



Recreation Residence Special-Use Permits and Living Trusts

Cabin owners often think about putting their cabin into a Living Trust for estate planning or tax-related purposes. It is possible to do so after working with the Forest Service to make sure the trust meets requirements for permit issuance.

The Forest Service must ensure that a valid trust was established, that the trustee had the power to enter into a permit that would bind the trust, and that the terms of the trust are consistent with the terms of the permit. To achieve this, the Forest Service must review the trust before a permit can be issued to the trust. This process may take months, depending on the availability of the Office of General Council attorneys. Cabin owners should contact the Forest Service before getting too far along in the preparation of a trust to make the process as efficient as possible.

There are various required trust components, including but not limited to the following examples: the trust must demonstrate that the cabin is transferred to the trust; the eventual distribution of the trust, as it pertains to the recreation residence, must be to a qualified holder (an individual or a married couple); the trustee must notify the Forest Service upon revocation of the trust or upon a change in the trustee, and in case of conflict between the terms of the permit and the terms of the document, the permit terms shall control. Not only is each trust is unique, but every state has different trust laws, so the review process is complex and most often results in requirements for trust clause revision before a permit can be issued in the name of the trust.

A single asset trust is a good option for many cabin owners. It removes the requirement for the Forest Service to review the entire contents of the main trust. The single asset trust format often does not exceed two pages and involves only the recreation residence so the review timeline is shorter.

In summary, cabin owners should contact the Forest Service before preparing a trust document that involves their cabin, should be prepared for a several month-long process, and should consider meeting their needs through a single asset trust.

<<User note: This 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 of use of this example in any form.>>

Revocable Trust

This Trust Agreement is entered into this ____ day of _____, 20____, 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 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 married couple 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 the trust to the qualified individual or married couple 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.

5. This trust may be revoked by the Trustors by an instrument in writing signed by the Trustors and delivered to the Trustee(s). This trust may be amended only as to paragraph 6 below, concerning the disposition of the trust.
6. Upon the death of the Trustor, or second Trustor if there are two, the recreation residence shall be distributed to_____.The remainder of the trust assets, if any, shall be administered as follows:
_____.
7. Trustors grant to Trustee(s) discretion and complete power to administer the Trust estate as fiduciary. In addition to those powers now or subsequently conferred by law, the grant of such power is circumscribed only by the stated purposes of this trust and the conditions under which the Federal government has granted the permit to use the subject recreational residence. The common law and statutory powers of trustees shall be those provided by law in the state where the recreation residence is located. (Some states will need express statement that the trustee can retain non-income producing/depreciating assets.)
8. Any Trustee shall have the right to renounce his or her duties and to resign the trusteeship at any time. Such resignation shall be in writing and filed with the Trustor, any co-trustee and all beneficiaries then entitled to distribution in paragraph 6 and to successor trustees. The resignation shall be effective 30 days after such written notice has been personally delivered or mailed by United States mail, return receipt requested, to such person or persons entitled thereto. If a trustee resigns, or if for any reason a trustee becomes unwilling or unable to act, then_____(insert successor trustee(s)).
9. Notification of the Forest Service is required if there are any changes to trust, the status of the trust, trust property, any change in the status of the trustee, or any change in the beneficiaries.

