



RECREATION RESIDENCES Information on Revocable Living Trusts



In 1995, the Chief of USDA-Forest Service issued a letter stating that “*recreation residence permits can be held by a living trust. However, an individual must be named as the trust representative and holder of the term permit [trustee]. This individual would agree to act on behalf of the trust and to be responsible for the conditions imposed on the trust under the term permit’s provisions. This [person must be] specifically named in the trust as having the responsibility of the recreation residence.*”

Forest Service National direction includes the following:

- Permits are issued in the name of one individual, to a married couple, or to the trustee (individual or married couple) for a revocable family-living trust. The holder of the Permit must be able to demonstrate ownership of the authorized improvements. When the holder is a designated representative of a revocable family-living trust, the holder must be able to demonstrate ownership of the authorized improvements in the name of the trust that they are representing. Permits will not be issued to a commercial enterprise, non-profit organization, business association, corporation, partnership or other similar enterprises.

A recreation residence special use permit that is issued for a cabin owned by a revocable living trust (sometimes referred to as a family trust) will contain the following clauses:

- **LIVING TRUST:** The Trustee of this Living Trust (the Permit Holder) shall notify the Authorized Forest Service Officer of any changes in the Trust, such as a change in Trustee, change in the Trustee’s address, revocation or termination of the Trust or the death of the last Grantor (the original owner/s who granted the ownership of the cabin to the Trust). When the last Grantor dies, the Living Trust becomes irrevocable and is no longer recognized by the Forest Service as owning the cabin. Therefore, a new permit must be issued and a Transfer Fee would apply because the ownership of the cabin would change (as per the Cabin Fee Act 2014).
- **AFTER THE LAST GRANTOR DIES,** the Forest Service may allow an interim period of up to approximately one year for the assets of the trust to be distributed to the listed beneficiaries and for those new owners to decide what they would like to do with the cabin (keep or sell). If the new owner(s) decide to keep the cabin, they must submit a permit request to the FS, specifying whether the new permit would be issued to an individual, a married couple or to the Trustee of a new revocable, Living Trust.
- **IF THERE IS A CONFLICT** between any of the terms and conditions of [the] permit and the terms of the trust documents or state law applicable to the trust, the terms and conditions of this permit shall control.

When the Custer Gallatin National Forest receives a request for a recreation residence permit to be issued to the trustee of a revocable living-family trust, the trust must be consistent with the following conditions:

1. The Trust is a living, revocable trust.
2. The LOT LOCATION is correct.
3. The CHAIN OF OWNERSHIP is accurate, sequential, and complete. This means that the previous owner(s) who grant their ownership of the recreation residence cabin and associated non-NF improvements to the ownership of the Trust are now recognized and referred to as GRANTOR(S) in the Trust. The Forest still requires a Revocation/Request form filled out by the Grantors and the Trustee,

with all signatures notarized. Because granting the ownership of a cabin to a Trust constitutes a change of ownership, the FS is required to charge a Transfer Fee (as per the Cabin Fee Act 2014).

4. The Trust shows specifically that it OWNS THE CABIN and associated non-Forest Service improvements (garage/shed/boat house/ etc) and does not imply or indicate that it owns any National Forest land (the lot on which the cabin is located).
5. The Trust must clearly identify the TRUSTEE as representing the Trust in regard to the cabin. The Trustee can be an individual or a married couple but cannot be two siblings, two cousins, a parent and child, etc. There can only be one Trustee (an individual) or co-Trustees (married couple) at any time representing the Trust.
6. The Trust recognizes that it is the TRUSTEE who will request, on behalf of the Trust, that a new FS special use permit be issued to he/she/them and thus will be considered RESPONSIBLE FOR COMPLYING with the terms and conditions of the special use permit. The Trustee (not the Grantor(s) or Beneficiaries) serves as the only official point of contact with the Forest Service for matters regarding the permitted cabin.
7. Whenever there is a CHANGE OF TRUSTEE, the FS must be notified and a new permit must be issued in the name of the new Trustee, as the representative of the Trust. Because the ownership of the cabin would remain in the Trust there would be no change of ownership and thus a Transfer Fee (as per the Cabin Fee Act 2014) would not be applied.

If ALTERNATE TRUSTEES are already listed by the Trust, the FS must be notified by the outgoing and the incoming Trustees, in writing, with notarized signatures.

If the Trust DOES NOT LIST ANY ALTERNATE TRUSTEES, the Grantor(s) must amend the Trust to show the new Trustee and must provide a copy of the amended Trust to the FS.

8. If the Grantor(s) makes any salient CHANGES to the Trust that are pertinent to the recreation residence, the Trustee shall provide an updated copy of the Trust to the authorized Forest Service officer for review prior to those changes being finalized by the Grantor.
9. The Trust does not indicate, imply or state that it “owns” the permit or has the authority to “transfer” the permit.
10. The Trust lists the BENEFICIARIES.
11. The Trust recognizes that the SPECIAL USE PERMIT CONTROLS and takes precedence over the specifications of the trust, in regard to the use, fee payments, maintenance, management of the recreation residence cabin and the National Forest land and resources.