



United States  
Department of  
Agriculture

Forest  
Service

Region One

Northern Region  
200 East Broadway  
Missoula, MT 59802

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MAY 10 2011

Ms. Jamie Connell  
State Director, Montana State Office  
Bureau of Land Management  
Attn: Cindy Stazcak  
5001 Southgate Drive  
Billings, MT 59101

Dear Ms. Connell:

Pursuant to my authority under Forest Service Manual 2763.04, by this letter I am providing Forest Service consent to the Bureau of Land Management (BLM) to request transfer of administrative jurisdiction over a portion of the Fort Howes administrative site. A transfer of approximately six acres would be accomplished by a withdrawal under Section 204 of the Federal Land Policy and Management Act (FLPMA) of 1976. The purpose of the withdrawal is to facilitate BLM's construction and operation of a fire station that will be solely occupied by BLM equipment and personnel.

The BLM withdrawal will overlap, but not revoke, the existing withdrawal for Forest Service administrative use of the larger Fort Howes administrative site. The Forest Service will continue to use the existing withdrawal for the purpose originally intended.

I understand that there is some concern that the BLM withdrawal may not be in place in time to accommodate BLM's construction schedule (design approved for FY12, construction approved for FY13). In the event that construction must begin before the withdrawal is effective, the Forest Supervisor, Custer National Forest, has the authority to determine that no special use authorization is needed for the short period between the start of construction and completion of processing of a pending withdrawal. The authority to make such a determination (36 CFR 251.50(e)(1) and (e)(2), text enclosed for reference) covers situations where the effects of an activity are so nominal that no terms and conditions are required, or when the activity is regulated by another Federal agency in a manner that adequately protects Forest Service interests.

Sincerely,

*for*   
LESLIE A. C. WELDON  
Regional Forester

Enclosure

cc: Mailroom R1 Custer, Elaine Raper-BLM-Miles City District Manager



## §251.51

## 36 CFR Ch. II (7-1-10 Edition)

(c) A special use authorization is not required for noncommercial recreational activities, such as camping, picnicking, hiking, fishing, boating, hunting, and horseback riding, or for noncommercial activities involving the expression of views, such as assemblies, meetings, demonstrations, and parades, unless:

(1) The proposed use is a noncommercial group use as defined in §251.51 of this subpart;

(2) The proposed use is still photography as defined in §251.51 of this subpart; or

(3) Authorization of that use is required by an order issued under §261.50 or by a regulation issued under §261.70 of this chapter.

(d) Travel on any National Forest System road shall comply with all Federal and State laws governing the road to be used and does not require a special use authorization, unless:

(1) The travel is for the purpose of engaging in a noncommercial group use, outfitting or guiding, a recreation event, commercial filming, or still photography, as defined in §251.51 of this subpart, or for a landowner's ingress or egress across National Forest System lands that requires travel on a National Forest System road that is not authorized for general public use under §251.110(d) of this part; or

(2) Authorization of that use is required by an order issued under §261.50 or by a regulation issued under §261.70 of this chapter.

(e) For proposed uses other than a noncommercial group use, a special use authorization is not required if, based upon review of a proposal, the authorized officer determines that the proposed use has one or more of the following characteristics:

(1) The proposed use will have such nominal effects on National Forest System lands, resources, or programs that it is not necessary to establish terms and conditions in a special use authorization to protect National Forest System lands and resources or to avoid conflict with National Forest System programs or operations;

(2) The proposed use is regulated by a State agency or another Federal agency in a manner that is adequate to protect National Forest System lands and

resources and to avoid conflict with National Forest System programs or operations; or

(3) The proposed use is not situated in a congressionally designated wilderness area, and is a routine operation or maintenance activity within the scope of a statutory right-of-way for a highway pursuant to R.S. 2477 (43 U.S.C. 932, repealed Oct. 21, 1976) or for a ditch or canal pursuant to R.S. 2339 (43 U.S.C. 661, as amended), or the proposed use is a routine operation or maintenance activity within the express scope of a documented linear right-of-way.

[69 FR 41964, July 13, 2004]

### §251.51 Definitions.

*Applicant*—any individual or entity that applies for a special use authorization.

*Authorized officer*—any employee of the Forest Service to whom has been delegated the authority to perform the duties described in this part.

*Chief*—the Chief of the Forest Service.

*Commercial filming*—use of motion picture, videotaping, sound recording, or any other moving image or audio recording equipment on National Forest System lands that involves the advertisement of a product or service, the creation of a product for sale, or the use of models, actors, sets, or props, but not including activities associated with broadcasting breaking news, as defined in FSH 2709.11, chapter 40.

*Commercial use or activity*—any use or activity on National Forest System lands (a) where an entry or participation fee is charged, or (b) where the primary purpose is the sale of a good or service, and in either case, regardless of whether the use or activity is intended to produce a profit.

*Easement*—a type of special use authorization (usually granted for linear rights-of-way) that is utilized in those situations where a conveyance of a limited and transferable interest in National Forest System land is necessary or desirable to serve or facilitate authorized long-term uses, and that may be compensable according to its terms.

*Forest road or trail*. A road or trail wholly or partly within or adjacent to