



NATIONAL FOREST RECREATION ASSOCIATION

Responsible Recreational Use of America's Public Lands and Waters

May 21, 2018

Dear Recreation Business Owners,

As a permittee with the Forest Service, we want to alert you to recent actions that could put your recreation business investment and future at risk.

Never before have permittees for resorts, youth camps, outfitter-guides, marinas, shuttle systems, and ski areas faced such a serious threat to their businesses and property investment as right now.

I am writing to you because of a recent decision by the Forest Service to abandon a policy of reauthorizing existing recreation special use permits where the permit holder has been performing well, and instead – is putting them out to bid. The Term Permit Act of 1915 was designed specifically to encourage private investment in recreation facilities and improvements that serve the public. Instead, the agency is now soliciting the highest bid for recreational permits consisting of private sector investments when the permit is up for renewal if anyone else expresses an interest in taking over the operations. NFRA is not aware of the Forest Service ever putting out *privately* owned improvements for bid when there has not been a documented history of performance issues or non-payment of fees. This case will set forth a detrimental precedent of uncertainty for every Recreation Special Use Permit holder in the country, resulting in lower quality recreation services and facilities provided in our national forests. This new policy will have the effect of restricting any further private investment into these structures and equipment with the ultimate loser being the public. The incentive to reinvest in the upkeep, maintenance and improvements to resorts, marinas, youth camps, ski areas, outfitter-guide operations, and other recreation facilities will be eliminated.

Cal Joyner, Regional Forester for the Southwest Region of the Forest Service, recently made this decision which has been supported by the Chief's office. Mr. Joyner's decision directly contradicts a prior assurance given by the Forest Service Deputy Chief to the permittee, and to the National Forest Recreation Association, that this outcome would not occur. While Mr. Joyner was focused at the time solely on a specific permit in his region (Sabino Canyon Tours), his decision will now set a national precedent, which will threaten all Recreation Special Use Permit holders of operations such as: resorts, marinas, youth camps, outfitter-guides, and ski areas.

The reason given by Regional Forester Joyner for proceeding with a bidding process, rather than honoring its commitment to Sabino Canyon Tours, was that it was required to do so pursuant to Cost Recovery regulations. These regulations are normally used for setting out the requirements to assess fees for processing special use applications. The regulations apply to "applications for use and occupancy that require a new special use authorization." The agency asserts that the issuance of the special use authorization to continue shuttle services is a "new" special use authorization falling under this regulation. The agency never once cited to this regulation as applying when it previously reissued special use authorizations in 2007, 2008, 2009 and 2015. The agency has taken a position that directly contradicts its consistent position over the past 12 years of permit renewals but offers no basis for this reversal of its past policy.

The agency claims that the Forest Service Manual requires it to issue a prospectus. In truth, this policy explicitly refers to those recreational opportunities which arise for the **first time** as part of the planning process. The manual direction does **not** direct the agency to issue a prospectus for an existing concession operation with privately owned facilities and improvements when a third party expresses an interest in taking over that operation. This language, as well as the agency's implementation for the past 102 years of the Term Permit Act, indicates the directive applies to new opportunities not yet in existence, and not for recreation permits that are – and have been – in place for decades.

NFRA considers this to be perhaps the most serious threat faced by resort and term special use permit holders in the history of the program. We need as many Recreation Special Use Permittees as possible to come together at the NFRA conference on October 22 - 24 at the Atlantis Hotel in Reno to learn about this threat and put our heads together to discuss future actions. Despite numerous legal, political and administrative efforts, individual resort owners have been unable to stop the Forest Service from putting their permits out for bid. Only all of us acting in unison can potentially turn the tide to have the Forest Service abide by the original intent of our permits.

NFRA has partnered with the Forest Service since 1948, and has worked cooperatively together on many issues to provide recreation experiences for the public on national forest lands. Over the many years of working closely with the agency, NFRA is proud of the strong public-private partnership it has developed with the Forest Service.

The time and opportunity to make long standing improvements to the culture and regulatory environment of the Forest Service has never been better - however we need to speak in numbers. NFRA is working hard on this issue and needs your support to ensure your long term survival.

We hope to see you in October. Please, tell your friends and fellow resort owners to come as well.

Sincerely,

Marilyn Reese

Executive Director
National Forest Recreation Association