

## LAND OCCUPANCY AND USE

**Abstract:** The occupancy of National Forest System Lands is authorized by the issuance of Special Use Permits (SUPs). The Arapaho and Roosevelt National Forests and Pawnee National Grassland currently have 358 recreational uses and 568 nonrecreational uses under permit. This does not include an average of 51 temporary special use permits authorized each year for special events such as commercial filming, bicycle classics and other short term activities. The demand for the use and occupancy of the Forests and Grassland continues to grow each year, making permit issuance and administration a challenge.

In the *Forest Plan* revision all alternatives provide for a variety of special uses, both recreational and nonrecreational. Current major uses are continued through all alternatives.

### LEGAL AND ADMINISTRATIVE FRAMEWORK

The basic authority for authorizing special use permits for the occupancy and use of National Forest System lands is the *Organic Administration Act of June 4, 1897* (30 Stat. 35) 16 USC. 477-482. Title 36 Code of Federal Regulations, Section 251.57 (a) gives the Forest Service the authority to establish and collect fees for special use authorizations. Title V of the *Federal Land Policy and Management Act of October 21, 1976* (90 Stat. 2743; 43 U.S.C. 1761-1771) (FLPMA) authorizes the Forest Service to issue permits, leases or easements to occupy, use, or traverse National Forest System lands. FLPMA also directs the United States to receive **fair market value** unless otherwise provided for by statute and provides for reimbursement of administrative costs in addition to the collection of land use fees.

Occupancy of National Forest System lands may be authorized when such use is determined to be in the public interest. Occupancy for both recreational and nonrecreational activities is authorized through the issuance of special use authorizations.

### INTRODUCTION

The Arapaho and Roosevelt National Forests and Pawnee National Grassland's intermixed landownership pattern and its proximity to Front Range population centers increases the demand for the use and occupancy of National Forest System lands to satisfy individual and public needs. The determination that private use is in the public interest is made before authorizing any new use or renewal.

As of 1995, there are 358 recreational and 568 nonrecreational special uses authorized. An average of 51 temporary permits are issued annually on the Forests and Grassland to authorize special events, such as commercial filming and bicycle classics.

A limited number of new uses are authorized each year. Permits for existing uses are being reviewed as they expire to determine if the occupancy is still in the public interest. Special uses that only benefit private interests are discouraged, as well as uses on parcels that are identified for removal from the National Forest System.

## **RECREATION SPECIAL USES**

Recreation special uses are authorized to enhance and expand recreation opportunities on the ARNF-PNG while protecting natural resources and minimizing user conflicts.

### **CONCESSIONAIRE PERMITS**

The ARNF-PNG is currently moving toward a system of managing developed recreation experiences and services through the issuance of concessionaire permits. Concessionaire permits have been used to manage developed campgrounds on the Boulder, Sulphur and Clear Creek Ranger Districts. These permits allow private industry to provide services to developed recreation users while returning a fee to the United States Treasury.

### **OUTFITTER AND GUIDE PERMITS**

The ARNF-PNG has 76 outfitters and guides under permits for such activities as horseback riding, hunting, fishing, river rafting, snowmobiling, and mountain bicycling. These activities average 62,359 service days annually.

Over the years, the American public has benefited from the relationship between outfitters and the Forest Service. Outfitters have helped the agency achieve its mission by providing quality recreation experience to people who may not normally venture into the forest setting alone. Visitors to the National Forests have gained experience and knowledge about the environment and forest setting from outfitters. And the agency has benefited from a strong partnership with outfitters and guides.

Outfitters and guides will continue to play a vital role in providing recreational opportunities to the public. The Forest Service will nurture this partnership in the future.

The demand for use of National Forest System lands continues to grow. The number of requests for new uses of this type exceeds our present ability to manage the program. There will be increased pressure on the Forests to determine the percent of use that should be allocated to outfitters and guides in the various management or geographic areas.

## RECREATION RESIDENCES

There are 163 summer homes on the ARNF-PNG located within 19 recreation residence tracts. The majority of the tracts are on the Clear Creek Ranger District. The following table shows the distribution of recreation residence tracts by district:

**Table 3.140 Distribution of Summer Homes Under Permit**

Ranger District	Tracts (Organized Groups)	Individual Residences
Clear Creek	9	98
Estes-Poudre	3	29
Sulphur	2	5
Boulder	1	8
Redfeather	1	5

A revised recreation residences policy became effective June 17, 1994. This policy updated the *Forest Service Manual* direction for recreation residences. The new policy includes conducting a project analysis when the lands currently authorized for recreation residence use are allocated to alternative public use through *Forest Plan* revision and continued recreation residence use may be inconsistent with the standards and guidelines which apply to the prescribed management area.

The majority of the recreation residence tracts are in rural and roaded-natural recreation opportunity classes. Twenty-five recreation residences are located within the Cache la Poudre Wild and Scenic River corridor. The Cache la Poudre Wild and Scenic River Management Plan's current policy regarding recreational residences within the Wild and Scenic River corridor is to phase the permits out as the existing structures become unmaintainable, and limit expansion of existing residences.

All permits for recreation residences on the Arapaho and Roosevelt National Forests expire in the year 2008. The new recreation residence policy requires evaluation of all recreation residence use for consistency with *Forest Plan* direction. Recreation residences within the Wild and Scenic River corridor will be evaluated for compatibility with the public interest and the Wild and Scenic River Management Plan when they expire.

## ENVIRONMENTAL CONSEQUENCES FOR RECREATION SPECIAL USE AUTHORIZATION

### For All Alternatives

The issuance of special use permits will continue to provide for a variety of recreation and nonrecreation activities on the National Forest System lands that are in the public interest, and compatible with management area direction. The allocations in all alternatives provide some acreage suitable for all uses now occurring on the Forests and Grassland. Special use permits would be administered to minimize conflicts with other resource areas.

Budget emphasis varies slightly by alternative. Experienced budget levels in all alternatives provide for the administration of permits and limited issuance of permits for new uses. Full implementation budget levels would provide more opportunity to issue permits for new uses in Alternatives A, B, C, E, and I, and greater monitoring and a higher level of administration in B and H.

The 25 recreation residences located within the designated Recreation River segment of the Cache la Poudre River, detract to varying degrees from the scenic quality of the corridor and preclude providing a higher public use that would serve more people. The presence of these recreation residences prevents activities such as hiking and fishing from occurring because the public is unable to recognize these areas as public land. Some recreation residences are located in spots where another public use of the land may be desired such as parking, fishing access, trailhead location, general river access and campgrounds. The amount of suitable terrain for such improvements for public use is limited in the Wild and Scenic River corridor. Phasing out of some of these residences is desired over time by the Wild and Scenic River Management Plan.

## NONRECREATION SPECIAL USES

Nonrecreation special use permits are authorized for a variety of occupancies and uses that serve both private access needs provided for by law and public needs such as major electrical, gas, oil and telecommunications utilities.

## FEDERAL LAND MANAGEMENT POLICY ACT OF 1976 (FLPMA) PRIVATE AND PUBLIC ROAD EASEMENTS

The ARNF-PNG receives many requests each year for authorization to cross National Forest System lands to access private land. These requests are received from citizens who own private land completely or partially surrounded by National Forest System lands. FLPMA easements are granted primarily to provide access to private properties completely surrounded by National Forest Systems land as provided for by the *Alaskan National Interest Lands Conservation Act (ANILCA) of 1980*. Many requests for access not provided for by law are made when it is discovered that the access historically under use is discovered to be in trespass and landowners need to establish legal access to sell or improve their properties. Region 2 policy is to approve

these easements only after the proponent has proven access across private land is not available or feasible. Most of these requests occur in the intermixed areas that were created by patented mining claims.

### **HIGHWAY CORRIDORS**

The ARNF-PNG occasionally receives requests from the Colorado Department of Transportation (CDOT) and the Federal Highway Administration (FHWA) for rights-of-way to accommodate reconstruction of existing highways crossing National Forest lands. After ensuring that the land transfer is in the best interest of the Forest Service and the public, as documented by a NEPA analysis, the Forest Service authorizes use of these lands for highway purposes through a Letter of Consent (LOC).

The ARNF-PNG will also pursue needed easements on existing state highway routes, where they are not currently in place.

### **UTILITY CORRIDORS**

The 1984 *Forest Plan* designated 14 utility corridors on the Arapaho and Roosevelt National Forests and Pawnee National Grassland. These corridors contain major electrical transmission lines and major pipelines under special use permit. They provide utility services such as natural gas and electricity to Denver and other communities along the Front Range as well as smaller communities on the Western Slope and in northeastern Colorado.

### **Future Trends**

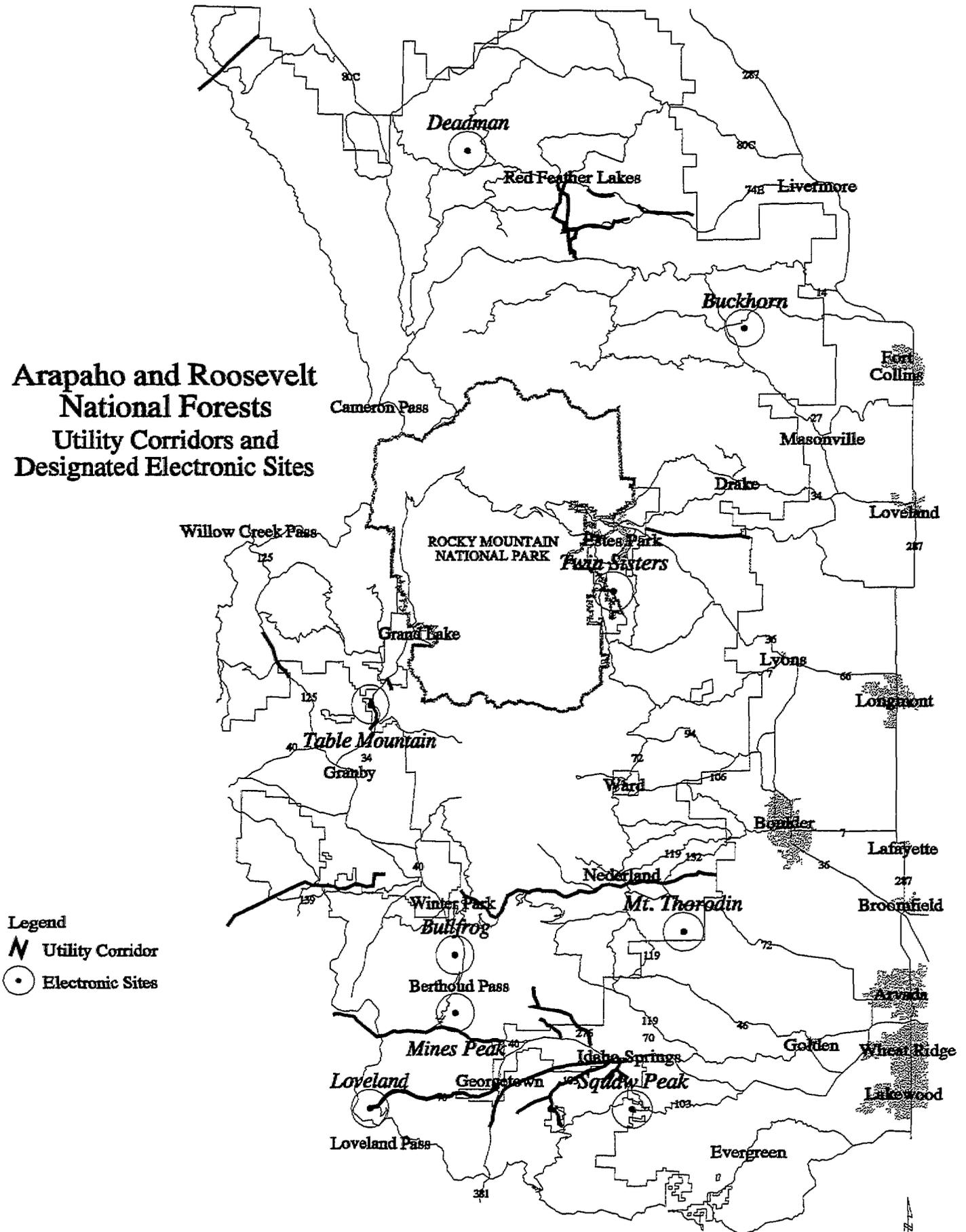
Many utility companies are interested in expanding their existing occupancy to provide service to new customers and improve service to existing customers, which could result in the expansion of existing corridors or the establishment of new corridors.

### **Environmental Consequences**

A utility corridor is defined as a designated parcel of land, either linear or areal in character, which has ecological, technical, economic, social, or similar advantages over other areas for the present and future location of transportation and/or utility rights-of-way within its boundaries. Utilities include but are not limited to major energy and telecommunication facilities. Corridors are not usually wider than 5 miles, and are limited by technological, environmental, and topographical factors. Linear Utility Corridors are shown in Figures 3.26 and 3.27.

Figure 3.26

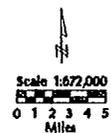
# Arapaho and Roosevelt National Forests Utility Corridors and Designated Electronic Sites



- Legend
- Utility Corridor
  - Electronic Sites

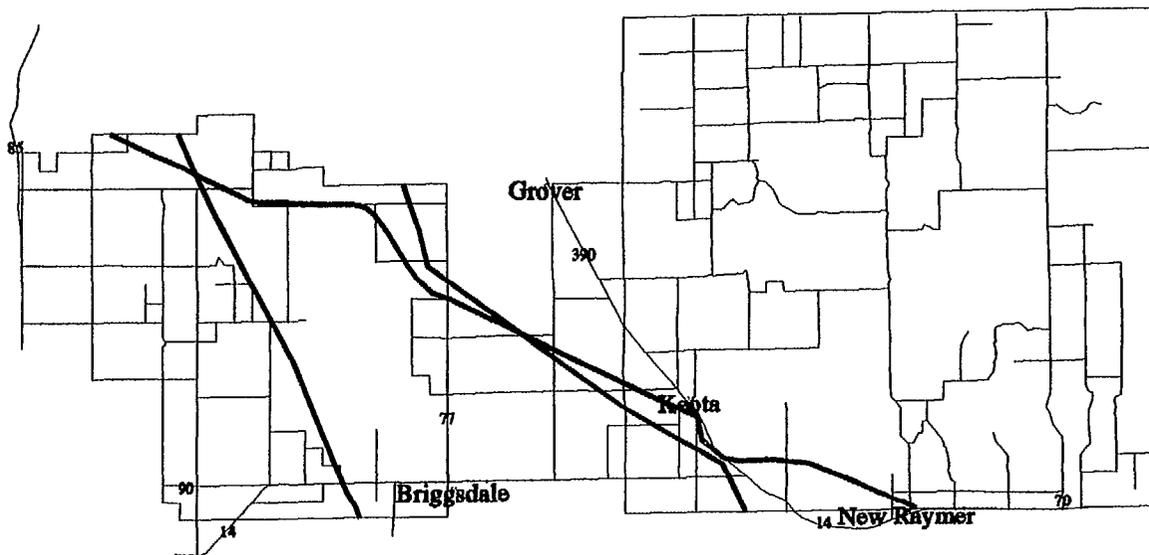
Figure 3.27

# Pawnee National Grassland Utility Corridors and Designated Electronic Sites



**Legend**

-  Utility Corridor
-  Electronic Sites



They are also displayed in Figures 3.1 and 3.2, Chapter Three of the revised *Forest Plan*, on maps of the geographic areas through which they pass, and on management area maps. The allocation of utility corridors does not change by alternative. Corridor management shall be compatible with adjacent management objectives including visual, recreation and travel management. Expansion and other activities and actions that would not meet these requirements would not be approved. The corridors are set in width as identified by the special use permit issued. Corridors are only designated for major telephone trunk lines, including fiber optic, and oil and gas lines, ten inches in diameter or greater. Local distribution lines and smaller pipelines have not been identified as corridors.

Our analysis reviewed all existing electrical, telephone, gas and oil lines meeting the criteria for corridor designation and one unoccupied corridor proposed in the Western Utility Group's Western Regional Corridor Study (July 23, 1993). The unoccupied corridor proposed in the Western Utility Group's Western Regional Corridor Study follows the Rio Grande Railroad lines east out of Winter Park Ski Area, runs north of East Portal and south of Rollinsville, ending up on private land. This corridor crosses steep and highly scenic terrain along the historical Moffat Road right-of-way, into delicate open alpine tundra. This proposed corridor would also cross the Continental Divide National Scenic Trail and be highly visible, impacting the scenic experience of trail users. The proposed corridor would also be highly visible from both sides of the Continental Divide from the Moffat Road and Winter Park Ski area. Occupying this corridor with major utility transmission lines either above or below ground would require a change to the existing Visual Quality Objective in some management areas. The steep, fragile alpine and open terrain would make the mitigation of visual and physical impacts very difficult, and in some cases not possible. This proposed corridor was not designated as an unoccupied corridor in any alternative. A designated corridor already exists to the south of this proposed corridor. Twenty-seven lines meeting the corridor criteria were designated as well as the recently approved corridor containing the Tristate line in Grand County.

## COMMUNICATION SITES

Communication sites are identified in the revised *Forest Plan* 8.3 utility corridor management area. There are nine designated communication sites on the Forests, all of which are allocated to the 8.3 management area. These sites are shown in Figures 3.26 and 3.27 of this chapter, in Figures 3.1 and 3.2, Chapter Three of the *Forest Plan*, and on individual management area and geographic area maps in the *Forest Plan*. Eight of the sites (Mines Peak, Squaw Pass, Mount Thorodin, Bullfrog, Table Mountain, Deadman Mountain Lookout, Buckhorn Mountain, and Loveland Wireless Site) are multi-user sites with nonfederal commercial use. Mines Peak is used by the Forest Service, other federal users and several commercial users. Squaw Pass also has several other federal users besides the Forest Service. This site is managed by a nonfederal commercial site manager and has several different nonfederal commercial users.

Mount Thorodin has federal and county users and is managed by a commercial site manager. Bullfrog is located at the Winter Park Ski area. This site was formerly used by the ski area for internal communications. Currently, the site is occupied only by commercial users and is limited to low power uses. The Table Mountain Site is managed by the Bureau of Reclamation and is

also occupied by commercial users. The Deadman Mountain Lookout site is shared with the county and one nonfederal, commercial user. Buckhorn Mountain is shared with state, county and commercial users. The site is located on a one-acre easement retained by the Forest Service through a land exchange. Loveland Wireless site is located within the boundaries of the Loveland Valley- Loveland Basin Ski area. The site was recently designated by an amendment to the 1984 *Forest Plan*. The site is limited to low power uses.

Twin Sisters Peak has no commercial users; it is used by the Forest Service, National Park Service and county agencies.

Currently, there are three communication sites in use that have not been formally designated. South Cottonwood which is used as an administrative site by the Forest Service and Grand County, a site near Crosier Mountain which has one commercial user, and Reno Hill which serves the Pawnee National Grassland repeater.

The Forests are also evaluating a proposal to move some of the uses from the Deadman Mountain Lookout site to South Bald Mountain because the Deadman site is more suitable as a recreation site than as a communication site.

### **Future Trends**

The Arapaho and Roosevelt National Forests continue to get requests for new communication sites or the expansion of current sites. The growth in the commercial use of cellular phones and the passing of Section 704(C) of the *Telecommunications Act of 1996* (P.L. 104-104) has increased these requests, and made it more challenging to meet the demands while minimizing the conflict among different types of user needs. The Forests have limited new sites suitable for multi-user communication site designation. Cellular phone communication sites will be limited by their compatibility with the *Forest Plan* objectives regarding roadless and scenic qualities. The management challenges of the future will be to continue to consolidate users into the minimum number of buildings at each designated site, upgrade and replace outdated structures and provide opportunities that accommodate the needs of changing technology while minimizing impacts on the resources.

### **Environmental Consequences**

The revised *Forest Plan* provides the opportunity to designate currently existing sites to designated communication sites if the sites are suitable. Two of the three communication sites currently not designated are not designated in the revised *Forest Plan* but will be further evaluated for multi-user suitability and compatibility. Crosier Mountain electronic site will not be designated because the isolated 40 acres it now occupies meet the criteria for disposal through the Estes-Poudre Ranger District Land Ownership Adjustment Plan.

All existing designated sites are compatible with management area direction in all alternatives.

**EFFECTS COMMON TO ALL SPECIAL USE PERMITS**

The Forest will continue to get requests for more permits than can be issued and effectively administered under current and projected budget constraints.