

## **THE SUPPORTING STATEMENT FOR 0596-0249**

SPECIAL USES – SF-299 APPLICATION FOR TRANSPORTATION, UTILITY SYSTEMS, TELECOMMUNICATIONS AND FACILITIES ON FEDERAL LANDS AND PROPERTY

**MARCH 23, 2023**

### **A. Justification**

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

This information collection is used by the Forest Service to evaluate and ensure that authorized uses of National Forest System (NFS) lands are in the public interest and are compatible with the agency's mission. The information helps the agency identify environmental and social impacts of special uses for purposes of compliance with the National Environmental Policy Act (NEPA) and program administration. In addition, the agency uses the information to ascertain whether the land use fee being charged for special use authorizations is based on market value. The information is collected through application forms and terms and conditions in special use authorizations and operating plans. Ongoing uses must be monitored to ensure compliance with the terms of the corresponding authorizations. In certain situations, information from the authorization holder is the only way the Forest Service can verify compliance with the terms of an authorization.

Several statutes authorize the Forest Service to issue and administer authorizations for use and occupancy of National Forest System (NFS) lands and require the collection of information from the public for those purposes. The laws for authorizing the use and managing these uses of NFS lands include:

1. The Organic Administration Act of 1897 (16 U.S.C. 551);
2. Title V of the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1761-1771);
3. The Act of March 4, 1915 (16 U.S.C. 497);
4. The National Forest Ski Area Permit Act (16 U.S.C. 497b);
5. Section 28 of the Mineral Leasing Act (30 U.S.C. 185);
6. The National Forest Roads and Trails Act (FRTA, 16 U.S.C. 532-538);
7. Section 7 of the Granger-Thye Act (16 U.S.C. 480d);
8. The Act of May 26, 2000 (16 U.S.C. 460l-6d);
9. The Federal Lands Recreation Enhancement Act (16 U.S.C. 6801-6814);
10. Act of September 3, 1954 (68 Stat. 1146; 43 U.S.C. 931c, 931d);
11. Archeological Resource Protection Act of October 31<sup>st</sup>, 1979 (16 U.S.C. 1996)
12. The Rural Electrification Act of 1936, as amended
13. Title VI of the Civil Rights Act of 1964

Forest Service regulations implementing these authorities, found at 36 CFR part 251, subpart B, contain information collection requirements, including submission of applications, execution of forms, and imposition of terms and conditions that entail information collection requirements, such as the requirement to submit annual financial information; to prepare and update an

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operating plan; to prepare and update a maintenance plan; and to submit compliance reports and information updates. The information collection requirements described in this request are necessary for the Forest Service to issue and administer special use authorizations to use and occupy NFS lands under these authorities.

From time to time, the agency will be making minor changes to the forms included in this approval. These revisions will not materially change the information collection, but rather the terms and conditions and legal authorities that govern special use permits.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

**a. What information will be collected - reported or recorded? (If there are pieces of information that are especially burdensome in the collection, a specific explanation should be provided.)**

Information requests for the issuance and administration of special use authorizations can be categorized as follows: (1) information required from proponents and applicants to evaluate proposals and applications to use or occupy NFS lands. None of the requested information is especially burdensome. When requested, financial information is the same information, and in the same level of detail, that must be supplied to the IRS or maintained under traditional sound business management practices.

Category 1: The Application Process

The application includes both the proposal to use NFS lands and the application for an authorization. When a proposal is accepted it moves forward as an application. The information in this process identifies the applicant and is used to determine if a requested use can be authorized and provides the required information for the authorization. The typical application information in the application process is:

- (1) identification of the applicant;
- (2) a description of the proposed use;
- (3) the location and duration of the proposed use;
- (4) the technical and financial capability of the applicant;
- (5) alternative locations considered for the proposed use, including non-federal lands;
- (6) anticipated environmental impacts associated with the proposed use and proposed mitigation of those impacts; and
- (7) information needed to recover agency costs to process an application and monitor a special use authorization. The authorized officer evaluates this information and makes a decision to grant or deny the application.

Please refer to question 12 for a list of the individual forms.

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- b. From whom will the information be collected? If there are different respondent categories (e.g., loan applicant versus a bank versus an appraiser), each should be described along with the type of collection activity that applies.**

The Forest Service collects the information from proponents and applicants and those holding a special use authorization. The Forest Service received 9,699 SF-299 applications for fiscal years 2020 through 2022, with an average of 3,233 annually. The proportions received for the previous three years: governmental entities (federal, state, local, county, and tribes) 17%; individuals (single person, husband and wife, or family trust) 5%; and private sector businesses (sole proprietor, partnerships, corporations, schools, and charities) 77%. This breakdown has been determined March of 2023.

These uses of NFS lands range from an individual's driveway, to interstate gas lines; from a single boat dock to multi-million-dollar recreation resorts; from a small (fee exempt) not-for-profit utility to multi-national corporations and federal power organizations.

- c. What will this information be used for - provide ALL uses?**

The information collected is used to issue permits and leases, enforce compliance with agreements, produce reports to ensure fees are paid (such as Recreation Residence Cabins) and to monitor growth of the Special Use Program. This helps with budget forecasting and program development.

- d. How will the information be collected (e.g., forms, non-forms, electronically, face-to-face, over the phone, over the Internet)? Does the respondent have multiple options for providing the information? If so, what are they?**

Typically, the information is collected via delivery of the form via hard copy mail, FAX or in electronic format via e-mail. Since most of these forms are legally binding Agreements, they require a signature for the attestation or acceptance, with an original signature.

- e. How frequently will the information be collected?**

USDA-Forest Service receives approximately twelve SF-299 applications per day. Applications are received year-round on 144 National Forests administered by the Forest Service.

- f. Will the information be shared with any other organizations inside or outside USDA or the government?**

The information is not shared in any routine or established manner.

Information is released in certain situations such as audits by USDA Office of the Inspector General and the Government Accountability Office, and yearly requests for certain information relevant to local taxing authorities for their

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Possessory Interest Taxes.

**g. If this is an ongoing collection, how have the collection requirements changed over time?**

This is an ongoing collection in order to control and manage the use of National Forest System lands. The collection requirements have not changed since the inception of its use.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

This form is submitted on a regular basis by proponents submitting proposals for the use of National Forest System lands. The form has been converted to PDF format to facilitate electronic processing by the proponent. The form is also 508 compliant. The agency uses e-mail and FAX to improve delivery of services and plans to use improved technology when it is available.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

The use of standard forms tends to reduce requests for extraneous information and allows the applicant to provide data in a more efficient manner than if several different forms were required.

The Forest Service has determined that the information the agency needs to process special use applications and monitor special use authorizations for use of NFS lands is not available from other governmental and private entities. Other federal land management agencies, such as the Bureau of Land Management, National Park Service, and Fish and Wildlife service require applicants to use this form for the use of those federal lands within their area of jurisdiction.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

This information collection does impact small business or other small entities. While many small entities (individuals, businesses, organizations and governmental units) qualify for fee exemptions or waivers, there is no waiver from compliance with required environmental laws and receiving the appropriate legal instrument for their occupancy and use of NFS lands.

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The methods used to minimize burden include collecting only the minimal information necessary to calculate the land use fee and to verify a basic level of maintenance at the site is required. Financial information, when required, involves records typically maintained in the normal course of business. No unusual information is required to determine the land use fee.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

If the collection is not conducted or conducted less frequently there will be a loss to the Federal Treasury of the required receipts from use of NFS lands and reimbursement of agency costs, costs incurred only due to the special benefit provided to that entity. All of these receipts are required to be paid either annually or as a condition of receiving their unique benefit.

Additionally, based on prior experience – when authorizations are not administered correctly – adverse impacts to the environmental resources within the National Forests occur. Facilities improperly located and constructed most likely result in aesthetic damage, soil loss, and water pollution. Soil loss, water pollution, and adverse impacts to plants and animals and their habitat will also occur without the appropriate administration of the use of NFS lands.

The Forest Service collects the information that is used to determine whether the use meets applicable regulations. The use could not be evaluated without the information collected.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **Requiring respondents to report information to the agency more often than quarterly;**

The SF-299 *Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands* does not require the applicant to report quarterly information.

- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

The SF-299 *Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands* does not require the applicant to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than**

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**three years;**

The SF-299 *Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands* does not require the applicant to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years.

- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**

The SF-299 *Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands* is not connected with a statistical survey

- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

The SF-299 *Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands* does not require the use of a statistical data classification.

- **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

The SF-299 *Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands* does not include such a pledge of confidentiality.

- **Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no other special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.6 Public protection.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

The request for public comment for the renewal with no modifications or changes of the SF-299 *Application for Transportation, Utility Systems,*

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Telecommunications and Facilities on Federal Lands and Property was published in the federal register as a notice on Wednesday, February 15, 2023 (88 FR 9856). The comment period ended on April 17, 2023. The Forest Service received four comments from the public that were outside the scope of the information collection.

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

The Forest Service interviewed three users of the SF-299 by email.

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

The Forest Service interviewed three users of the SF-299 by email. They were sent four questions on their use of the SF-299. Their comments are shown below.

<b>Name and Contact Information</b>	<b>Consultation Comments</b>
Ross Unruh 5435 South Prince Street Littleton, CO 80120 oilfieldsalvage@gmail.com 303-707-1257	1) Have you used the <a href="#">SF-299</a> for any uses on National Forest System lands or other federal lands. If so, what types of uses did you apply for? a) Yes. Application for a producing Oil well due to a land swap that took place.  2) What did you think of form? a) One of the easier forms I have had to fill out.  3) Did you have any issues with filling out the form, such as form fields, buttons, drop down lists etc? a) Worked great.  4) Do you have any suggestions for improvement of the SF-299? a) Not at this time.
Forest Service	No response required

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Response	
Amanda Duncan, SR/WA, Land Agent 1 Truckee Meadows Water Authority 1355 Capital Blvd. I Reno, NV 89502 O: (775) 834-8035, M: (775) 815-7195 aduncan@tmwa.com	Mark, We have no issues with the SF299 Form at this time. Thanks for allowing us the time necessary to review it.
Forest Service Response	No response required
Dale Wilson, owner operator of DW Tower, LLC <a href="mailto:dale@dwtower.com">dale@dwtower.com</a> 760 525-3401	<ol style="list-style-type: none"> <li>1. Have you used the SF-299 for any uses on National Forest System lands or other federal lands. If so, what types of uses did you apply for? DW Tower has used the SF-299 when applying for communications facilities on National Forests, BLM, Parks Service and, US Fish and Wildlife Service lands throughout the western States.</li> <li>2. What did you think of the form? The Form is simple but is perhaps outdated. Most of the information asked for is too complex to address in a form so we just answer the question by referring to an attached Plan of Development and other documents.</li> <li>3. Did you have any issues with filling out the form, such as form fields, buttons, drop down lists etc? The form is fairly easy to work with for a person with good word processing skills and familiarity with Adobe. We have not had major problems working with it.</li> <li>4. Do you have any suggestions for improvement of the SF-299? Items 12 through 18 are too complex to address in a form for a proposal like a new communications site or other construction. We refer to attachments to address those things. Perhaps the form could address initial screening criteria which is usually simple. Also, the form perhaps could more accurately list items needing to be addressed in this day and age in a Plan of Development in order for the government agency to adequately analyze the proposal. That might make the form more pertinent and useful to the applicant and agency staff processing the application.</li> </ol>



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Forest Service Response	<p>The Forest Service encourages all applicants to contact their forest Realty Specialist or Permit Administrator early in the application process to help you prepare a SF-299 application. The use of a Plan of Development to supplement the SF-299 to provide the detailed information requested in questions 7 through 18 is consistent with the use of the SF-299 ((Attach additional sheets if additional space is needed.)), especially for major or complex projects.</p> <p>Initial screening (36 CFR 251.54(e)(1)) is applied to all applications for the use of National Forest System lands (NFS). Question 7 provides initial screening information. Initial screening only determines if the proposed use is appropriate for NFS lands.</p> <p>The detailed response provided in a plan of development based on questions 7 through 18 help the agency through the secondary screening criteria (36 CFR 251.54(e)(5)) which is used by the agency to evaluate the proposed use. Here again working with a Realty Specialist or Permit Administrator early on, will help in the application process.</p>
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**9. Explain any decision to provide any payment or gift to respondents, other than re-enumeration of contractors or grantees.**

The Forest Service does not provide any gift or payment to the respondents regarding information collection requirements of 36 CFR Part 251, Subpart B, for Special Uses.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

The Privacy Act of 1974 (5 U.S.C. 552a) protects proprietary and confidential information.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

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This kind of information is not requested, is not needed, nor provided to the Agency by applicants or holders of a Special Use authorization.

**12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.**

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form.**

- a) **Description of the collection activity**
- b) **Corresponding form number (if applicable)**
- c) **Number of respondents**
- d) **Number of responses annually per respondent,**
- e) **Total annual responses (columns c x d)**
- f) **Estimated hours per response**
- g) **Total annual burden hours (columns e x f)**

One application is required for each special use request. If a party was interested in a special use authorization in more than one National Forest or more than one site within a National Forest, they may need to submit separate applications for each site. This information collection includes the development of narratives for plan development and thus requires several hours to complete. Based on the length of the narrative and complexity of the proposed use, the Forest Service estimates an average of 8 hours per collection.

**Table 3 - List of Forms and Burden Hours-Forest Service**

(a)	(b)	(c)			(d)	(e)	(f)	(g)
Description of the Collection Activity	Form Number	Number of Respondents Previous 3 years			Number of responses annually per Respondent	Average annual responses	Estimate of Burden Hours per response	Estimated Total Annual Burden Hours
		2020	2021	2022		(c x d)/3		(e x f)
APPLICATION FOR TRANSPORTATION, UTILITY SYSTEMS, TELECOMMUNICATIONS AND FACILITIES ON FEDERAL LANDS AND PROPERTY	SF-299	2399	3039	4261	1	3233	8	25,864

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**Count of Applicant Type for SF-299**

<b>Row Labels</b>	<b>Sum of Number</b>	<b>Percent of Total</b>
Federal	347	4%
Government	785	8%
Individual	2423	25%
Private	6144	63%
<b>Grand Total</b>	<b>9699</b>	<b>100.00%</b>

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- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

#### **Estimated Annualized Cost to Respondents-Forest Service**

*Table 1 Estimated Annualized Cost to Respondents*

<b>(a) Description of the Collection Activity</b>	<b>(b) Estimated Total Annual Burden on Respondents (Hours)</b>	<b>(c)* Estimated Average Income per Hour</b>	<b>(d) Estimated Cost to Respondents</b>
1. The Application Process	25,864	\$28	\$724,192

The Mean average hourly rate of \$28.01 for all occupations from the most recent (2021) Bureau of Labor Statistics was used rounded to \$28

([https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm)). The salaries of employees supporting these authorizations range from high values in the Utility industry to lower values of the retail and recreation industries. Figures are rounded to the nearest whole dollar.

**Total employer compensation costs for civilian workers** averaged \$42.48 per hour worked in December 2022, the U.S. Bureau of Labor Statistics reported today. Wages and salaries cost employers \$29.32 and accounted for 69.0 percent of total costs, while benefits cost \$13.17 and accounted for the remaining 31.0 percent. (See chart 1 and table 1.) Source Bureau of Labor Statistics, Employer Costs for Employee Compensation - December 2022  
<https://www.bls.gov/news.release/pdf/ecec.pdf>.

- 13. Provide estimates of the total annual cost burden to respondents or record keepers resulting from the collection of information, (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.**

There are no capital/start-up or operation and maintenance costs associated with this information collection.

- 14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.**

**The response to this question covers the actual costs the agency will**

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**incur as a result of implementing the information collection. The estimate should cover the entire life cycle of the collection and include costs, if applicable, for:**

- **Employee labor and materials for developing, printing, storing forms**
- **Employee labor and materials for developing computer systems, screens, or reports to support the collection**
- **Employee travel costs**
- **Cost of contractor services or other reimbursements to individuals or organizations assisting in the collection of information**
- **Employee labor and materials for collecting the information**
- **Employee labor and materials for analyzing, evaluating, summarizing, and/or reporting on the collected information**

**Estimated Annual Cost to the Government**

ACTION ITEM	PERSONNEL	HOURLY RATE	HOURLY FRINGE RATE	HOURS PER APPLICATION	NUMBER OF APPLICATIONS	TOTAL HOURS	SALARY TOTAL
The Application Process	Resource Specialists	\$35.11	\$31.06	8	3,233	25,864	1,711,679.52
	GS9 Step 5	\$66.18					

Hourly Rate taken from [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/GS\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/GS_h.pdf), 2023 General Schedule (Base), Cost to Government calculated at hourly wage. The rate for a GS 11 / Step 5 is \$ 35.11. Figures are rounded to the nearest whole dollar.

The mean fringe benefit rate was calculated based on recent Forest Service FRN 88 FR 14517, March 9, 2023. In the FRN the fringe rate was determined to be 1.55 for leave (27% of annual salary) and benefits (28% of annual salary) and by a surcharge of 1.216 for indirect costs (21.6% of annual salary) and rounding to the nearest dollar.

**Justification:** There was a 6% decrease in the 2022 submittal of the annual burden hours and the annual number of responses from the 2019 submittal for the renewal of the SF-299. During that time, we went through a national crisis, COVID-19 which impacted numerous individuals, businesses, and government entities, and is reflected in the number of SF-299 applications and other application types the agency receives for the use of National Forest System lands.

**15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of OMB form 83-I.**

There are no program changes or adjustments for this reporting period.

**16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.**

There are no plans to publish the results of this information collection.

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- 17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

The Forest Service requests an exemption from displaying the OMB expiration date on this Information Collection submission. Many of the Authorizations are valid for periods of up to 40 years from the date of execution. Holders of Forest Service Special Use authorizations often confuse OMB's expiration date with the Forest Service's date for expiration of the authorized use, or with the date a form was last revised (usually to reflect corrections due to typographical errors, misspellings, and so forth).

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**18. Explain each exception to the certification statement identified in  
item 19, "Certification Requirement for Paperwork Reduction Act."**

There are no exceptions to the certification statement. The agency is able to  
certify compliance with all provisions under Item 19 of OMB form 83-1,  
*Certification Requirements for Paperwork Reduction Act.*