policy and federal land laws. The Agency's special-uses program authorizes uses on NFS land that provide a benefit to the general public and protect public and natural resources values. Currently there are over 74,000 authorizations on the NFS lands for over 180 types of uses.

Each year, the Forest Service receives thousands of individual and business applications for authorization for use of NFS land for such activities as water transmission, agriculture, outfitting and guiding, recreation, telecommunication, research, photography and video productions, and granting road and utility rights-of-ways. The Forest Service carefully reviews each application to determine how the request affects the public's use of NFS land. Normally, NFS land is not made available if the overall needs of the individual or business can be met on nonfederal lands.

What are special-use authorizations?

A special-use authorization is a legal document such as a permit, term permit, lease, or easement, which allows occupancy, use, rights, or privileges of NFS land. The authorization is granted for a specific use of the land for a specific period of time.

When do I need an authorization?

1. If you will need to occupy, use, or build on NFS land for personal or business purposes, whether the duration is temporary or long term.
2. If there is a fee being charged or if income is derived from the use.
3. If an activity on NFS land involves individuals or organization with 75 or more participants or spectators.

Application Process

Is my proposal appropriate?

1. Your request must be consistent with laws, regulations, orders, policies of NFS lands, other federal laws, and applicable State and local health and sanitation laws.
2. Your request must be consistent or made consistent with the standards and guidelines in the applicable Forest Land and Resource Management Plan.

3. Your request must not pose serious or substantial risk to public health or safety.

4. Your request must not require exclusive or perpetual right of use or occupancy.

5. Your request does not unreasonably conflict or interfere with administrative uses, other scheduled or authorized existing uses, or use of adjacent non-NFS lands.

6. The proponent must not owe any fees to the Forest Service from a prior or existing special-use authorization.

7. No gambling or providing of sexually oriented commercial services can be authorized on NFS land, even if permitted under state law.

8. No military or paramilitary training or exercises by private organizations or individuals can be authorized on NFS land, unless it is federally funded.

9. No disposal of solid waste or storage or disposal of radioactive or other hazardous substances can be authorized on NFS land.

How do I apply?

1. Contact a Forest Service office and request an application. Application information is also available on the special uses home page at <http://www.fs.fed.us/recreation/permits>

2. Prior to submitting the proposal, you are required to arrange a preapplication meeting at the local Forest Service office where the use is being requested. A staff member will discuss your proposal, potential land use conflicts, application procedures and qualifications, probable time frames, fees, bonding requirements, additional coordination with other agencies, environmental reports, and field reviews.

3. Most commercial uses require additional information with the application. You may need business plans, operating plans, liability insurance, licenses/registrations, or other documents. A commercial use is when an applicant intends to make use of NFS lands for business or financial gain.

4. Complete and submit the application form, including supporting documents, to the local Forest Service office. An incomplete proposal could delay the processing.

Exhibit A

FRANK CHURCH RIVER
OF NO RETURN
WILDERNESS

T24N
R8E

Diversions

Mackay Creek

32

FRANK
OF
WI

Section 32, T24N, R8E Mackay Bar



- Waterline
- Diversions

- NFS Lands
- Private Property
- Wild & Scenic Corridor
- Wilderness Boundary

0 295 590 1,180 Feet