

NATIONAL FOREST HOMEOWNERS  
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# CABIN TRUSTS

## CHRIS COHEN

Co-Owner and President

Sustainable Law Group, P.C.

111 W Topa Topa St

Ojai, CA 93023

(805) 669-6606

[chris@sustainable-lawyer.com](mailto:chris@sustainable-lawyer.com)





# DISCLAIMER

- ▶ This is not legal advice. Please consult with an attorney before implementing anything discussed in this presentation.
- ▶ This is not the position of the NFH or the Forest Service.
- ▶ Each state has its own laws. I am admitted to practice in California.
- ▶ I don't know everything. Even if I did, things change.

# OUTLINE

- ▶ Context
- ▶ Terminology
- ▶ Why trusts?
- ▶ Steps to create a cabin trust

# WE ARE OPERATING IN A UNIQUE SPACE

- ▶ Your recreation residence cabin is personal property.
- ▶ Use of your cabin is controlled by a permit.
- ▶ Ownership of a cabin  $\neq$  holding of a permit.
- ▶ Tenancy in common rules apply to multiple owners.
- ▶ Forest Service has rules on permits and use of trusts.

**“...RECREATION RESIDENCE  
PERMITS CAN BE HELD BY A  
LIVING TRUST.”**

**USDA FOREST SERVICE LETTER TO REGIONAL  
FORESTERS, MARCH 7, 1995**

**“IN A MARCH 7, 1995, LETTER TO THE REGIONAL FORESTERS THIS OFFICE STATED THAT, FOR RECREATION RESIDENCES, AUTHORIZATIONS COULD BE ISSUED TO A LIVING TRUST SUBJECT TO CERTAIN CONDITIONS. THIS REMAINS IN PLACE AS WRITTEN.”**

**USDA FOREST SERVICE LETTER TO REGIONAL FORESTERS, MAY 22, 2002**





FSM 2700 – SPECIAL USES MANAGEMENT  
CHAPTER 2720 – SPECIAL USES ADMINISTRATION

**Amendment No.:** 2700-2018-1

**Effective Date:** October 1, 2018

**Duration:** This amendment is effective until superseded or removed.

**Approved:** JENNIFER EBERLIEN      **Date Approved:** 09/28/2018  
Acting Associate Deputy Chief, NFS

**Posting Instructions:** Amendments are numbered consecutively by title and calendar year. Post by document; remove the entire document and replace it with this amendment. Retain this transmittal as the first page(s) of this document. The last amendment to this title was 2700-2017-1 to FSM 2700 zero code.

<b>New Document</b>	2720	95 Pages
<b>Superseded Document(s) by Issuance Number and Effective Date</b>	2720 (Amendment 2700-2011-3, 08/04/2011)	96 Pages

**Digest:**

2721.51 - Changes caption from "Rental Service (Without Facilities) [Reserved]" to "Rental Service (Without Facilities)," for consistency with corresponding provision in FSH 2709.11, chapter 10.

“ISSUE SPECIAL USE PERMITS FOR RECREATION RESIDENCE IN THE NAME OF ONE INDIVIDUAL OR TO A HUSBAND AND WIFE.”

[MY TAKE: THIS INCLUDES AN INDIVIDUAL NAMED AS A REPRESENTATIVE OF A TRUST, IF CERTAIN CONDITIONS ARE MET, BASED ON LETTERS FROM PREVIOUS SLIDES.]

FOREST SERVICE MANUAL  
SECTION 2721.23a



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[AFTER THE DEATH OF A PERMITTEE AND] "PRIOR TO ESTATE SETTLEMENT, ISSUE AN ANNUAL RENEWABLE PERMIT TO THE EXECUTOR OR ADMINISTRATOR TO IDENTIFY RESPONSIBILITY FOR THE USE PENDING FINAL SETTLEMENT OF THE ESTATE."

FOREST SERVICE MANUAL  
SECTION 2721.23a



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“DO NOT ISSUE SPECIAL USE PERMITS FOR RECREATION RESIDENCE USE TO ENTITIES SUCH AS COMMERCIAL ENTERPRISES, NONPROFIT ORGANIZATIONS, BUSINESS ASSOCIATIONS, CORPORATIONS, PARTNERSHIPS, OR OTHER SIMILAR ENTERPRISES...”

FOREST SERVICE MANUAL  
SECTION 2721.23a

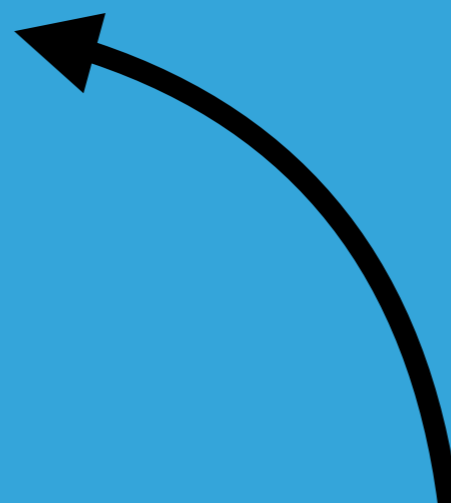
**The following is an example of a single asset trust that the Forest Service may accept if not modified. It is not intended to be a template to anyone or intended for use by any parties without the review of their own legal counsel. The Forest Service will not assume any liability for use of this example in any form.**

Revocable Trust

This Trust Agreement is entered into this \_\_\_ day of \_\_\_\_\_, 200\_\_, between \_\_\_\_\_ as the Trustors, and \_\_\_\_\_ as the Trustees. This Trust shall be known as the \_\_\_\_\_ [Trustor name] Recreation Residence Trust. This trust is established solely for the non-commercial personal benefit of the Trustors.

1. Trustors are currently the special use permit holders of a Special Use Permit issued by the United States Department of Agriculture Forest Service for a recreation residence, tract \_\_\_\_\_, lot \_\_\_\_\_, Ranger District \_\_\_\_\_, in the \_\_\_\_\_ National Forest.
2. Trustors are the owner of the recreation residence located thereon and hereby transfer and deliver to the Trustees the recreation residence. Trustee shall manage the recreation residence in accordance with the terms of the Special Use Permit, and regulations of the Forest Service. Trustee shall ensure that unauthorized commercial activity or use of any form, whether or not a net profit is obtained, is prohibited. Additional assets may be conveyed to the trust at any time by Trustors or any other person by will, deed, or otherwise. Such property when received and accepted by the Trustees shall become part of the trust estate and be subject to the terms and provisions of this Agreement and any and all such additional assets shall be used or accumulated or held for the payments of fees, assessments, maintenance, repairs, improvements etc. relating to the continued occupancy or use of the recreation residence.
3. The Trustee shall maintain the recreation residence for the recreational use and enjoyment of Trustors. At such time when Trustors cease to seasonally occupy or use the recreation residence, Trustee shall select a qualified individual or husband and wife beneficiary to be the successor-users of the recreation residence until the death of the Trustor(s) and shall notify the Forest Service in writing of the new qualified user.
4. Within one year following the death of the Trustor, or second Trustor if there are two, and provided this trust has not been revoked, this trust shall terminate and the recreation residence shall be distributed out of trust to the qualified individual or husband and wife beneficiary designated in paragraph 6 below, or sold to a third party. The remainder of the trust estate, if any, shall be managed as provided in paragraph 6 below.

**DON'T WORRY ABOUT BEING ABLE TO READ THIS FROM YOUR SEAT.**



**SINGLE ASSET TRUST  
EXAMPLE PROVIDED BY THE  
FOREST SERVICE**

## IMPORTANT TRUST TERMS

- ▶ Settlor/Grantor/Trustor - creates the trust and transfers property to it.
- ▶ Trustee - holds legal title to trust property for benefit of beneficiary.
- ▶ Beneficiary - person for whose benefit trustee holds legal title to trust property.

**WHY?**

### **TO ACHIEVE SPECIFIC GOALS, WHICH CAN INCLUDE:**

- ▶ Avoiding probate.
- ▶ Controlling inheritance and transfers (over one generation or multiple generations).
- ▶ Providing rules for management and use.
- ▶ Avoiding pitfalls of tenancy in common.

**ALSO CONSIDER ALTERNATIVE OF CO-OWNERSHIP AGREEMENT.**

### **A TRUST THAT HOLDS JUST YOUR CABIN CAN:**

- ▶ Be drafted to clearly meet Forest Service Rules.
- ▶ Be efficient for the Forest Service to review.
- ▶ Contain cabin-specific strict and rules that might not be relevant for the rest of your estate.
- ▶ Allow multiple owners (like siblings) to transfer separate ownership interests to one trust.



### **REQUESTING THAT YOUR PERMIT BE ISSUED TO YOUR TRUST:**

- ▶ Might be required if you transfer your cabin to your trust.
- ▶ Can clarify that the permittee holds it for the benefit of the trust beneficiaries.

**OK, I'M READY.**

# STEP 1: UNDERSTAND THE CURRENT SITUATION

- ▶ Identify who the current owners are and make sure the chain of title is clear.

### STEP 2: DRAFT THE TRUST FOR FOREST SERVICE REVIEW

- ▶ Make sure that the terms of the trust are consistent with the permit. This includes:
  - ▶ Cabin as trust property.
  - ▶ Trust representative and qualified permittee successors.
  - ▶ No commercial purposes.
  - ▶ Notice to Forest Service upon change in trustee or revocation of trust.

# STEP 2: DRAFT THE TRUST FOR FOREST SERVICE REVIEW

- ▶ Also address other important issues like:
  - ▶ Selection and removal of successor trustees.
  - ▶ Powers and duties of trustees.
  - ▶ What happens at the death of a beneficiary?
  - ▶ Can a beneficiary transfer a trust interest during life?
  - ▶ How are trust decisions made?
  - ▶ When will the trust terminate?

### STEP 3: TRANSFER CABIN TO THE TRUST

- ▶ This is a transfer of ownership and title that must be documented.
- ▶ Notify the appropriate government jurisdiction where title records are kept (county, for example).
- ▶ Address property tax implications.

### **STEP 4: REQUEST THAT PERMIT BE ISSUED TO TRUST**

- ▶ Prepare and submit Form 2700-3a to your permit administrator.
- ▶ This will likely incur the permit change fee.

# CHRIS COHEN

Co-Owner and President

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THANK YOU

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# QUESTIONS?