

Circular No. 1771

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

SPECIAL LAND-USE PERMITS FOR PUBLIC LANDS
WITHIN OR OUTSIDE OF GRAZING DISTRICTS

Regulations contained in Part 258, Title 43
of the Code of Federal Regulations

(Reprint, November 1950)

Contents

- Sec.
258.1 Statutory authority
- 258.2 Policy, use of lands
- 258.3 Qualification of applicants
- 258.4 Execution of applications
- 258.5 Fees
- 258.6 Occupancy of land prior to permit
- 258.7 Issuance of permits; other actions; protests
- 258.8 Term of permit; renewals
- 258.9 Rental
- 258.10 Permit area; description and marking of land
- 258.11 Land not segregated
- 258.12 Timber
- 258.13 Special stipulations in permit
- 258.14 Assignment of permit
- 258.15 Removal of improvements
- 258.16 Refunds

Authority Sec. 258.1 to 258.16 issued under R. S. 2478; 43 U.S.C. 1201.

Section 258.1 Statutory authority. Authority to issue special land-use permits for public lands within or outside of grazing districts for purposes other than grazing is found in R. S. 453 (43 U. S. C. 2), which provides that the Director, Bureau of Land Management, shall perform, under the direction of the Secretary of the Interior, all executive duties appertaining to the surveying and sale of the public lands of the United States, or in anywise regarding such public lands.

Sec. 258.2 Policy; use of lands. (a) It is the policy of the Secretary of the Interior, in the administration of the public lands within or outside of grazing districts, to permit, where practical, the beneficial use thereof for special purposes not specifically provided for by the existing public land laws. 1/ Permits for such special use will not be issued, however, in any case where the provisions of the existing public land laws may be invoked. For example, they will not be issued to authorize the use of the public lands for home, cabin, camp, health, convalescent, recreational or business sites for which leases may be issued under the act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), or for the development of minerals, or for the securing of rights of way obtainable under existing laws, or for any use directly or indirectly relating to grazing.

(b) The contemplated use must not be in conflict with any Federal or State laws.

(c) An applicant must state in his application the use to which he intends to put the lands, and he will not be permitted to devote them to any other use, unless he secures an additional permit.

Sec. 258.3 Qualifications of applicants. Any person, over 21 years of age, who is a citizen of the United States, or who has declared his intention to become a citizen, or any group or association composed of such persons, or any corporation organized under the laws of the United States or of any State or Territory thereof, authorized to conduct business in the State in which the land involved is situated, or any agency of the Federal Government, or any State or political subdivision thereof, may file such application.

Sec. 258.4 Execution of applications. Applications must be executed in duplicate on Form 4-972. The application must be filed in the proper land office, or if there is no land office in the State, it must be filed in the Bureau of Land Management, Washington, D. C.

1/ The regional administrators are authorized to issue special land-use permits for revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands in Oregon, pursuant to 43 CFR, sec. 115.150, special land use permits for acquired lands under the administration of the Bureau of Land Management, under the principles embodied in 43 CFR, Part 258, special land use permits to use areas below the high watermark of navigable waters in Alaska for occupancy purposes, under the principles embodied in 43 CFR, Part 258, subject to rules, regulations, and requirements of the Department of the Army respecting the navigation of such streams and landing and wharf permits on reserved shore space in Alaska, pursuant to 43 CFR, Part 68.
(Section 2.714 (b)-(c), Order No. 427, August 16, 1950 (15 F.R. 5642, 5853)).

Sec. 258.5 Fees. A fee of \$5 will be required with each application, except applications by agencies of the Federal Government and agencies of the States and political subdivisions thereof. The fee paid by an applicant will be returned if the application is rejected.

Sec. 258.6 Occupancy of land prior to permit. An application for special land-use permit will not entitle the applicant to occupy the land prior to the issuance of a permit. Any occupancy of the land prior to the issuance of a permit, or use thereafter except in accordance with the terms of the permit, is hereby prohibited.

Sec. 258.7 Issuance of permits; other actions; protests. (a) The regional administrator for the region in which the land is situated will issue special land-use permits and except as hereinafter provided will take all action required in connection therewith, including the modification, renewal, assignment and cancellation of the permits, and the disposition of protests and conflicting applications. All proceedings will be in accordance with Part 221 of this chapter.

(b) The permit will be issued on Form 4-972a, and will be subject to all of the conditions stated thereon and to such other conditions as may be added thereto.

Sec. 258.8 Term of permit; renewal. A special land-use permit may be issued for a period of not exceeding 5 years and will be revocable for any breach of conditions thereof. It also will be revocable in the discretion of the regional administrator, at any time, upon notice, if in his judgment the lands should be devoted to another use. Upon the expiration of a permit, if the permittee has complied with the provisions thereof, he will be considered the preferred applicant for a new permit under regulations then in force, provided no superior claim to the land has been asserted in the meantime.

Sec. 258.9 Rental. (a) Each permittee will be required to pay to the manager, in advance, the annual rental fixed by the permit, which shall be based upon the value of the land for the use to which it is to be put. The annual rental may be adjusted from year to year, in the discretion of the regional administrator. In no case, however, will the minimum rental charge be fixed at less than \$5 per annum.

(b) Special land-use permits applied for by agencies of the Federal Government and agencies of States and political subdivisions thereof may, in the discretion of the regional administrator, be issued without rental charge. 2/

2/ Every such permit issued to a Federal agency or to a State agency or political subdivision shall be restricted to the smallest area needed for the proposed use. Not more than 50,000 acres may be included in such a permit, and no such permit may be issued under this authority where a withdrawal of a class which the regional administrators are not authorized to make is requested.

(Section 2.74 (f), Order No. 427, August 16, 1950 (15 F.R. 5642, 5853).

Sec. 258.10 Permit area; description and marking of land. A special land-use permit will not be issued for more than 5 acres, except upon a showing of special need, satisfactory to the regional administrator. The land must be vacant public land, or public land withdrawn or reserved under authority of the Secretary of the Interior, surveyed or unsurveyed. If surveyed, the land must be described in the application by legal subdivisions of the public land surveys. The smallest legal subdivision in a quarter-quarter section or fractional lot that will be considered is 2-1/2 acres. Where, however, a fractional lot contains less than 2-1/2 acres, a permit may be issued for the entire lot. If unsurveyed, the land must be described by metes and bounds, with substantial monuments at each corner and with a tie to a nearby corner of the public land surveys, if feasible. If such tie is not feasible, the location must be otherwise identified with certainty, preferably with reference to prominent topographic or cultural features. The land must be taken in rectangular form, if at all practicable.

Sec. 258.11 Land not segregated. A special land-use permit will be subject to valid adverse claims theretofore or thereafter acquired and to the filing of applications and the acquisition of rights by others, as follows:

(a) Applications and selections may be made under nonmineral laws, subject to the revocation of the permit.

(b) The mineral contents in the land shall at all times be subject to prospecting, location, developing, mining, entering, leasing, or patenting under the provisions of the applicable general mining laws or mineral leasing laws.

(c) The special land-use permit shall be subject to any permit issued under the act of June 8, 1906 (34 Stat. 225; 16 U. S. C. 431-433); to explore for objects of antiquity on the public lands.

(d) The special land-use permit shall not restrict the acquisition by grant or permit of rights of way under existing laws.

Sec. 258.12 Timber. A special land-use permit will not entitle an applicant to cut and remove timber from the land. If he wishes to cut and remove the timber, application therefor must be made in accordance with the governing laws and regulations.

Sec. 258.13 Special stipulations in permit. If it is found that unusual conditions or the protection of the public interests require the insertion of special stipulations in the permit, the applicant will be advised thereof prior to its issuance.

Sec. 258.14 Assignment of permit. A permittee will not be allowed to assign a permit or any interest therein without the approval of the regional administrator. Proposed assignments must be supported by a statement signed by the assignee agreeing to be bound by the provisions of the permit, if the assignment is approved, and a showing that the assignee possesses the qualifications set out in section 258.3.

Sec. 258.15 Removal of improvements. The permittee, if all rental charges due the Government have been paid, may remove within such reasonable time as may be allowed by the regional administrator after the revocation or expiration of a permit, all structures which have been placed upon the premises by him or his assignor. If the permittee fails to make payment of the rental charges within 30 days from receipt of notice requiring payment, or upon revocation or expiration of the permit fails to remove the structures within the time required by the regional administrator, structures will become the property of the United States.

Sec. 258.16 Refund. No refund of rentals properly paid will be made because of the revocation of the permit, at any time, or because of interference with or prevention of the exercise of the privileges conferred by the permit by mineral prospectors, locators, licensees, permittees, lessees, or patentees, or by permittees under the act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431-433), or by grantees or permittees of rights of way under existing laws.