

**TITLE 2700 – SPECIAL USES MANAGEMENT
KNF SUPPLEMENT 2700-2003-1**

2730.3 – POLICY

RESIDENTIAL ACCESS

I. Objectives:

1. To develop road standards for the granting of access to private property, which meet the intent of the *Montana Fire Protection Guidelines for Wildland Residential Interface Development*, dated July 1993.
2. To protect National Forest System (NFS) land and resources from damage.
3. To develop a road standard, which addresses access to privately owned lots, land parcel splits, subdivision, and incremental uses for residential uses as well as existing uses.

II. Policy:

It is the policy of the Forest Service to grant adequate access across National Forest System lands in accordance with regulations 36 CFR 251, Subpart D, when no reasonable alternative exists across non-federal lands [36 CFR 251.110(g); 7/2001].

National Forest System Roads (NFSR) are not public roads (FSM 7700) in the same sense as roads that are under the jurisdiction of public road agencies, such as states, or counties. NFSRs are not intended to meet the transportation needs of the public at large or general residential access. Instead, they are authorized for the administration and utilization of National Forest System lands. Although generally open and available for public use, use of NFSR's is at the discretion of the Secretary of Agriculture. Through authorities delegated by the Secretary, the Forest Service may restrict or control use to meet specific management direction. Commercial users, permittees, or contractors also may be required to share in the cost of developing, improving, and maintaining forest roads to a safe and adequate road standard.

Current Region One policy (FSM 2730.3) regarding private access across NFS land requires that a proponent or applicant for such access first demonstrate, in a manner acceptable to the Forest Service, that he/she has exhausted all legal recourse to obtain alternative access, or that such other alternative access has little chance of success.

Kootenai National Forest policy is that private lands be accessed without encumbering NFS land, whenever possible, except in the circumstances outlined below:

1. When the private land is an in holding (private land that is completely surrounded by National Forest system land).
2. Upon presentation of evidence satisfactory to the authorized officer (Forest Supervisor for authorizations greater than one year) that access across non-Federal land(s) is unavailable:
 - A fair market offer has been made by the applicant (requesting party) and the request has been refused by the party whose land would be crossed (written documentation required).
 - The applicant has exhausted all reasonable legal avenues to perfect his/her rights under State law to gain the needed non-federal access. The applicant should pursue legal avenues when it is determined by the Authorized Officer that a way-of-necessity may exist based on review of the chain of title: [36 CFR 251.114(f); 7/2001].
 - An assessment of adverse environmental effects is documented during the screening process and other suitable routes that cross other ownership are not available.

III. DEFINITIONS

Authorized Officer – The Forest Service line officer that issued the authorization. On the Kootenai, Forest Supervisor is the Authorized Officer for authorizations greater than one year, District Ranger for less than one year.

Seasonal Use – That is short-term in nature, typically 6 months or less.

Run with the Land – A requirement or standard, which passes with the transfer of land ownership or interest in land. Usually concerned with easements and covenants.

The following definitions are from FSM 2700 and FSM 7700 Directives:

Road – A motor vehicle travel way over 50 inches wide, unless designated and managed as a trail. A road may be classified, unclassified, or temporary.

Classified Road – Roads wholly or partially within or adjacent to National Forest System lands that are determined to be needed for long-term motor vehicle access, including state roads, county roads, privately owned roads, National Forest system roads and other roads authorized by the Forest Service. (36 CFR 212.1, FSM 7700 – Transportation System)

National Forest System Road (NFSR) – A classified forest roads under the jurisdiction of the Forest Service. The term “National Forest System roads” is synonymous with the term “forest development roads” as used in 23 U.S.C. 205. (FSM 7700 – Transportation System)

Unclassified Roads – Roads on National Forest System lands that are not managed as part of the forest transportation system. Examples are unplanned roads, abandoned travel ways, and off-road vehicle tracks that have not been designated and managed as a trail; and those roads that were once under permit or other authorization and were not decommissioned upon the terminations of the authorization. (36 CFR 212.1, FSM 7700 – Transportation System)

Forest Road – A road, which is on the National Forest Transportation system as a NFSR.

Private Road – A road that is **not** on the National Forest Transportation system, or if on the system, is not recognized as a NFSR.

The following definitions have been determined by State regulations.

Subdivision – Any platted subdivision, lot splitting, condominium leasing or rental agreement with the purpose of increasing residential density for either full-time or part-time residents.

Major Subdivision – Subdivision of six or more lots, or subdivisions of five or fewer lots that do not qualify as minor subdivision.

Minor Subdivision – Subdivision of five or fewer lots where proper access to all lots is provided and where no land will be dedicated to public use for parks and playgrounds.

IV. Road User Associations:

Associations assume the responsibility for commensurate maintenance of the Forest or Private road(s) which they use.

Road user associations will establish bylaws, charters, rules or similar agreements describing the roads to be used, restrictions, maintenance obligations and frequency, who can vote, how decisions are made and who will represent the association in dealing with the Forest Service. (Exhibit A, Road User's Association Agreement). The association shall determine, by position or name, one person to represent the association.

The Forest Service should review each new or revised road user association agreement before being signed by all members. The review will ensure that, at a minimum, the following two provisions are included:

- a) The agreement, charter or bylaws specifies the individual, by name or position, authorized to represent the association in all official business with the Forest Service, and
- b) A statement which specifies that the association's agreement is appurtenant to and shall "run with the land" so that new landowners in the subdivision or area will be required to abide by the terms and conditions of the association agreement. The following language, which has been approved by R1-OGC, is suggested. (Alternative language meeting the same intent may be substituted.)

"This agreement shall run with the land and shall be binding upon the undersigned, their heirs, personal representatives, successors and assigns, unless and until such time as said road and/or right-of-way shall be dedicated to and accepted for use as a public road by a qualified public road entity."

Once signed and notarized by all members of the association, the document will be filed in the official records of the county where the use on NFS lands or roads under the jurisdiction of the Forest Service is to occur.

V. Access on Existing or New Roads:

1. The authorized officer will determine: (The following are examples of questions that need to be answered, maybe others, to determine when to issue a special use authorization, refer to Exhibit G)
 - a. Should the road be inventoried and designated based upon current and anticipated use patterns as a: 1) NFSR; or 2) Private road?
 - b. Is the requested access for seasonal use?
 - c. Is the proposed use on an existing or proposed new road?
 - d. Is the proposed use reasonable?
2. When the Forest Service determines the road is or will be a "NFSR."
 - a. Road is open to public use, no restrictions – The termini typically are located on NFS land, and there may be public and/or administrative use. *A Special Use authorization or easement may not be required for use of a Forest Road.*

A Road Use Permit (FS-7700-41), issued under permit procedures found in FSM 7731.16 is required for snow plowing, minor maintenance, reconstruction, and commercial uses. [36 CFR 251.114(d) & 36 CFR 212.5(d); 7/2001]

The landowner(s) may be required to assist in the cost of construction or reconstruction of the existing road(s) to bring the road(s) to a safe and adequate standard. [36 CFR 251.114 (d), (e); 7/2001]. In addition, the landowner(s) may also be required to provide for the maintenance of the road(s). [36 CFR 212.5 (d); 7/2001]. In this situation, the Forest Service may require the various private and commercial users of the road to form a Road User's Association.

- b. Road is open to the public with restrictions (i.e., gates, closure order) - A Special Use authorization would be issued. This authorization would include plowing and maintenance specifications as attached in the Traffic Control Rules and Regulations and Other Provisions (see Exhibit B).
3. When the Forest Service determines the road is (or will be) a "Private Road." The terminus is typically located on private land and there is limited or no public use. The type of authorization issued is FS-2700-4c, Private Road Special Use Authorization or FS-2700-9j, Private Road Easement. This authorization/easement would include plowing and maintenance specifications as attached in the Traffic Control Rules and Regulations and Other Provisions. [36 CFR 251.114 (d); 7/2001]. The private road special use authorization or easement authorizes the holder to maintain the road but requires that the Forest Supervisor approve all construction or reconstruction.
4. For access that is requested but does not cross National Forest system lands, and utilizes an acquired Forest Road, a Road Encroachment Authorization (14-7730-1, see Exhibit F) would be required.
5. When the request is for access to a proposed **new** subdivision, the authorized officer shall determine the standard of road needed based on the number of parcels/lots. The authorized officer may require the upgrading of the road system by the proponent, commensurate to their use.
6. For subdivision access, the authorized officer will issue a special use authorization, or easement to a Road Users Association. [36 CFR 251.114(d)].
7. For multiple users of a single road (non-subdivision residents), the forest will encourage formation of one or more Road User's Association(s).
8. Incremental access – When 11 or more residential users are utilizing the same Forest Road(s) that do not meet the following described road standards, (Section VI, Road Standards) the affected landowners would be required to contribute toward the expense and/or performance required by the Forest Service in the upgrading of the road. In such cases, the authorized officer may require the landowners to form a Road User's Association as a condition of granting the requested access.
9. When other public services, such as school buses or rural mail delivery etc., are planning to use a Forest Road the road will be upgraded to the required standard as stated in Section VI. Road Standards.

VI. Road Standards:

The Kootenai NF leadership has adopted the following road standards to meet the intent of the *Montana Fire Guidelines for Wildland Residential Interface Development, July 1993*. Other road standards may be considered based on environmental concerns. In some cases, the forest may agree to certain exceptions to these standards.

When a decision has been made to grant an authorization, the following standards will apply:

<u>1/</u>	12' Surface 40' ROW	16' Surface 40' ROW	20' Surface 40' ROW	24' Surface 60' ROW
Single parcel	✓			
Five or fewer parcels, less than 300' in length	✓			
Five or fewer parcels, more than 300' in length		✓		
Six to ten parcels			✓	
Eleven or more parcels, eligible public road (county or State) or future PFSR (Public Forest Service Road)				✓

1/ Provide appropriate turnouts, based on site-specific need, for all surface and ROW widths

The Asst. Forest Engineer, meeting with the District Ranger, will identify and recommend for the authorizing officer's decision the need for, amount of, and method for implementing maintenance, appropriate turnouts, appropriate type and depth of surfacing material and reconstruction on Forest Development roads by the authorized holder, commensurate to their use.

When a new authorization (permit or easement) is to be issued for a road needing to be constructed or reconstructed, a temporary special use permit for construction will be issued and appropriate bonding considered. The duration of the temporary permit will be a reasonable length of time needed for the construction. Upon completion of the construction or reconstruction to the satisfaction of the Forest Service, the performance bond will be released. The short-term construction special-use permit will be replaced with a long-term authorization, either permit or easement, as appropriate.

In general, a special-use road permit will be issued for a period of 10 years and terminate upon change of ownership. FLPMA easement authorizations will be issued for a period not to exceed 20 years in most cases, and may be transferred to a new landowner upon change in ownership. Easements are intended to "run with the land", and the forest will encourage easement holders to record their easement(s) in the records of the appropriate county. If the private landowner (or RUA) will be granting a reciprocal easement to the U.S., it may be appropriate to grant the landowner (or RUA) FLPMA easement with a term of 30 years.

The Kootenai National Forest Residential Road Standards will be used unless other higher standards are prescribed through the NEPA process. For other uses, the District Ranger and Asst. Forest Engineer will review the road location and recommend right-of-way and running surface requirements, as well as, the need for appropriate surfacing type and sight distance. The authorization will provide for resource protection (i.e. spot surfacing, culverts, BMP's etc.)

For all roads, the Asst. Forest Engineer, working with the District Ranger, shall review proponent's submittal and recommend to the Authorized Officer those items needed to ensure the road meets acceptable standards for the intended use.

Private and forest road use authorized by existing permits/easements will continue to be recognized at their current standard of development through the life of the permit/easement, when it is re-issued to the same holder, or to a new holder for the same use. However, if the use changes (lots or parcels split, subdivided, or undivided interests sold or transferred, or portions of the parcel or lot are transferred to another ownership by various means, or the nature of the use changes after the date of this authorization) the new Kootenai National Forest residential road access standards will apply.

All special use authorizations and easements authorizing road use for residential purposes will include "Traffic Control, Regulations, Rules, and other Provisions" as an exhibit. Nothing shall be deleted from this standard exhibit, but additions may be made.

VII. Encroachments and Trespass

There are many cases where private landowners are occupying or encroaching upon adjacent National Forest System lands, or acquired road rights-of-way under Forest Service jurisdiction. Such encroachments may include unauthorized private roads, driveways, or other improvements. It is important to resolve these encroachments in a timely manner, either through removal or proper authorization. If the authorized officer is unable to resolve an encroachment, file a Notice of No Authorized Access in the appropriate county. The purpose is to provide constructive notice to current and future landowners that their use of NFS land does not comply with federal regulation and policy and that action is required on their part to resolve the situation.

The following steps are recommended to resolve unauthorized occupancy and/or use:

1. Meet with landowners to discuss, and consider alternative solutions with the landowner. Document the meeting. (Exhibit C, Meeting Documentation Letter)
2. If no resolution of the encroachment is reached, the District Ranger should prepare a Notice of No Authorized Access (see Exhibit D, Notice of No Authorized Access) for the county records.
3. District Ranger should obtain review and concurrence to file Notice of No Authorized Access from the Forest Supervisor's Office.
4. Forest Supervisor's office will provide notice for recording to the County Recorder.
5. Upon resolution of the encroachment, a Termination of Notice of No Authorized Access (Exhibit E, Termination of Notice of No Authorized Access) shall be completed and filed in the appropriate county to clear the landowner's title.

EXHIBIT A**Example**

Name of User's Association
ROAD User's Association Agreement

THIS AGREEMENT, made by and between the owners of certain parcels of lands located in Section **, Township ** North, Range ** West, P.M.MT, namely:

List of all landowners, addresses, and legal descriptions with parcels owned and/or lot numbers.

WITNESSETH: That each of the above named landowners have formed the (*name of the Association*) Road User's Association consisting of said landowners, and each of them covenants and agrees with every other owner as follows:

- A. This agreement is made for the portion of the existing roadway servicing the above-described properties located in the (*legal description*) which traverses National Forest System lands to a standard acceptable to U.S. Forest Service. In addition, the Association shall comply with all Forest Service requirements regarding said road maintenance and repair in a prompt and efficient manner. The Forest Service MUST approve any work beyond regular maintenance and repair.
- B. The parties acknowledge that the existing roadway servicing the above-described properties is located in the (*legal description*) on lands managed by the United States Forest Service. The parties hereby agree to share the costs and expenses, including payments of Forest Service Fees, of any maintenance or improvements necessary to maintain the roadway.
- C. Any additional repairs or maintenance shall be required when a decision is reached by 51 percent of the landholders bound by this agreement or as required by the United States Forest Service. The owners of each lot of land shall be entitled to cast one vote. A partial interest, for the purposes of this association, shall be deemed one lot.

Pursuant to a decision to repair or maintain, such owners shall initiate the repair or maintenance within 30 days, unless otherwise agreed, or required by the United States Forest Service. Each of those owners having parcels bound by this agreement will bear a proportionate share of the cost and expenses based on the length of the roadway servicing their parcel and their type of use. If the owners of the parcels bound by this agreement, fail to pay their share of the repair or maintenance cost, the other parties shall be entitled to costs, attorney fees and interest at the highest legal rate from the day of invoice payment, in the event suit is initiated to enforce this agreement.

- D. The initial contact person representing the herein named (*Association name*) Roads User's Association, in its dealing with the United States Forest Service is, (*Name and address of the landowner to represent all other landowners*). Lot owners will elect a representative in the year 200x, and every five (5) years thereafter, or at any time, a vacancy occurs. Each lot owner will have one (1) vote. The association shall immediately notify the United States Forest Service of any change of its representative.
- E. Current members shall allow additional parties to join the association when the additional parties have a need to use the road for access to their property.

- F. When this agreement has been amended to allow additional parties to join the association, the new member(s) shall record the amendment in the official records of Lincoln County and provide each member and the Forest Service a copy of the recorded amendment.
- G. All parties desiring to use the authorized road shall share in the reasonable and documented original construction costs. This cost shall be proportionate based on the portion of the road used and the number of people using the road. When the association is amended to allow for additional members, the new members shall reimburse the current members, who have an investment in the construction of the road, a proportion share of the current replacement value of the road.
- H. This agreement shall run with the land and shall be binding upon the upon the undersigned, their heirs, personal representatives, successors and assigns, unless and until such time as said road and/or right-of-way shall be dedicated to and accepted for use as a public road by a qualified public road entity.

ACKNOWLEDGMENT **

STATE OF MONTANA

:ss.

County of

The foregoing instrument was acknowledged before me on the _____ day of _____, 2002
by _____.

Notary Public, State of
Residing at:
My Commission Expires:

(seal)

DATED this _____ day of _____, xxxx.

**** Each signature on a document needs an acknowledgment.**

Exhibit B

Traffic Control Regulations, Rules, and other Provisions

The **Traffic Control Regulations, Rules and other Provisions** are subject to and shall be in accordance with existing laws, regulations, and policies in effect at the time and therefore may be modified by the Forest Service accordingly. The standards were developed to meet the **intent** of the *Montana Fire Guidelines for Wildland Residential Interface Development, July 1993*. Other road standards can be considered based on environmental concerns. In some cases, trade-offs may be possible. Forest Service and the proponent, commensurate on use, will share all reconstruction costs for National Forest System roads. Special Use permits may be amended or terminated as deemed necessary by the authorized Forest Officer. ***Delete this sentence if being issued as an "easement"***.

This ***private/forest*** Road ***Special Use Permit/Easement (choose one)*** authorizes the use and maintenance of a road across National Forest System lands for the purpose of ***state the purpose***. The ***easement/permit (choose one)*** granted is subject to the following:

In the event that the tract of land served by this authorization is one or more lots or parcels, is split, subdivided, or undivided interests sold or transferred, or if portions of the parcel or lots are transferred to another ownership by various means after the date of this authorization, the following guidelines could apply:

<u>1/</u>	12' Surface 40' ROW	16' Surface 40' ROW	20' Surface 40' ROW	24' Surface 60' ROW
Single parcel	✓			
Five or fewer parcels, less than 300' in length	✓			
Five or fewer parcels, more than 300' in length		✓		
Six to ten parcels			✓	
Eleven or more parcels, eligible public road (county or State) or future PFSR (Public Forest Service Road)				✓

1/ Provide appropriate turnouts, based on site-specific need, for all surface and ROW widths

Additional Non-federal Users - When additional users desire to use the authorized road, the *holder/grantee*, who have an investment in the construction of the road, shall have the right to recover a proportionate share of the current replacement value of the road from subsequent users. Should a dispute arise between the *holder/grantee* and subsequent users, and shares of the replacement value of the road cannot be agreed upon, the *holder/grantee* agrees to submit the dispute for binding arbitration in accordance with the rules and procedures of the American Arbitration Association (AAA).

EXHIBIT B continued

B. SPECIFICATIONS FOR SNOW REMOVAL

Before any snow removal, notify the *Appropriate district and phone number***.** Snow removal shall be done in a manner to preserve and protect the roads to the extent necessary, to insure safe and efficient transportation and to prevent excessive erosion damage to roads, streams and adjacent lands.

1. Description – Snow removal work by the ***grantee/holder*** shall include:
 - a) Removal of snow from entire road surface width, including turnouts
 - b) Removal of snow slides, earth slides, fallen timber, and boulders that obstruct normal road surface width.
 - c) Removal of snow, ice, and debris from culverts so system will function efficiently at all times.
2. Performance – All items of snow removal shall be done currently as necessary to insure safe, efficient transportation. Work shall be done in accordance with the following minimum standards of performance.
 - a) Removal of material. All debris, except snow and ice that is removed from the road surface and ditches shall be deposited away from stream channels at agreed locations.
 - b) During snow removal operations, banks shall not be undercut nor shall gravel or other selected surfacing material be bladed off the roadway surface.
 - c) Ditches and culverts shall be kept functional during and following roadway use.
 - d) Snow berms shall not be left on the road surface. Berms left on the shoulder of the road shall be removed and/or drainage holes shall be opened.
 - e) Dozers shall not be used to plow snow on system roads without written approval of the Forest Service.
 - f) Snow must not be removed to the road surface. A minimum two-inch depth must be left to protect the roadway.
 - g) Permittee's damage from, or because of, snow removal shall be restored in a timely manner.

EXHIBIT B continued

C. SPECIFICATIONS FOR ROAD MAINTENANCE

**** USER NOTE ** Individual clauses/specifications will be written in each time by the Special Use Administrator and Engineer, specific to the road & traffic needs.**

Before any road maintenance activity by the Road Users Association, they shall notify the Appropriate district and phone number. Road Maintenance activities will utilize the appropriate, current edition, road maintenance specification as listed below for the maintenance activity needed and approved on the authorized road: (current edition of each)

1. Road Surface Blading	T- 101
2. Ditch Cleaning	T- 301
3. Cutting Roadway Vegetation	T- 507
4. Minor Culvert Cleaning	T- 310
5. Surface Repair	T- 113
6. Slide Removal & Slump Repair	T- 108
7. Dust Abatement	T- 103
8. Clearing Roadway Vegetation	T- 506
9. Traffic Services	T- 710
10. Vegetation Establishment	T-841
11. Shoulder Maintenance	T- 201
12. Seeding	T- 508
13. Miscellaneous Structures	T- 619

EXHIBIT C**Documentation Letter (Encroachments)**

United States
Department of
Agriculture

Forest
Service

Kootenai National Forest
406 293-6211

Forest Supervisor's Office
1101 US Highway 2 West
Libby, MT 59923

File Code: 5510

Date:

Mr. Gifford Pinchot
1600 Forest Ave.
Stryker, MT 59999

Dear Mr. Pinchot:

This letter is intended to document your meeting of May 3 with Ranger Rick regarding your unauthorized use of National Forest system land, including the use of a Forest Development road in the NW1/4NW1/4, Section 26, T.31N., R.31W., P.M.MT, Lincoln County, Montana.

National Forest System roads are not public roads in the same sense as roads that are under the jurisdiction of public road agencies, such as states or counties. They are not intended to meet the transportation needs of the public at large or residential access. They are authorized only for the administration and utilization of National Forest System lands. Although generally open and available for public use, that use is at the discretion of the Secretary of Agriculture. Through authorities delegated by the Secretary, the Forest Service may restrict or control use to meet specific management directions.

We regret a solution to the encroachment could not be reached. Therefore, we are sending the enclosed notice to the Lincoln County Courthouse for recording in the public records. We would appreciate further discussion towards resolution of this encroachment and eventual removal of the title encumbrance from the records.

Sincerely,

Forest Supervisor

enc.



Caring for the Land and Serving People

Printed on Recycled Paper



EXHIBIT D

NOTICE OF NO AUTHORIZED ROAD ACCESS

The UNITED STATES OF AMERICA hereby asserts that there is **NO AUTHORIZED ROAD ACCESS** across National Forest System Land to access the real property described below, and as shown on EXHIBIT A attached hereto and made a part hereof:

(legal description)

This statement is being recorded to provide constructive notification to owner(s) and prospective purchaser(s) of the above described real property that:

1. The United States does not recognize that any right, title, interest, or authorization currently exists for road access across National Forest System Lands to any portion of the above described real property.
2. The United States is required under terms of the Alaska National Interest Lands Conservation Act (ANILCA, P.L. 96-487) to provide adequate access to private lands within the boundaries of the National Forest System to secure to the landowner(s) the reasonable use and enjoyment thereof.
3. When there is existing access or a right of access to a property over non-National Forest System lands or over public roads that is adequate or that can be made adequate, there is no obligation to grant additional access across National Forest System lands.
4. The United States shall require any applicant for road access across National Forest System Lands to the above-described real property to first obtain proper authorization from the Forest Service.
5. Prior to granting authorization for requested road access across National Forest System lands, the Forest Service must evaluate the requested use to ensure compliance with all applicable federal and state laws, regulations, and policies in place for protection of the environment, including but not limited to the National Forest Management Act (NFMA, P.L. 95-588, 10/22/76); Endangered Species Act (ESA, P.L. 93-205, 12/28/73); National Environmental Policy Act of 1969 (NEPA, P.L. 91-190, 1/1/70); National Historic Preservation Act (NHPA, P.L. 89-665, 10/15/66); the Montana Water Quality Act; and the Kootenai National Forest Plan (9/87).
6. As provided by the Federal Land Policy and Management Act (FLPMA, P.L. 94-579, 10/21/79), the Forest Service may require, as a condition of authorized access across National Forest System lands, that the requesting landowner(s) provide reciprocal public and/or administrative access across lands owned or controlled by the party requesting access across federal land.

For additional information, contact the Forest Supervisor, Kootenai National Forest, 1101 U.S. Hwy 2 West, Libby, MT 59923, Phone (406) 293-6211.

Dated this _____ day of _____, 2002

UNITED STATES OF AMERICA

By: _____
Forest Supervisor
Kootenai National Forest
USDA - Forest Service

ACKNOWLEDGMENT

STATE OF MONTANA)

)ss

County of Lincoln)

On this _____ day of _____, 2002, before me, a Notary Public within and for said State, personally appeared _____, Forest Supervisor, Kootenai National Forest, Forest Service, Department of Agriculture, and the same person who executed the within and foregoing instrument, who, being by me duly sworn according to law, did say that he is the Forest Supervisor, Kootenai National Forest and that said instrument was signed in behalf of the United States of America by it's authority duly given and by him delivered as and for its act and deed. And he did further acknowledge that he executed said instrument as the free act and deed of the United States of America, for the purposes and consideration herein mentioned and set forth, and I do hereby so certify.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

(Notary Seal)

Notary Public for the State of Montana
Residing at _____
My Commission expires _____

EXHIBIT F

Revised 8/99

7730

ROAD ENCROACHMENT AUTHORIZATION

Authority: National Forest Roads and Trails Act
 (Act of October 13, 1964: P.L. 88-657, 78 Stat. 1089,
 as amended; 16 U.S.C. 532-538)

*****USER NOTE:** Click in the gray box and type information – Do Not Use The Tab Key – click in next gray box and type information. **DELETE ALL USER NOTES BEFORE PRINTING.*****

Road No.: _____ Road Name: _____

Legal Description: TOWNSHIP _____, RANGE _____, Section(s) _____.

*****USER NOTE:** Select wording in blue & between the [] symbols, then add, delete, and modify as needed. Delete the [] brackets. **DELETE THIS AND ALL OTHER USER NOTES.*****

Name of Address, hereinafter referred to as Holder, is hereby authorized to [**construct, maintain, and use a(n) access approach, driveway**] which accesses private land from the Road name Road No. _____, a national forest system (NFS) road.

TERMS AND CONDITIONS

The following terms, conditions and specifications are required in order to protect the national forest system road and resources:

*****USER NOTE:** Select appropriate provisions from those listed below; include additional provisions as needed; delete inapplicable provisions. **DELETE THIS USER NOTE.*****

DO NOT DELETE CLAUSES 1 THRU 12. If a clause is not applicable, use the following steps: Highlight clause - click on Format – click on Font – click the Font tab - under Effects, click the Strikethrough checkbox and OK. Clause should now have a line drawn through it. **DELETE THIS USER NOTE.**

1. A Forest Service Engineer [will **inspect**] [has **inspected**] the approach area with Holder, and [will **determine**] [has **determined**] appropriate specifications for this authorization.
2. Holder agrees to construct and maintain the approach in such a manner that surface water does not run onto the NFS road.
3. Holder agrees to install a culvert at the junction of the approach road and the NFS road. Unless otherwise specified by the Forest Service, any culvert installed by holder shall be a minimum of eighteen (18) inches in diameter (or 21" x 15" pipe arch). The Forest Service Engineer shall specify the exact diameter and length.
4. Holder agrees not to place any materials on the roadway, road shoulder, and cut or fill surfaces during construction and use of the approach without prior written approval from Forest Service.
5. Holder agrees not to place any signs, mailboxes, posts, or other structures within the road right-of-way without prior written authorization from the Forest Service.
6. Holder agrees to trim or remove vegetation, upon request by the Forest Service, in order to create and maintain safe sight distance from the approach.
7. This authorization does not convey permission for holder to use the NFS road for commercial hauling purposes. Holder must obtain additional written authorization from the Forest Service to use the NFS road for any commercial hauling purposes.

When are permits/easements required?

