



United States
Department of
Agriculture

Forest
Service

Idaho Panhandle
National Forests

Bonnerr's Ferry Ranger District
6286 Main Street
Bonnerr's Ferry, ID 83805
(208) 267-5561

File Code: 5520/2720

Date: August 29, 2008

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DEPARTMENT OF
WATER RESOURCES

Richard & Marie Vilelli
533739 Hwy 95
Bonnerr's Ferry, Idaho 83805

Dear Mr. and Mrs. Vilelli:

This letter is in regard to the water right application No. 98-7859 filed by you with the Idaho Department of Water Resources. From the application description, the point of use and point of diversion is not on National Forest System (NFS) lands. In past years, we have had some encroachment issues within this vicinity. Therefore, I would like to inform you that if there is a need to have a right-of-way across NFS lands it would require a written proposal to be reviewed from this office. All occupancy and use of NFS land to construct, operate water diversions and transport facilities or to use water on NFS land must be authorized under 19 U.S.C. 551, 43 U.S.C. 1761, 36 CFR §251.50, and 36 CFR §261.10(a). This letter serves to notify all parties there has not been a request for use on NFS lands

Please find enclosed a brochure "Obtaining a Special Use Authorization with the Forest Service" which describes the basic proposal and application process. The procedures and criteria include specific direction to deny proposals for use of NFS land which can reasonably be accommodated on non-NFS lands and not to authorize the use of NFS lands just because it affords the applicant a lower cost and less restrictive location when compared with non-NFS lands. One would have to provide evidence and documentation to the Forest Service including estimated costs of development and attempts and efforts to secure water on non-NFS land by other means such as drilling a well and developing another source of water that does not encumber NFS land. If other reasonable sources are not diligently sought, a special use authorization must be denied.

One would then have to identify the facilities and construction activities planned on NFS land in the form of a proposal. The proposal must be of sufficient detail that it can be evaluated against two levels of screening criteria and applicable policy. If a proposal meets these criteria and policy requirements one will then need to submit a formal application for the proposed occupancy and use of NFS land. Acceptance of an application does not guarantee issuance of an authorization. The proposed project must then be assessed in accordance with applicable laws such as the Endangered Species Act, the Historic Preservation Act, and the National Environmental Policy Act. It is during this formal application phase that it may be appropriate for an application for a water right permit to proceed although it could be quite some time before a final decision on the occupancy of NFS land is made. The decision could include requirements that conditions be placed on the water right to protect federal interests on NFS land.



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As you can see there are numerous factors that must be taken into account when the occupancy and use of NFS land is considered. If you have any questions about this matter, please contact Gianna Vaccaro, Realty Specialist, at (208) 265-6625.

Sincerely,

A handwritten signature in cursive script that reads "Linda McFaddan".

LINDA McFADDAN
District Ranger

CC: GVaccaro, SDekome, IDWR

Enclosure: Brochure

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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, telecommunications, 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.

How do I apply?

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.

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.