



**U.S. Department of Agriculture**

**Office of Inspector General**

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**Forest Service  
Administration of Special Use Program**

**Audit Report 08601-55-SF  
June 2011**

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United States Department of Agriculture  
Office of Inspector General  
Washington, D.C. 20250



DATE: June 16, 2011

AUDIT  
NUMBER: 08601-55-SF

TO: Thomas L. Tidwell  
Chief  
Forest Service

ATTN: Donna M. Carmical  
Chief Financial Officer

FROM: Gil H. Harden /s/  
Assistant Inspector General  
for Audit

SUBJECT: Forest Service Administration of Special Use Program

This report presents the results of our review of the Forest Service's (FS) Special Use Program. FS' written response to the draft report is included at the end of the report, with excerpts and the Office of Inspector General's (OIG) position incorporated into the relevant sections of the report. Based on the written response, we have accepted FS' management decision for all the report recommendations, except for Recommendations 3, 4, 8, and 13. We will be able to accept your management decision for the remaining recommendations when you provide us with additional information, as outlined in the OIG Position section of the report.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days, describing the corrective actions taken or planned, and timeframes for completion of the recommendations for which management decision have not been reached. Please note that the regulation requires a management decision to be reached on all recommendations within a maximum of 6 months from report issuance. Follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer.

We appreciate the assistance your staff provided to our auditors during our review.

# Table of Contents

<b>Executive Summary .....</b>	<b>1</b>
<b>Background &amp; Objectives .....</b>	<b>5</b>
<b>Background .....</b>	<b>5</b>
<b>Objectives .....</b>	<b>6</b>
<b>Section 1: Management Controls Need Improvement .....</b>	<b>7</b>
<b>Finding 1 .....</b>	<b>7</b>
<b>FS Needs To Resolve Resource Shortfalls in the Special Use Program .....</b>	<b>7</b>
<b>Recommendation 1 .....</b>	<b>9</b>
<b>Recommendation 2 .....</b>	<b>10</b>
<b>Finding 2 .....</b>	<b>11</b>
<b>FS Regions Need to Update Minimum Land Use Fees to Reflect Fair Market Value .....</b>	<b>11</b>
<b>Recommendation 3 .....</b>	<b>14</b>
<b>Recommendation 4 .....</b>	<b>14</b>
<b>Recommendation 5 .....</b>	<b>15</b>
<b>Recommendation 6 .....</b>	<b>15</b>
<b>Section 2: Monitoring Special Use Authorizations .....</b>	<b>16</b>
<b>Finding 3 .....</b>	<b>16</b>
<b>FS Needs to Develop a Risk-Based Approach System for Inspecting Special Use Authorizations .....</b>	<b>16</b>
<b>Recommendation 7 .....</b>	<b>18</b>
<b>Recommendation 8 .....</b>	<b>19</b>
<b>Recommendation 9 .....</b>	<b>19</b>
<b>Finding 4 .....</b>	<b>19</b>
<b>FS Needs to Prepare Communication Site Management Plans .....</b>	<b>19</b>
<b>Recommendation 10 .....</b>	<b>21</b>
<b>Recommendation 11 .....</b>	<b>21</b>
<b>Recommendation 12 .....</b>	<b>21</b>
<b>Section 3: Controls .....</b>	<b>22</b>

<b>Finding 5</b> .....	<b>22</b>
<b>FS Needs To Develop and Implement Procedures for Dealing with Expiring and Expired Authorizations</b> .....	<b>22</b>
<b>Recommendation 13</b> .....	<b>24</b>
<b>Recommendation 14</b> .....	<b>24</b>
<b>Recommendation 15</b> .....	<b>24</b>
<b>Recommendation 16</b> .....	<b>25</b>
<b>Finding 6</b> .....	<b>25</b>
<b>FS Needs to Improve SUDS to Ensure the Reliability of its Data</b> .....	<b>25</b>
<b>Recommendation 17</b> .....	<b>27</b>
<b>Recommendation 18</b> .....	<b>28</b>
<b>Recommendation 19</b> .....	<b>28</b>
<b>Recommendation 20</b> .....	<b>28</b>
<b>Recommendation 21</b> .....	<b>29</b>
<b>Scope and Methodology</b> .....	<b>30</b>
<b>Abbreviations</b> .....	<b>32</b>
<b>Exhibit A: Summary of Monetary Results</b> .....	<b>33</b>
<b>Exhibit B: Use Fees Do Not Reflect Fair Market Value Proposed Market Survey Rates Based on OIG Calculations (2003-2009)</b> .....	<b>34</b>
<b>Exhibit C: Use Fees Do Not Reflect Annual Index of Fair Market Value Calculation of Minimum Use Fee – Annual Index (2005-2009)</b> .....	<b>39</b>
<b>Exhibit D: Inaccurate Information Found in SUDS</b> .....	<b>40</b>
<b>Exhibit E: Sites Visited</b> .....	<b>42</b>
<b>Agency’s Response</b> .....	<b>43</b>

# Administration of Special Use Program

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## Executive Summary

As the USDA agency entrusted with managing over 193 million acres of forests and grasslands within the National Forest System, the Forest Service (FS) receives thousands of applications to use Federal lands for a wide variety of purposes, including setting up communication relays, bottling spring water, and outfitting and guiding. FS' Special Use Program processes these applications and, when appropriate, issues authorizations to the applicant. Currently, FS monitors more than 74,000 authorizations for over 180 types of uses. The Office of Inspector General (OIG) initiated this audit to assess the effectiveness of the Special Use Program and to determine if FS' efforts are meeting the program's objectives. Specifically, our audit was intended to determine if FS is properly issuing authorizations, collecting fees, monitoring special use sites, and cancelling or renewing authorizations once the time period for the authorization had come to an end.

Though we found that FS special use employees are highly committed to protecting the natural resources within the National Forest System, FS lacks the resources it needs to properly manage the Special Use Program. The program is a low priority for FS, primarily because the agency cannot keep the fees it charges for land use authorizations.<sup>1</sup> FS managers do not see a return for the resources they devote to the program, and so they have tended to allocate their resources to other programs. The Bureau of Land Management (BLM)—an agency in the Department of the Interior with a similar mission—has the authority to retain up to \$2 million annually from the rent collected from communication sites to fund site planning, training, and administration. FS, however, does not have this authority. In 2008, FS collected \$13.4 million for land use authorizations that it submitted to Department of Treasury but the Special Use Program had to turn away applicants due to its lack of resources.

Additionally, FS lacks the timely access to specialized personnel it needs to perform certain required reviews—such as National Environmental Policy Act (NEPA) reviews and communication site management plans for communication relays—which are important for ensuring that authorization holders are not harming the forests. Without adequate personnel to perform these reviews, FS has built up a considerable backlog of un-reviewed authorizations. More than 3,500 expired authorizations, still actively used by authorization holders, are awaiting NEPA review, and 967 communication sites are waiting for FS' lone specialist to develop current site management plans.<sup>2</sup>

OIG acknowledges that the Special Use Program lacks the resources it needs to accomplish its mission, but we also found that FS was not pursuing available opportunities to increase the fees

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<sup>1</sup> FS processes two categories of special use authorizations—land use and recreation. The agency has some power to retain fees from recreation authorizations but cannot retain land use authorization fees, except for commercial filming fees.

<sup>2</sup> FS requires that all designated communications sites have a current site management plan before a site can be operational.

it was receiving.<sup>3</sup> Of the nine FS regions we reviewed, six had not periodically updated their fees based on the fair market value of the use of the land, nor were they adjusting the fees for inflation. As a result, authorization holders were paying much less in fees than fair market value would indicate. Had the regions updated their minimum land use fees as required, we determined that FS could have collected nearly \$5.4 million in additional fees over the past 7 years.<sup>4</sup>

Due to inadequate resources for the Special Use Program, FS could not inspect the sites of its special use authorizations, as required.<sup>5</sup> Of the 128 special use land authorizations we sampled, we found that 9 ranger districts had not inspected the sites of 106 authorizations, or 83 percent. Without performing these inspections, FS faces an increased risk that users might violate the terms of their authorization, which could result in environmental damage and unpaid fees.

Likewise, as we have already noted, FS has not completed the communication site management plans that it requires for telecommunication sites because it has only a single employee assigned to developing these plans.<sup>6</sup> Site planning is possible using the skills of other employees; however, program work constraints make this option difficult. Of the 1,590 communication sites FS monitors, we found that the agency does not have current communication site management plans for 967, or 61 percent. Without approved site management plans, FS is exposed to potential challenges from site users concerning the agency's legal authority over the use and operations of communication sites on FS lands. In fiscal year (FY) 2000, for example, FS was sued by a new user who was bringing in high frequency equipment to a site where low frequency equipment was already in use. Since FS did not have an approved site management plan that specified use of low frequency equipment only, it lost the suit and was forced to pay court costs totaling approximately \$250,000.

When FS approves a special use authorization within a national forest, the agency also establishes a period for that use, and at the end of the period the authorization expires. We found that more than 3,500 special use authorizations have expired but are still being treated as active. This occurred because FS did not have effective procedures for dealing with expiring authorizations, and also lacked the staff to address the backlog. Continuing to allow authorization holders to use expired authorizations unnecessarily encumbers FS lands and restricts the land's availability for other public uses. Further, FS' practice of allowing authorizations to continue without formally renewing them also allows the agency to circumvent its requirement to perform NEPA reviews of ongoing land uses.<sup>7</sup>

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<sup>3</sup> OIG notes that FS currently sends the proceeds from its fees to Treasury, regardless of how much it collects. We are recommending that FS seek authority to retain some portion of these fees so that the Special Use Program can access the resources the program needs to function (see Finding 1).

<sup>4</sup> The additional minimum use fees that could have been collected were calculated using Region 5's 1999 fair market survey; the calculation also included applying the annual inflation index to each of the years. The calculation also included the additional amount that could have been collected from the five regions if they had correctly adjusted the annual inflation index over the years. (see Exhibits B and C).

<sup>5</sup> Special use authorizations are broken down into annual, semi-annual, bi-annual, and tri-annual inspection periods; Forest Service Manual (FSM) 2716.53 dated February 24, 2004.

<sup>6</sup> Forest Service Handbook (FSH) 2709.11, Chapter 90 section 90.3, dated October 19, 2004.

<sup>7</sup> FSM 1950 – Environmental Policy and Procedures, dated July 24, 2008 and Public Law 91-190, dated January 1, 1970.

Finally, the database FS uses to administer the Special Use Program—the Special Use Data System (SUDS)—lacked adequate controls to ensure it provided accurate information. Of 74,166 records in the database, we identified 17,160 records, or 23 percent, that needed to be corrected or excluded from SUDS for reasons ranging from improper data in fields to authorization terms as high as 1,000 years. These problems occurred because SUDS lacked the basic edit checks that would prevent these types of errors. Additionally, when FS created SUDS, employees imported data from an older system without first cleaning up the data. Even though FS has been aware of the problems with SUDS, FS officials stated that they did not have access to the computer programming resources they needed to correct these deficiencies. As a result, SUDS cannot generate the accurate and reliable data that FS managers need to properly administer the program. Before FS can report to Congress regarding the Special Use Program, FS employees are forced to manually “scrub” the data to ensure their accuracy.

Overall, OIG concluded that FS must take steps to secure for the Special Use Program the resources needed to accomplish the program’s mission. One of the keys to correcting these resource shortfalls is seeking authority for FS to keep the fees the program collects—those fees can then be used to provide additional resources for the program.

## **Recommendation Summary**

To improve the Special Use Program, we recommend that FS:

Propose that the Secretary seek legislative changes allowing FS to retain special use fees that are not currently retained under statute.

Ensure that there is a sufficient number of qualified staff available to manage the Special Use Program and to perform site inspections, timely complete NEPA reviews, develop communication site management plans, and perform other required reviews and functions.

Terminate authorizations when authorization holders do not timely provide FS notification that they would like FS to reissue the authorization. Develop and implement procedures to notify authorization holders of their responsibility to notify FS at the end of the special use authorization of their intent to either request FS to reissue the special use authorization or to terminate the usage.

Verify and validate all SUDS data for accuracy and correct all data accuracy errors in SUDS.

Establish data entry controls within SUDS to ensure the integrity of its data.

## **Agency Response**

In its written response to the audit report dated May 20, 2011, FS generally concurred with all the audit findings and recommendations. The complete written response is included at the end of the report.

## **OIG Position**

Based on FS' written response, OIG accepts management decision on all recommendations except for Recommendations 3, 4, 8, and 13. Specific steps to reach management decision on these recommendations are provided in the OIG Position section of the report.

## Background & Objectives

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### Background

FS manages over 193 million acres of national forests and grasslands comprising the National Forest System. Today, our growing population and mobile society have created demand for a variety of uses of these Federal lands. For some uses of national forest land—such as obtaining water from a spring or operating a communications site—FS requires that the public apply for a special use authorization. As of April 2008, there were over 74,000 special use authorizations on the National Forest System lands for over 180 types of uses.

There are four levels of FS involved in administering the Special Use Program:

- the Washington Office writes policy and regulations for special use management, provides leadership in national training programs and supports consistency in regional training efforts; and maintains a national database system to monitor the Special Use Program.
- the regional forester establishes management direction ensuring the integration of special use activities with other regional programs and national policy; and provides for consistency and coordination in special use management among forests and adjacent regions.
- the forest supervisor, at the national forest level, provides management direction integrating special use activities and objectives into programs and projects in the ranger districts; identifies needs and provides technical assistance and training to ranger districts to ensure proper administration of the Special Use Program; and uses and maintains SUDS for special use administration, program planning, budgeting, resource coordination, and reporting.
- the district rangers assure high quality on-the-ground administration of the Special Use Program; provide training in special use administration to appropriate district personnel; monitor and evaluate special use activities to determine the effects on other resources and ensure compliance with the forest land and resource management plan; and evaluate special use applications under the district ranger's authority and complete appropriate environmental documentation prior to issuing authorizations.

A special use authorization is a legal document such as a permit, lease, or easement, which allows occupancy, use, rights, or privileges of National Forest System land. The authorization is granted for a specific use of the land for a specific period of time. FS is required to charge fees based on market value for the use and occupancy of lands under its jurisdiction.<sup>8</sup> The Forest Service Handbook outlines several methods for determining fair market value for specific uses,

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<sup>8</sup> Title 36 CFR 251.57 requires applicants to pay, in advance, an annual rental fee. The fee shall be based on the fair market value of the rights and privileges authorized, as determined by appraisal or other sound business management principles.

including appraisal, fees based on income from the authorized use, and fee system and schedules.<sup>9</sup>

There are two categories of authorizations in FS' Special Use Program. Recreation authorizations are for activities like outfitting and guiding, resorts, and concession campgrounds, while land authorizations include water transmission, telecommunication, and utility rights-of-way. Land authorizations comprise about 60 percent of all authorizations, but recreation authorizations result in approximately 82 percent of the revenue collected from special use fees.<sup>10</sup>

Each year, FS processes thousands of individual and business applications for special use authorizations. FS reviews each application to determine how the request will affect the public's use of National Forest System land, and how that use will affect FS' goals of sustaining the health and diversity of the forests. Normally, National Forest System land is not made available if the overall needs of the individual or business can be met on non-Federal lands. FS must also review and reissue authorizations once they have expired.

FS uses SUDS for administering, budgeting, planning, and reporting activities associated with the special use program. It is the responsibility of the national forest staff to maintain, update, and verify the information in SUDS.

In 2008, FS collected \$76 million in fees for special use authorizations—\$13.4 million for land use and \$62.1 million for recreation. Of these fees, FS retained \$400,000 for lands use (about 3 percent) and \$10.4 million for recreation use (about 16 percent).

Congress has directed FS to cooperate with BLM in the Department of the Interior, since their functions are similar. Since 1987, BLM and FS have shared fee schedules for communication uses and rights-of-way across the lands they manage. This rights-of-way schedule established eight fee zones based on the distribution of average land values by county in each State. The communication fee schedule is based on population served.

## Objectives

Our overall objective was to determine if FS had adequate internal controls over the Special Use Program. Specifically, we wanted to determine whether adequate controls were in place to ensure that FS issued authorizations properly, collected and recorded fees accurately, monitored sites adequately, and renewed authorizations once they expired. We also evaluated whether SUDS was adequate for monitoring and tracking special use authorization information.

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<sup>9</sup> Forest Service Manual 2705 defines a fee system as a set of procedures and techniques used to establish fees for a particular category of authorized use. A fee schedule is defined as a predetermined fee for a defined category of use. A schedule may be National, regional, or forest-wide in scope and may be adjusted at certain intervals based on an appropriate index. (FSH) 2709.11, Chapter 30 entitled "Fee Determination" provides direction for establishing, collecting, and administering use fees.

<sup>10</sup> As of April 2008, based on SUDS.

## Section 1: Management Controls Need Improvement

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### Finding 1

#### FS Needs To Resolve Resource Shortfalls in the Special Use Program

When members of the public wish to use National Forest System lands, they are required to apply at their local ranger district office, where their application will be judged to see if the proposed use meets FS' goals of sustaining the health and diversity of the forests. The range of possible uses is broad, and could include communications towers, water rights-of-way, mailboxes, or beehives. Based on our review of nine ranger districts, we found that FS lacked the resources—both personnel and funds—to review, approve, and monitor these applications, especially in light of rising public demand. For example, at one ranger district, FS employees told us they were prioritizing applications for utilities like gas lines and power pole replacement, but more and more they were declining all small permits for individual uses. Although FS has developed manuals and handbooks for administering the program, the Special Use Program is a low priority for the agency, primarily because FS cannot keep the fees it charges for land use applications once they have been issued. In other words, FS managers do not see a return for the resources they devote to the program, so they have tended to allocate their resources to other programs. OIG noted, however, that FS has not taken all available steps to increase funding for the program, such as increasing fees based on fair market value and seeking additional authority to retain more of FS' land use fees. By increasing the fees FS retains, the agency can improve the service it offers the public, and better ensure that the forests are being used appropriately.

The mission of the Special Use Program is to manage the use and occupancy of national FS lands in a manner that protects natural resource values, promotes public health and safety, and is consistent with forest land and resource management plans.<sup>11</sup>

However, we found that FS, at present, lacks the resources it needs to adequately accomplish its mission for the Special Use Program. Federal statutes allow FS to retain some fees from recreation use authorizations, but FS cannot retain fees collected for land use authorizations except for commercial filming authorizations.<sup>12</sup> Due to this situation, in 2008, FS collected \$13.4 million for land use authorizations and \$62.1 million for recreation use that it submitted to the Department of the Treasury (Treasury) even as the Special Use Program was turning away applicants due to its lack of resources. FS was only allowed to retain about 16 percent of recreation use authorization fees and about 3 percent of land use authorization fees.

Under the Federal Lands Recreation Enhancement Act, each national forest is allowed to retain a certain percentage of the recreation authorization fees collected for activities like outfitting and guiding, and day use recreation authorizations.<sup>13</sup> However, land use authorizations are not covered under the Federal Lands Recreation Enhancement Act, and FS is not authorized to retain fees after the authorization is issued. When FS is processing applications for land use authorizations, it can collect fees to cover the costs incurred in processing the application, but

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<sup>11</sup> FSM 2702, Objective, dated April 19, 2005.

<sup>12</sup> Public Law 108-447, dated December 8, 2004.

<sup>13</sup> Public Law 108-447, dated December 8, 2004.

those fees do not cover the agency's subsequent expenses for monitoring and maintaining the land use special authorization.<sup>14</sup> To cover these monitoring and maintenance costs, each national forest must allocate funds from its general budget.

In contrast, BLM in the Department of the Interior—an agency with functions that run parallel to FS—has the right to retain fees. Beginning in 1995, FS worked with BLM to jointly develop identical fee schedules for annual rental fees for communication uses.<sup>15</sup> In 1998, FS and BLM started to bring their regulations for the entire special use authorization process into closer agreement in order to streamline the process of obtaining a special use authorization.<sup>16</sup>

These changes in regulations were further supported by Executive Order 12866, which stated that each agency should avoid regulations and guidance that duplicated other regulations and guidelines of other Federal agencies.<sup>17</sup> However, unlike FS, BLM has the authority to retain up to \$2 million annually from the rent collected from communication sites to fund site planning, training, and administration.<sup>18</sup> FS was not covered by this legislation and therefore, was not able to retain the funds it needed to properly monitor its communication sites.

### **FS Needs to Develop Specialized Staff to Perform Specialized Reviews**

We also found that FS was experiencing “bottlenecks” in processing land use applications because it did not have sufficient specialized staff to complete certain types of required specialized reviews:

*(i) National Environmental Policy Act (NEPA) Reviews*

When FS officials reissue an authorization, they are required to perform an environmental assessment. Under NEPA, FS must conduct environmental assessments of the nature and importance of the physical, biological, social, and economic effects of a proposed action and its reasonable alternatives.<sup>19</sup> We found, however, that FS has relatively few NEPA specialists that support special uses, and other employees are reluctant to conduct the reviews themselves. Since FS' NEPA specialists have focused on processing new authorizations and other non-Special Use Projects, FS has accumulated a backlog of more than 3,500 expired authorizations awaiting NEPA review or termination.<sup>20</sup>

*(ii) Communications Site Management Plan*

Whenever FS allows for a new communications site (such as a cell phone tower location) on national forest land, it must develop a site management plan that addresses what sort

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<sup>14</sup> Section 331 of the Department of Interior and Related Agencies Appropriation Act of 2000.

<sup>15</sup> Federal Register Volume 60, Number 208, dated October 27, 1995.

<sup>16</sup> 36 CFR 251 dated November 30, 1998.

<sup>17</sup> Executive Order 12866, dated October 4, 1993 and revised February 26, 2002.

<sup>18</sup> Public Law 106-291, dated October 11, 2000.

<sup>19</sup> FSM 1950 – Environmental Policy and Procedures, dated July 24, 2008.

<sup>20</sup> According to SUDS, 3,500 special use authorizations have expired but are still being treated as active. There are a total of 9,475 expired authorizations, but we question the reliability of this information (see Finding 6).

of communication uses will take place at the site. However, we found that FS has only one employee developing these plans. This employee had 1,590 plans to complete and update, but could only develop 50 plans a year. If these plans are not completed, then the companies could bring in incompatible communication uses.

For FYs 2007 and 2008, this employee found that 28 of 96 sites he inspected were not paying the correct amount for use of the site. Due to the employee clearing some of the backlog, FS was able to collect additional rental revenue totaling almost \$300,000 because of these inspections.

Additionally, we noted that if some of these companies are violating the law by misusing their communication sites on national forest land, FS could find itself liable for such activity (see Finding 3).

OIG maintains that if FS could retain the fees it collects from land special use permits, then the agency should be able to fund additional specialists to properly and timely process NEPA reviews and communications site management plans. However, FS should also consider other ways to stretch its resources. For example, FS might consider establishing enterprise units for some of the more specialized tasks relating to these applications. Enterprise units are comprised of FS employees who operate as independent units and are sustained by the income generated by their assigned work. These units offer a wide range of products and services to FS, and they provide an alternative choice for accomplishing the agency's priorities. When we suggested using enterprise units to FS officials, they stated that it would not be practical. They believed it would be more costly to develop and train an enterprise team than to fund a second full time communication specialist. FS also stated that the agency would still consider establishing pools of specialists to meet regional demands.

When we discussed the agency's resource shortages with FS Washington Office staff, they agreed that allowing the national forests to retain a portion of the fees they collect would be key to resolving the Special Use Program's problems. Retaining these fees would provide needed funding for resolving expired authorizations, monitoring sites for violations, and paying specialists for special reviews. It would also allow FS to fix the problems with its database management system, which we address in Finding 6. Finally, it would make the program a higher priority for the regional foresters so that more resources are allocated to the Program. With the ability to retain a greater portion of the revenue generated from the program, each national forest would have an incentive to provide additional staffing to manage the Special Use Program properly.

### **Recommendation 1**

Propose that the Secretary seek legislative changes allowing FS to retain special use fees that are not currently retained under statute.

### **Agency Response**

The Forest Service agrees that seeking legislation to provide additional authority to retain special use fees would benefit management of the special uses program and will raise this matter with the Under Secretary for Natural Resources and Environment. However, the

authority for legislation lies with Congress, and the agency has little control over the outcome. Additionally, legislation is needed for permanent cost recovery retention authority since the current authority will expire in 2012. The FS will work with the Under Secretary to develop a legislative proposal for fee retention by June 2012.

## **OIG Position**

We accept FS' management decision on this recommendation.

## **Recommendation 2**

Ensure that there is a sufficient number of qualified staff available to manage the Special Use Program and to perform site inspections, NEPA reviews, and market surveys. Consider the feasibility of pooling regional special use experts or using FS enterprise units to provide specialist reviews when necessary.

## **Agency Response**

While the agency generally agrees with the recommendation's objective, the agency is not in a position to redirect significantly more resources to managing special uses and prefers to explore several approaches to improve qualified staff availability to process and administer special uses.

Cost recovery - Units will continue to use cost recovery where appropriate to provide good customer service in processing and monitoring permits. FS will review cost recovery rates to verify that they are sufficient to cover the work.

FS will consider organizing zone specialists or employing enterprise teams where appropriate to perform NEPA reviews and site inspections. Currently, there is limited expertise available through enterprise teams for special use administration. Additionally, FS will review aspects of its special use directives to determine whether efficiencies can be achieved through revising inspection frequencies or other administrative aspects. Furthermore, regions will be asked to assess the funding gap between tasks covered by cost recovery and other special use administration not subject to cost recovery.

Market value fees - FS will review fee schedules to update minimum fees for categories of use or regional minimum fees that have not been updated in the past 10 years. Region-based market surveys could be incorporated into the program of work with oversight from a regional appraiser. Alternatively, each region has the capability to procure priority appraisal services, including market surveys, either by use of staff appraisers or private contract appraisers.

Fee retention - FS will seek sufficient fee retention authority to cover aspects of special use administration that are not recovered under cost recovery.

Specific steps are as follows:

- Review cost recovery rates and recommend revisions by June 2012.

- Request regions to evaluate staffing efficiencies and develop an action plan by January 2012.
- Review special use directives to identify administrative efficiencies by June 2012.
- Schedule market surveys or other fee review process by June 2012. See recommendation 5 regarding a market survey for minimum fees.
- Assess the funding gap for special use administrative costs not subject to cost recovery by June 2012.
- Seek legislation for fee retention by June 2012.

## **OIG Position**

We accept FS' management decision on this recommendation.

## **Finding 2**

### **FS Regions Need to Update Minimum Land Use Fees to Reflect Fair Market Value**

Of the nine FS regions, six collected minimum land use fees at less than fair market value for special use land authorizations.<sup>21</sup> These six regions did not establish procedures to ensure that the minimum land use fees were updated periodically to reflect fair market value because they did not regard updating these values as a priority. In addition, the Washington Office did not monitor the regions' minimum land use fees to ensure that the regions were adjusting minimum land use fees for inflation. Had the regions updated their minimum land use fees as required, we estimate that FS could have collected nearly \$5.4 million in additional fees over the past 7 years.

The regional forester is responsible for establishing and maintaining a regional minimum land use fee for special uses. The minimum land use fee should be reviewed every 5 years to assess whether or not it reflects fair market value for the use of National Forest System lands based on a market survey. In addition, the regional forester is responsible for ensuring the minimum land use fee is annually indexed for inflation.<sup>22</sup>

In order to establish a proper minimum land use fee, the regional appraiser must perform a market survey that involves contacting land owners, public land agencies, private companies, and real estate specialists to obtain information about the fees being charged for the various types of uses in the area. The survey provides a range of rental rates that could be charged for special

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<sup>21</sup> The six regions are Regions 1, 3, 4, 5, 6, and 9. Specifically, Region 3 applied the inflation index to its minimum land use fee, but it did not conduct market surveys within the last 5 years; Region 9 conducted market surveys, but it did not properly index its minimum land use fees for inflation; Regions 1, 4, 5, and 6 neither conducted market surveys within the last 5 years nor did they annually adjust their minimum land use fees for inflation.

<sup>22</sup> FSH 2709.11, Chapter 30, 31.51a, dated December 6, 2006.

use authorizations.<sup>23</sup> At times, land appraisals may be needed to determine the fair market value of the use.

Of the nine FS regions, five regions (1, 3, 4, 5, and 6) did not perform a market survey in the last 5 years to establish a proper minimum land use fee, and five regions (1, 4, 5, 6, and 9) were not indexing or correctly indexing that fee for inflation.

### FS Regions Did Not Conduct Required Market Surveys

Of the 9 FS regions, 5 had not conducted required market surveys within the last 5 years to determine whether their minimum land use fees reflected fair market value (see Table 1)—3 of these regions had not conducted a market survey in over 10 years, while 2 regions had not conducted a market survey in over 20 years.

Table 1: Regions Without Recent Market Surveys

Region	Year of Last Market Survey Conducted	Elapsed Years As of 2009
1	1989	20
3	1992	17
4	1992	17
5	1988	21
6	1999	10

Region 5 has not updated its \$30 minimum land use fee since 1988. Region 5 initiated a market survey in 1999; however, it did not submit the survey to the Washington Office until 2003. The 1999 market survey recommended increasing the minimum land use fee to \$200, but the Washington Office rejected the survey because it was based on 1999 fair market values, which may not have reflected 2003 fair market values.<sup>24</sup> Since 2003, Region 5 stated that it has not updated its minimum use fee due to staffing turnover and insufficient funds. It continues to charge a \$30 minimum land use fee, as it did in 1988.

As an example, one special use authorization we reviewed in Region 5 concerned a large water bottling corporation that is tapping 12 springs whose water the corporation then sells as bottled spring water. At present, the corporation pays a minimum use fee of \$360 per year, but if this fee were adjusted for fair market value then the corporation would pay \$2,400 per year—an increase of 567 percent.

Region 3 had not conducted a market survey since 1992. According to Region 3 staff, market surveys were not considered a priority in their region because land exchange projects had a higher priority for their appraisers.

<sup>23</sup> FSM 5410.6, Chapter 40, dated February 23, 2005.

<sup>24</sup> Due to staff turnover at Region 5, we could not determine why it took them until 2003 to submit the market survey review to the FS Washington Office.

Region 4 has also been working the past 5 years to develop a market survey for implementing a land value schedule to replace the regional minimum use fee; however, the region has placed this work on hold due to a FS memo directing the regions to suspend any FS fee increases.<sup>25</sup>

The other two regions stated that they had not conducted a market survey due to a lack of staffing and financial resources. Since market surveys normally take several months and require funds to pay for an appraiser’s time and travel, appraisers are normally assigned to higher priority programs such as timber sales, land exchanges, and hazardous fuels removal projects, leaving little or no time for the appraisal staff to conduct market surveys for the Special Use Program.

**FS Regions Did Not Properly Index their Minimum Land Use Fees for Inflation**

In order to adjust their minimum land use fees for inflation, regional officials were required to apply the annual index to the minimum land use fee based on the inflation index table in SUDS. We found, however, that three regions were not applying the required annual index to their minimum land use fees, and that two other regions indexed the minimum land use fee using their own method, resulting in a lower fee (see Table 2).<sup>26</sup>

Table 2: Regions Not Correctly Indexing for Inflation

Region	Correctly Adjust for Annual Inflation	Last Year Adjusted
1	No*	2009
4	No	1992
5	No	1988
6	No*	2009
9	No**	2009
* The region adjusted for inflation using its own method. ** Region 9 began annual indexing in 2009		

FS officials in the five regions that did not correctly adjust for inflation told us that their regions did not have formal procedures to ensure that the minimum land use fees were annually adjusted to the inflation index. In addition, regions were not required to report their progress on updating the minimum land use fees to the Washington Office. Officials at the FS Washington Office stated that the regions are responsible for updating their minimum land use fee annually.

OIG notes that these types of indexing problems could be easily avoided if SUDS were designed to automatically adjust minimum use fees for inflation.

<sup>25</sup> Fees Charged on National Forest Systems, Deputy Chief, dated June 10, 2010.

<sup>26</sup> The two regions did not receive approval from the Washington Office on using their own method, although the Forest Service Handbook requires that they do so.

Overall, OIG found that if FS had raised its minimum use fee to reflect fair market value by conducting market surveys and annually indexing for inflation,<sup>27</sup> FS could have collected nearly \$5.4 million in additional minimum use fees since 2003 (see Exhibits B and C).

In order to ensure that these updates occur in the future, the regions should establish controls to update their minimum land use fee. In addition, the Washington Office should develop a process to verify that the regions have properly updated their minimum land use fee as required. FS officials also mentioned to us the possibility of establishing a nationwide minimum use fee. OIG believes that this could be a positive step, if the nationwide minimum use fee set by the Washington Office could be tiered for different areas.

### **Recommendation 3**

Require the regions to establish procedures to review their minimum land use fee at least every 5 years to reflect fair market value for land usage.

### **Agency Response**

The Forest Service generally agrees with this requirement which is presently addressed in directives at FSH 2709.11, section 31.12. However, 5 years may be too frequent for this type of review. See response to recommendation 5 for further detail. The importance of value maintenance will be emphasized in a letter from the Chief to Regional Foresters by August 2011.

### **OIG Position**

We do not accept FS' management decision on this recommendation. To reach management decision, FS needs to clarify why reviewing the minimum land use fee every 5 years as stated in FSH 2709.11, section 31.12 is too frequent. If 5 years is too frequent, then FS needs to establish a reasonable time frame for periodic reviews of their minimum land use fee in their procedures.

### **Recommendation 4**

Require the regions to annually report to the Washington Office when they have updated their minimum use fees for both the annual index and the 5 year fair market value schedule.

### **Agency Response**

The Forest Service will clarify its directives at FSH 2709.11, section 31.51a by adding an annual timeframe for adjusting regional minimum fees for inflation. However, the agency believes that it is unnecessary for regions to annually report inflation adjustments. The directive will be modified by June 2012.

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<sup>27</sup> OIG calculation of fees included the indexing of the fees for each year; therefore, we did not create a second exception showing the amount that could have been collected if the indexing had been properly applied per region.

## **OIG Position**

We do not accept FS' management decision on this recommendation. To reach management decision, FS needs to require the regions to annually report to the Washington Office when they have completed the process of updating their minimum use fee for inflation. FS already has a provision requiring the regions to update their minimum use fee for inflation; however most of the regions have not updated their minimum use fee as noted in our report. We believe that requiring the regions to report to the Washington Office when they have completed the process of updating their minimum use fee for inflation will further ensure compliance to this provision.

## **Recommendation 5**

Determine the feasibility of conducting a national market survey to establish a national minimum use fee that could be updated annually.

## **Agency Response**

The Forest Service agrees that conducting a national market survey to establish minimum fees could be more efficient than conducting separate regional surveys. The FS will organize a team of specialists including valuation staff to determine the merits of national vs. Regional minimum fee. If a national minimum fee is feasible, it would be indexed (as opposed to updated) annually using an acceptable index such as the IPD-GDP currently applied to other fee schedules. If a market survey or other analysis is required, the Forest Service will allocate funds for that work in FY 2012.

## **OIG Position**

We accept FS' management decision on this recommendation.

## **Recommendation 6**

Revise the SUDS database to automatically update individual authorizations with the annual inflation index.

## **Agency Response**

The Forest Service agrees that automatic indexing through SUDS is an appropriate long term goal. However, at this time, regional directives govern inflation adjustments and these directives vary on how inflation adjustment is made. It would be more practical to establish automatic indexing upon completion of a national (or regional) market survey(s) or other analysis to adjust minimum fees. Automatic indexing through SUDS would be implemented upon completion of the work necessary to adjust the minimum fee which FS estimates to be June 2012.

## **OIG Position**

We accept FS' management decision on this recommendation.

## Section 2: Monitoring Special Use Authorizations

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### Finding 3

#### FS Needs to Develop a Risk-Based Approach System for Inspecting Special Use Authorizations

After FS issues an authorization for a special use of forestland, it requires ranger districts to periodically inspect the sites where the special use is taking place. Of the 128 special use land authorizations we sampled, we found that 9 ranger districts we visited had not inspected the sites of 106 authorizations, or 83 percent. Local FS officials explained that they could not perform all required inspections because they lacked enough resources—both manpower and funds—to inspect an increasingly large number of special use authorizations (see Finding 1). Without performing these inspections, FS faces an increased risk that users might violate the terms of their authorization, which could result in environmental damage and unpaid fees.

District rangers are responsible for ensuring through inspections that the terms of the special use authorization are met and that the land and resources are used in accordance with the objectives and policies governing the use of the national forest.<sup>28</sup> All special uses must be inspected periodically with inspection frequencies varying by the type of authorization. A written report of each inspection must be prepared and maintained in the file of the authorization.<sup>29</sup>

We found, however, that the nine ranger districts we visited were required to perform more inspections than they had in the past, since the number of authorizations was increasing. While staffing levels at these nine ranger districts have remained the same, the number of authorizations to be inspected has increased 62 percent—from 458 authorizations to 742.<sup>30</sup> Table 3 shows the increase in special use authorizations for the nine ranger districts:

Table 3: Increase in Special Use Authorizations from FYs 2001 to 2008

Ranger Districts	2001	2008
Boulder	56	90
Clear Creek	29	55
Front Country	31	34
Mountaintop	24	69
San Jacinto	89	112
Shasta Lake	60	108
Mt. Shasta	59	82
Holy Cross	43	68
Dillon	67	124
<b>Total</b>	<b>458</b>	<b>742</b>

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<sup>28</sup> FSM 2716.52 – Inspections - Forest Supervisor Responsibility, dated August 10, 2004.

<sup>29</sup> FSM 2716.53 – Inspections – Inspection Frequencies, dated August 10, 2004.

<sup>30</sup> Special use authorizations based on total records for all national forests only increased by 8 percent from FY 2001 to April 2008. This analysis is based on the total number of records within SUDS in 2001 and April 2008.

We reviewed 128 special use authorizations from these 9 ranger districts, and found no inspection reports in 106 of the files. When we asked FS officials about the missing inspection reports, they claimed they conducted some of the inspections, but were unable to provide us with documentation. In addition to our file review, we selected 28 authorization sites from the 106 authorizations where we had determined that inspections should have been performed, but were not. We then visited those 28 authorization sites and found 8 violations, including:

- A water use authorization holder who had diverted an entire stream into a tunnel instead of only capturing a portion of the water flow, as his agreement specified. The stream was dammed up so that it flowed directly into a diversion tunnel. The authorization did not allow this practice.
- One communication site authorization holder who had installed unauthorized telecommunication equipment, but did not report to FS that he was using this equipment for an unauthorized use. Reporting this equipment would have meant that the user would have had to pay a higher fee.

We reported the eight violations we observed to FS employees, who stated that they would take corrective action.

Of the 128 authorizations we reviewed, 30 were communication sites. Communication sites are especially important for the Special Use Program because they generate significant revenue per authorization. They are also particularly problematic because users periodically update the equipment in the sites, and the equipment they operate can be used for purposes other than the purpose for which the site is authorized. We found that FS had not performed required inspections on all 30 communication sites we reviewed. Local FS employees stated that they did not have the technical ability to inspect communication sites, and so they rely on FS' only communication site specialist.

Authorization holders of communications sites are required to disclose annually their inventory of the communication uses at a site so the appropriate rental fee can be determined. FS requires that these communication sites be routinely inspected to verify that the equipment being operated at the site is being used for the purpose authorized. During the onsite inspection, the expertise of a telecommunications specialist may be necessary to assist in identifying equipment.<sup>31</sup>

OIG found, however, that as of October 1, 2007, FS had designated 1,590 communication sites, but only had one FS communication site specialist with the technical ability to inspect the sites for compliance. This specialist can only conduct about 50 site reviews annually.

For FYs 2007 and 2008, this employee inspected a total of 96 sites and found that authorization holders at 28 sites were using communication equipment for purposes that had not been reported to FS. Instead of requiring the user to remove the unauthorized equipment, FS simply assesses an additional fee for each unauthorized use found with no additional penalty for the violation. For the 28 noncompliant sites, FS was able to collect additional rental revenue totaling \$299,153.

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<sup>31</sup> FSH 2709.11, section 96.3, dated October 19, 2004.

OIG notes, however, that for many communication site users, it is easier and more cost-effective *not* to report additional equipment and only pay the additional fees if an inspection discovers an unauthorized use. Since the lone communication site specialist can only inspect a fraction of the sites a year, it is likely that a great deal of unauthorized equipment will not be detected at the sites.

In contrast, BLM does assess fines for unauthorized equipment at its communications sites.<sup>32</sup> Since 1991, FS and BLM have been working together to develop parallel procedures and standards for communication uses and to develop a joint market-based fee/rental schedule. In 1995, both agencies published directives in the Federal Register that defined the process for issuance and administration of communication use authorizations. To date, however, FS has not established a regulation similar to BLM's for unauthorized use of telecommunication equipment.

When we discussed the lack of inspections with the FS Washington Office, they generally agreed with the problems we described. FS should consider moving to a risk-based inspection approach that will focus resources at sites that are either environmentally sensitive or present a high likelihood of violations, such as communication sites shared by many different users. For example, sites shared by numerous users have a much higher risk because of the probability of an unauthorized use; while a site occupied by a government user will likely have a lower risk because the use is unlikely to change over the years. Currently, FS is required to review all communication sites on an annual basis regardless of the risk; an annual review may not be necessary for lower risk permittees. FS needs to develop a risk-based system that would enable FS to determine how to best target its resources. In the meantime, FS should develop a plan to address the inspection deficiencies found and provide a schedule showing when the inspections will be completed.

## **Recommendation 7**

Create and implement a risk-based inspection system that will enable district rangers to focus limited monitoring resources on sites likely to violate the terms of their authorization.

## **Agency Response**

The FS concurs with this audit recommendation. Current inspection frequencies are found in FSM 2716.53 and are based on use type. This system is simple to monitor but is not strategic in focusing on risk. Criteria on which to base risk will be developed so that limited resources may be strategically directed. Additionally, SUDS will be modified to enable tracking revised inspection requirements. An emphasis letter from the Chief will be issued by August 2011. The agency will revise the directive at FSM 2716.5 by June 2012.

## **OIG Position**

We accept FS' management decision on this recommendation.

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<sup>32</sup> 43 CFR 2808.10 allows BLM to charge two times the rent for "willful" or repeated "non-willful" unauthorized activities.

## **Recommendation 8**

Develop a plan to address the inspection deficiencies found and provide a schedule showing when the inspections will be completed.

### **Agency Response**

The Chief will write a letter to Regional Foresters, requiring each region to develop a schedule to address identified inspection deficiencies at communications sites. Regional schedules to address inspection deficiencies at communication sites during the audit review will be prepared by January 2012.

### **OIG Position**

We do not accept FS' management decision on this recommendation. To reach management decision, FS needs to develop a schedule to address inspection deficiencies at all sites, not just communication sites.

## **Recommendation 9**

Follow up on the violations we identified during our site inspections and take appropriate corrective action.

### **Agency Response**

After the OIG provides a specific list by permit of violations found during the audit, the Washington Office will provide that list to Regions for corrective action. Upon receipt of the list of specific violations, the Forest Service will provide that list to Regional Foresters by August 2011. Regions will be required to report progress on corrective actions by June 2012.

### **OIG Position**

We accept FS' management decision on this recommendation.

## **Finding 4**

### **FS Needs to Prepare Communication Site Management Plans**

Before FS authorizes a new communication site, it requires FS employees to prepare a communication site management plan. This plan stipulates how the site will be used, who will be operating at the site, and what frequency they will use. Authorization holders must also submit an inventory of the equipment that they plan to operate at that site. Of the 1,590 communication sites FS monitors, we found that FS did not prepare communication site management plans for 967 sites, or 61 percent. FS officials explained that this occurred because they employ only one person qualified to prepare these plans. Without approved site management plans, FS is exposed to potential challenges from site users concerning the agency's legal authority over the use and operation of communication sites on FS lands. For example, in FY 2000, FS was sued by a new user who was bringing in high frequency equipment to a site

where low frequency equipment was already in use. Since FS did not have an approved site management plan in place at that site, it lost the suit and was forced to pay court costs totaling approximately \$250,000.

FS requires that all designated communication sites have a current site management plan that implements the management objectives identified in the applicable forest land and resource management plan. The site management plan shall provide site-specific direction and guidance to FS personnel, the site users, and the public.<sup>33</sup>

When FS allows for a new designated communication site, FS employees must prepare a plan to outline the specific types of equipment allowed, and the uses to which that equipment will be put to use. The site management plan provides a baseline for the day-to-day operations against which noncompliance can be measured. It defines communication principles and technical standards, outlines the types of uses that are appropriate (i.e., high vs. low transmission), and explains the technical and administrative responsibilities to the site users. The plan is also essential for maintaining the integrity of the designated communication sites. Each year, the authorization holder must submit an inventory list of its communication uses and operations so FS can update the billing information to reflect current operations. The types of communication uses and operations on the site dictate the amount that FS should bill annually to the authorization holder.

We found, however, that for 967 of the 1,590 communication sites FS monitors, the agency did not prepare or have current communication site management plans. Authorizing officials in Regions 2 and 5 explained that, since their staff does not possess the technical proficiency to prepare site management plans, they rely on FS' communication site specialist to prepare these plans. We found, however, that FS has only one qualified full-time specialist for the entire nation. This employee can prepare approximately 50 site management plans per year, but, with 967 communication sites left to be done, he would need 19 years to complete all of the backlogged site management plans by himself.

From 1995 to 2007, the annual rent FS collected from communication use authorizations increased from \$3.5 million to \$8.2 million, but FS remitted all these funds to Treasury. These funds do not contribute to the communication site specialist's salary—30 percent of his salary comes from annual appropriated funds, while the rest derives from soliciting work from the national forests and BLM.

In our discussions with the Washington Office special use staff, they agreed that they need to assess whether they can reallocate resources for additional communication site specialists who can assist with preparing site management plans. If, as we have recommended in Finding 1, FS succeeds in acquiring the authority to retain some portion of the fees generated from communication site authorizations, then those funds might reasonably be used to support additional specialized staff necessary to administer and monitor those sites.

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<sup>33</sup> FSH 2709.11, Chapter 90 sec. 90.3, dated October 19, 2004.

## **Recommendation 10**

Reallocate resources to ensure all communications sites have an approved communication site management plan.

### **Agency Response**

The Chief will direct regions to allocate required resources to ensure that all communication sites have an approved and current site management plans. Each region will be required to provide an action plan by May 2012 and a time line for completion. This direction will be provided to the Regions by August 2011.

### **OIG Position**

We accept FS' management decision on this recommendation.

## **Recommendation 11**

Require the regions to develop a schedule to show when all backlogged communication site management plans will be completed.

### **Agency Response**

See recommendation 8. In conjunction with Recommendation 10 above, Regions will be directed to provide annual updates to the Director of Lands on the progress on reducing the backlog of communication site management plans and what efforts are being made to stay on schedule. Directions will be provided to Regions by August 2011.

### **OIG Position**

We accept FS' management decision on this recommendation.

## **Recommendation 12**

Determine the cost benefit of adding additional communication site specialists to cover the volume of communication site management plans that need to be prepared and updated.

### **Agency Response**

In conjunction with Recommendation 10 above, regions will be directed to provide an inventory of communication sites and backlog of communication sites plans [by] May 2012. The Director of Lands will determine the cost benefit of adding another employee versus contracting the work through short seasonal contracts. The cost benefit analysis will be completed by June 2012.

### **OIG Position**

We accept FS' management decision on this recommendation.

## Section 3: Controls

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### Finding 5

#### **FS Needs To Develop and Implement Procedures for Dealing with Expiring and Expired Authorizations**

When FS authorizes a special use of national forests, the agency establishes a period for that use, and eventually that authorization will expire. For instance, FS might authorize a company to tap spring water for bottling purposes for 30 years—when those 30 years have passed, the company must either seek to renew the authorization or restore the land to its previous condition. We found, however, that more than 3,500 special use authorizations have expired but are still being treated as active.<sup>34</sup> Many of these expired, but active, authorizations ended more than 3 years ago, and some even ended decades ago. This occurred because FS did not have effective procedures for dealing with expiring authorizations; FS officials also stated that they lack the staff to address the backlog. In particular, since most national forests do not consider the Special Use Program to be a priority, they do not allocate the required specialists to conduct the NEPA reviews necessary for authorization renewals (see Finding 1). Continuing to allow authorization holders to carry expired authorizations unnecessarily encumbers FS lands and restricts the land's availability for other public uses.

The recommended maximum term for authorizations ranges from 1 to 30 years for most land uses.<sup>35</sup> When an authorization is due to expire, the authorization holder is required to notify the authorizing officer concerning whether the authorization holder desires FS to reissue the authorization. Prior to renewing the authorization, the authorizing officials will determine “if the project or facility is still being used for the purpose previously authorized and is being operated and maintained in accordance with all the provisions of the authorization.”<sup>36</sup>

When FS officials reissue an authorization, they are required to perform an environmental assessment. Under NEPA, FS must conduct environmental assessments of the nature and importance of the physical, biological, social, and economic effects of a proposed action and its reasonable alternatives where conclusions are reached about significant effects on the human environment.<sup>37</sup> This requirement applies to any type of special use authorization FS issues.

Based upon our review of how FS was handling expiring authorizations in Regions 2 and 5, we found that authorizing officials were no longer requiring authorization holders to notify FS in writing about their interest in renewing the authorization. Instead, FS would continue annually billing the authorization holder as if the authorization had not expired. If FS received a payment, it considered the authorization as a “tenancy at will” agreement for the upcoming year and

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<sup>34</sup> In the Special Use Data System (SUDS), we identified 3,523 out of 9,475 expired special use authorizations that were active because the bills were being paid by the authorization holder. For the remaining 5,952 expired authorizations with uncollected fees, we were unable to determine the status due to the unreliable data in SUDS (see Finding 6).

<sup>35</sup> FSH 2709.11, Chapter 10, dated May 12, 2004.

<sup>36</sup> 36 CFR 251.64 Renewals, dated July 1, 2007.

<sup>37</sup> FSM 1950 – Environmental Policy and Procedures, dated July 24, 2008.

considered the expired authorization as being active even though the agency did not conduct an environmental analysis. However, if FS did not receive a payment, authorizing officers would consider the authorization inactive, but they would not take steps to cancel it. This process almost guarantees perpetual re-authorization so long as the authorization holder continues to pay the land use fee. It also has the effect of allowing FS to circumvent NEPA requirements since the authorization continues without the required environmental assessment being conducted.

When we spoke to FS officials about how the agency was allowing authorizations to perpetually renew so long as payment was received, they explained that they followed an Office of the General Counsel (OGC) guideline, which states that an expired special use authorization holder may be treated either as a “tenant at will” or as a “trespasser.” OGC further elaborated by saying that, if authorization holders pay their annual bill, then they should be treated as a “tenant at will”—otherwise they should be considered “trespassers.” OGC concluded, however, that “administering expired special use authorizations is not an ideal situation. Programmatically and legally, the agency is better off administering a current authorization.”<sup>38</sup> The guideline also stated that the intent was not to allow the perpetual renewal of expired authorizations, but to provide FS a temporary measure to address the expired authorizations.

However, we found that FS’ current method of administering its expired special use authorizations did not address the backlog of expired authorizations. For one site we visited, a bottling company is still using a water authorization that expired more than 20 years ago. The company approached FS for a renewal multiple times, and even offered to pay for the NEPA assessment itself, but FS told the company that it could not process the renewal due to a backlog of expired authorizations and other priorities.

We discussed with authorizing officials why they were not renewing these expired authorizations. They explained that they lacked the specialists they needed to perform all the NEPA reviews necessary for thousands of expired authorizations. While authorizing officials can conduct the required NEPA reviews themselves, especially if there has been no dramatic change in conditions, they were reluctant to make this assessment due to their lack of expertise in the area. Even though FS can collect cost recovery fees from the authorization holder to conduct the NEPA review, each national forest has a limited number of specialists who are able to perform the function, or to review the work of other, independent NEPA reviewers. FS officials also stated that, given their limited resources, they emphasized new special use proposals and processing applications because they have deadlines for performing these tasks. They regarded reviews of expiring authorizations as a lower priority, and accordingly focused fewer resources on them.

FS Washington Office special use staff told us that they were aware that some regions lacked sufficient resources to adequately administer expiring Special Use Program authorizations. They stated that they would develop procedures to ensure a special use applicant is aware that when the authorization is about to expire that they must notify FS of their intent to continue the authorization or terminate the usage.

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<sup>38</sup> “Administration of Expired Special Use Authorizations for Rights-Of-Way and Buildings” was issued to address concerns with administering expired special use authorizations.

If FS continues extending the term of expiring and expired authorizations when authorization holders pay their bills, then the number of expired special use authorizations will increase as more authorizations expire. FS should cease automatically allowing these authorizations to renew and allocate sufficient resources to eliminate the backlog of expired authorizations. This effort should include ensuring that the required NEPA reviews are conducted for expiring authorizations.

### **Recommendation 13**

Terminate authorizations when authorization holders do not timely provide FS notification to renew.

#### **Agency Response**

The Forest Service recognizes the significance of addressing the backlog of expired authorizations. In conjunction with Item 14 below, regions will be directed via letter to address expired authorizations. This letter will be issued by August 2011. Regions will be asked to report progress by June 2012.

#### **OIG Position**

We do not accept FS' management decision on this recommendation. To reach management decision, FS needs to develop a protocol to ensure that current and future expired authorizations are terminated when the use holder does not provide FS timely notification to renew. The letter addressing the backlog of authorizations will not ensure that FS ceases its current practice of automatically extending expired permits.

### **Recommendation 14**

Allocate resources to eliminate the backlog of expired authorizations and to ensure that the appropriate environmental analyses are timely conducted.

#### **Agency Response**

The Forest Service will emphasize the importance of reducing the backlog of expired permits through a letter to regions. FY2011 Program Direction requires regions to provide an inventory of expired authorizations to the Director of Lands by August 30, 2012 and a plan to reduce backlog of expired and expiring authorizations. Regions are directed to use Cost Recovery where appropriate, to provide timely permit decisions. Require plan from Region to reduce backlog by June 2012.

#### **OIG Position**

We accept FS' management decision on this recommendation.

### **Recommendation 15**

Develop a schedule to show when the expired and expiring authorizations will be reissued and updated in SUDS.

## **Agency Response**

In conjunction with Items 13 and 14 above, once new authorizations are issued, SUDS will be updated. The schedule for processing the backlog of expired authorizations will be completed by June 2012.

## **OIG Position**

We accept FS' management decision on this recommendation.

## **Recommendation 16**

Develop and implement procedures to notify authorization holders of their responsibility to notify FS of their intent to either renew the special use authorization and/or terminate the usage at the end of the special use authorization.

## **Agency Response**

Notice to holders is an inherent part of the process to determine whether to proceed with reauthorization or terminate a use. Additionally, FS will review directives related to expiration and reissuance to determine whether direction should be modified. This process will be addressed in the letter to Regional Foresters by August 2011. Review directives by August 2011. If appropriate, revise directives by June 2012.

## **OIG Position**

We accept FS' management decision on this recommendation.

## **Finding 6**

### **FS Needs to Improve SUDS to Ensure the Reliability of its Data**

The database FS uses to administer the Special Use Program—the Special Use Data System—lacked adequate controls to ensure that it provided accurate information. Of 74,166 records in the database, we identified 17,160 records, or 23 percent, that needed to be corrected or excluded from SUDS for reasons ranging from improper data in fields to authorization terms as high as 1,000 years. These problems occurred because SUDS lacked the basic edit checks that would prevent these types of errors. Additionally, when FS created SUDS, employees imported data from an older system without cleaning up the data. Even though FS has been aware of the problems with SUDS, FS officials stated that they have insufficient resources to correct these deficiencies. As a result, SUDS cannot generate the accurate and reliable data FS managers need to properly administer the program. Additionally, before FS can report to Congress regarding the Special Use Program, FS employees are forced to “scrub” the data fields manually to ensure their accuracy.

Electronic Records Management<sup>39</sup> states that agencies shall maintain minimum documentation showing a narrative description of the system, physical and technical characteristics of the records, and a record layout that describes each field including its purpose, name, size, starting or relative position, and data type (alphabetic, number, etc).

When SUDS was developed, FS intended for it to serve as the database for administering, budgeting, planning, and reporting activities associated with the Special Use Program.<sup>40</sup> The system is essential for billing authorization holders, as it creates bills and an accounts receivable under FS' accounting system. However, when FS created SUDS, the FS computer programmer did not document the narrative descriptions and record layouts for the system. These record layouts specify the types of information that will be allowed (numbers, alphanumeric, letters, field length, etc.) for each field within the database. Moreover, when FS transferred data from the older database it was using for the Special Use Program, it did not clean up the data. As a result, SUDS was, from its inception, filled with inaccurate data.

Without system documentation to verify the type of information that should be included in each field, we reviewed the database to determine what sort of data the fields actually contained. Then, we confirmed with the FS computer programmer what sort of data should be in those fields. We found that several fields contained information that was inconsistent with what the FS computer programmer described. Most inconsistencies were due to the lack of system controls limiting the type of information entered into each field. There were also items that appeared to be transferred from the previous database without being updated. We determined that 17,160 of 74,166 records within SUDS, or 23 percent, were inconsistent.

- We found 3,804 special use authorizations where the "billing cycle" field was described as "lump sum," and an additional 927 authorizations with the option of "no bill," even though this field should contain only one of eight options: annually, semi-annually, quarterly, monthly, consolidated, one-time payment, periodic, or exempt. If a reviewer came across a field marked as "lump sum" or "no bill," then he or she could not determine the status of the authorization bills as either current or past due (see Exhibit D).
- We identified 5,952 expired special use authorizations that were still listed as "issue" or "active" in SUDS; however, FS had not billed the authorizations. OIG noted that these expired authorizations were encumbering 191 million acres of national forest land.<sup>41</sup>

Of 5,952 expired authorizations with uncollected fees, we selected 54 to determine their status and to test the accuracy of the data in SUDS. We identified the following deficiencies:

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<sup>39</sup> 36 CFR 1234.20, dated July 1, 1999.

<sup>40</sup> FSM 2703.5, dated April 12, 2005.

<sup>41</sup> We determined that this acreage amount is inaccurate; however, this is the figure we obtained from SUDS, the agency's official record keeping system for special use authorizations. Considering that the national forest system consists of 193 million acres, this would mean that 99 percent of the FS land is under special use authorization, which is clearly not the case. The acreage overlap occurs due to authorizations not having exclusive use of the NFS lands. A ski resort can also obtain a summer use authorization in portions of a resort in addition to a winter use authorization. A road right-of-way can also overlap a utility right-of-way.

- 28 (52 percent) of the sample authorizations should have been closed according to ranger district records.
- 14 (26 percent) were improperly coded or misplaced and not processed in SUDS due to various factors (i.e., being renewed; being considered for land exchange; being unable to locate the special use authorization within SUDS).
- 42 (78 percent error rate) improperly coded authorizations were still listed either as “issue” or “active,” as of November 2008, and FS personnel were unaware that they were still “active.”<sup>42</sup>

Additionally, we identified that for all special use applications, 299 million acres were listed in SUDS as encumbered, but FS only manages 193 million total acres in the National Forest System.<sup>43</sup> This occurred because special use authorizations do not grant exclusive use; therefore, two or more uses may overlap. A protocol needs to be established for entering acres associated with outfitting and guiding permits.

When we spoke to the SUDS administrator about these data inconsistencies, she informed us that she is having problems making changes to SUDS because there are no computer programmers available. Within FS, SUDS and the Special Use Program compete with other staff areas for programmers to maintain and improve the database, and SUDS is usually treated as a lower priority. Currently, FS IT computer department has assigned one computer programmer to work part-time on making changes to SUDS, but this programmer is often assigned to work on other projects.

In 2008, Congress requested that FS provide data regarding the fees it charged for the use of forestland for skiing. FS Washington Office staff told us they prepared the report based on SUDS data, but they were forced to request that all national forests verify the correct information since they knew that SUDS data were inaccurate. Since FS uses SUDS to prepare information for the Performance Accounting System, requests from Congress, Freedom of Information Act, budgeting, and Washington Office inquiries, the agency should take steps to ensure that the system is able to adequately report fees paid.

## **Recommendation 17**

Verify and validate all SUDS data for accuracy, and correct all data accuracy errors in SUDS.

## **Agency Response**

Action to implement recommendations 18 and 19 should precede recommendation 17. Definitions of data elements and standards will be established prior to instructing the field to correct data errors. Once the data elements have been defined in a directive (June 29, 2012), national forests will have one year to correct data errors (June 28, 2013).

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<sup>42</sup> The remaining 12 expired authorizations, or 22 percent, were either closed or awaiting follow-up action by FS.

<sup>43</sup> We cannot determine from the data in SUDS if some of the acreage for special use authorizations overlaps.

## **OIG Position**

We accept FS' management decision on this recommendation.

## **Recommendation 18**

Establish data entry controls within SUDS to ensure the integrity of its data.

## **Agency Response**

When the Special Use Data System (SUDS) was implemented in 2000, the Forest Service did not replace FSH 2709.11, chapter 60 regarding the Forest Land Use Report with a directive on SUDS. This directive should be revised and reissued. Data entry controls will be addressed in this directive. Develop a revised handbook for SUDS by June 2012.

## **OIG Position**

We accept FS' management decision on this recommendation.

## **Recommendation 19**

Create and maintain minimum documentation for the system, including a narrative description and record layout in accordance with applicable Federal requirements.

## **Agency Response**

Documentation of data elements including narrative description and record layout will be included in the revised directive for FSH 2709.11, chapter 60. Develop a revised handbook for SUDS. FS estimates completing this recommendation by June 2012.

## **OIG Position**

We accept FS' management decision on this recommendation.

## **Recommendation 20**

Ensure that the Special Use Program has access to sufficient computer programmers to ensure that the system works as intended and is updated promptly.

## **Agency Response**

The Forest Service agrees that sufficient computer programmers must be available for timely maintenance of directives and forms in SUDS. Require that National Forest Systems and Natural Resource Manager (NRM) (formerly I-web) provide sufficient computer programmer resources for timely service and maintenance of SUDS. A dialog between NFS and NRM will be conducted. FS estimates completing this recommendation by August 2012.

## **OIG Position**

We accept FS' management decision on this recommendation.

## **Recommendation 21**

Establish a data entry protocol for the entering of acres associated with outfitting and guiding permits.

## **Agency Response**

The Forest Service agrees that it must establish a data entry protocol for entering acres associated with outfitting and guiding permits. The protocol for acres for outfitting and guiding permits will be included in FSH 2709.11, chapter 60. FS estimates completing this recommendation by June 2012.

## **OIG Position**

We accept FS' management decision on this recommendation.

## Scope and Methodology

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The purpose of our review was to assess the adequacy of FS' Special Use Program to ensure that FS issued authorizations properly, collected and recorded fees accurately, monitored sites adequately, and renewed authorizations once they expired.

To accomplish our audit objectives we performed audit work at FS' Washington Office in Washington, D.C; Pacific Southwest Regional Office in Vallejo, California; San Bernardino National Forest in San Bernardino, California; Shasta-Trinity National Forest in Redding, California; Rocky Mountain Regional Office in Golden, Colorado; Arapaho National Forest Ranger Districts; White River National Forest Ranger Districts; and Albuquerque Service Center in Albuquerque, New Mexico. In completing this review, we looked at documentation generally covering the period of September 2005 through June 2008. Fieldwork was performed between September 2008 and February 2010 (see Exhibit E). During July 2010, we provided and discussed our issues with the FS Washington Office.

We judgmentally selected two FS regions because they had the most fees collected from special use authorizations based on the April 2008 SUDS database. We specifically selected the San Bernardino National Forest in Region 5 because an FS employee claimed that there was a problem with one special use authorization in this forest. We then selected the Shasta-Trinity National Forest in Region 5 because it had the highest number of authorizations for any national forest in the country.

After Region 5, Region 2 collected the most fees. Within Region 2, we selected the two national forests that collected the most fees from special use authorizations—the White River National Forest and Arapaho National Forest. We then selected the ranger districts in these national forests that collected the most fees.

We judgmentally selected 128 special use authorizations from our selected ranger districts and we performed a case file review to verify that the FS procedures were being followed on these authorizations. We focused primarily on special use authorizations that take the most time to administer, such as agriculture use, communication sites, troubled youth camps, and water use. We also judgmentally selected 30 authorization sites from the 128 authorizations where we had determined that inspections should have been performed, but were not. In addition, the selection of the sites was based on proximity to where we could conduct several site visits in a day. We did not identify any problems with agriculture and troubled youth camp authorizations.

In developing the findings in this report, we performed the following steps and procedures:

### At FS' Washington Office:

- Reviewed applicable laws, regulations, policies, and procedures pertaining to the Special Use Program.
- Interviewed key FS Washington Office staff to obtain an understanding of current FS special use authorization activities including processing new applications, monitoring and renewing authorizations, and maintaining data in SUDS.

- Interviewed key FS Washington Office staff to obtain an understanding of the cost recovery program and Federal Lands Recreation Enhancement Act rules and how these rules apply to each type of special use authorization.

At FS' regional offices and national forests:

- Met with key FS staff to obtain their insights, observations, and concerns related to FS' Special Use Program.
- Discussed with key FS staff the process for processing, monitoring, and renewing special use authorizations.
- Ascertained how special use authorization data are entered, maintained, and updated in SUDS to provide usable reports for planning purposes.

Throughout our audit, we used the SUDS database because this was the only data tracking system available for special use authorizations. We noted the unreliability of SUDS data—we reported this problem in Finding 6—but we continued to use these data because FS could not provide us with more reliable information. For analysis and comparison of the April 2008 SUDS database, we compared it to the 2001 SUDS database.<sup>44</sup>

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives

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<sup>44</sup> SUDS is a perpetual database that is updated daily with changes to special use authorizations. In order to obtain the 2005 database, the SUDS administrator would have to go back and find the FY 2005 data in storage. She maintained a copy of the FY 2001 database and was able to timely provide it to us.

## Abbreviations

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BLM.....	Bureau of Land Management
CFR.....	Code of Federal Regulation
FS .....	Forest Service
FSH .....	Forest Service Handbook
FSM.....	Forest Service Manual
GAO.....	Government Accountability Office
NEPA .....	National Environmental Policy Act
OIG .....	Office of Inspector General
OMB .....	Office of Management and Budget
SUDS .....	Special Use Data System

## Exhibit A: Summary of Monetary Results

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<b>Finding Number</b>	<b>Recommendation Number</b>	<b>Description</b>	<b>Amount</b>	<b>Category</b>
2	3	Amount regions could have collected if the minimum land use fee was updated as required.	\$5,387,567 (estimated)	FTBPTBU <sup>45</sup> – Management Improvements

Exhibit A presents the one recommendation we made to the agency where future collections would occur if the agency took the recommended actions. There are five columns in this exhibit. The first column lists the finding number. The second column lists the recommendation number. The third column describes why the funds were inefficiently used. The fourth column states the amount of funds that were not collected. The fifth column states the funds could be put to better use through management improvements.

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<sup>45</sup> FTBPTBU – Funds To Be Put To Better Use

## **Exhibit B: Use Fees Do Not Reflect Fair Market Value Proposed Market Survey Rates Based on OIG Calculations (2003-2009)**

Region 1								
Year	Authorizations <sup>46</sup>	OIG Calculated Rental Fee <sup>47</sup>	Inflation Index <sup>48</sup>	OIG Calculated Indexed Rental Fee	Current Rental Fee	OIG Calculated Proposed Rental Fee	OIG Estimated Rental Fee Collection	Rental Fee that could have been collected
	A	B	C	D	E	F	G	H
				(B * C)		(A * D)	(A * E)	(F-G)
2003	1,205	\$115.27	1.000	\$115.27	\$62.00	\$138,900	\$74,710	\$64,190
2004	1,205	\$115.27	1.015	\$117.00	\$62.00	\$140,985	\$74,710	\$66,275
2005	1,205	\$117.00	1.022	\$119.57	\$62.00	\$144,082	\$74,710	\$69,372
2006	1,205	\$119.57	1.032	\$123.40	\$62.00	\$148,697	\$74,710	\$73,987
2007	1,205	\$123.40	1.039	\$128.21	\$62.00	\$154,493	\$74,710	\$79,783
2008	1,205	\$128.21	1.031	\$132.19	\$62.00	\$159,289	\$74,710	\$84,579
2009	1,205	\$132.19	1.019	\$134.70	\$62.00	\$162,314	\$74,710	\$87,604
Total Region 1								\$525,790

<sup>46</sup> SUDS is constantly being updated, and we were unable to go back to each year and determine the actual number of special use authorizations per year with the minimum use fee. We were provided with a copy of SUDS data as of January 2001, when it was first created. This database showed a slightly higher number of authorizations for region 5 for this analysis. Therefore, we used the April 2008 number of authorizations for each of the minimum use fees for each region because it was lower. We recognize that the actual number of authorizations could have been higher or lower in each year.

<sup>47</sup> OIG Calculated Rental Fee used the average of the annual compounded interest for the regions that conducted a market survey to determine the proposed rental fee for 2003.

<sup>48</sup> The implicit price deflator-gross domestic product as published in the Survey of Current Business of the U.S. Department of Commerce, Bureau of Economic Analysis.

Region 3								
Year	Authorizations <sup>49</sup>	OIG Calculated Rental Fee <sup>50</sup>	Inflation Index <sup>51</sup>	OIG Calculated Indexed Rental Fee	Current Rental Fee	OIG Calculated Proposed Rental Fee	OIG Estimated Rental Fee Collection	Rental Fee that could have been collected
	A	B	C	D	E	F	G	H
				(B * C)		(A * D)	(A * E)	(F-G)
2003	1,136	\$94.23	1.000	\$94.23	\$57.71	\$107,045	\$65,559	\$41,486
2004	1,136	\$94.23	1.015	\$95.64	\$58.92	\$108,647	\$66,933	\$41,714
2005	1,136	\$95.64	1.022	\$97.75	\$60.69	\$111,044	\$68,944	\$42,100
2006	1,136	\$97.75	1.032	\$100.88	\$62.63	\$114,600	\$71,148	\$43,452
2007	1,136	\$100.88	1.039	\$104.81	\$65.20	\$119,064	\$74,067	\$44,997
2008	1,136	\$104.81	1.031	\$108.06	\$66.76	\$122,756	\$75,839	\$46,917
2009	1,136	\$108.06	1.019	\$110.11	\$70.50	\$125,085	\$80,088	\$44,997
Total Region 3								\$305,664

<sup>49</sup> SUDS is constantly being updated, and we were unable to go back to each year and determine the actual number of special use authorizations per year with the minimum use fee. We were provided with a copy of SUDS data as of January 2001, when it was first created. This database showed a slightly higher number of authorizations for region 5 for this analysis. Therefore, we used the April 2008 number of authorizations for each of the minimum use fees for each region because it was lower. We recognize that the actual number of authorizations could have been higher or lower in each year.

<sup>50</sup> OIG Calculated Rental Fee used the average of the annual compounded interest for the regions that conducted a market survey to determine the proposed rental fee for 2003.

<sup>51</sup> The implicit price deflator-gross domestic product as published in the Survey of Current Business of the U.S. Department of Commerce, Bureau of Economic Analysis.

Region 4								
Year	Authorizations <sup>52</sup>	OIG Calculated Rental Fee <sup>53</sup>	Inflation Index <sup>54</sup>	OIG Calculated Indexed Rental Fee	Current Rental Fee	OIG Calculated Proposed Rental Fee	OIG Estimated Rental Fee Collection	Rental Fee that could have been collected
	A	B	C	D	E	F	G	H
				(B * C)		(A * D)	(A * E)	(F-G)
2003	1,213	\$94.23	1.000	\$94.23	\$45.00	\$114,301	\$54,585	\$59,716
2004	1,213	\$94.23	1.015	\$95.64	\$45.00	\$116,011	\$54,585	\$61,426
2005	1,213	\$95.64	1.022	\$97.75	\$45.00	\$118,571	\$54,585	\$63,986
2006	1,213	\$97.75	1.032	\$100.88	\$45.00	\$122,367	\$54,585	\$67,782
2007	1,213	\$100.88	1.039	\$104.81	\$45.00	\$127,135	\$54,585	\$72,550
2008	1,213	\$104.81	1.031	\$108.06	\$45.00	\$131,077	\$54,585	\$76,492
2009	1,213	\$108.06	1.019	\$110.11	\$45.00	\$133,563	\$54,585	\$78,978
Total Region 4								\$480,930

<sup>52</sup> SUDS is constantly being updated, and we were unable to go back to each year and determine the actual number of special use authorizations per year with the minimum use fee. We were provided with a copy of SUDS data as of January 2001, when it was first created. This database showed a slightly higher number of authorizations for region 5 for this analysis. Therefore, we used the April 2008 number of authorizations for each of the minimum use fees for each region because it was lower. We recognize that the actual number of authorizations could have been higher or lower in each year.

<sup>53</sup> OIG Calculated Rental Fee used the average of the annual compounded interest for the regions that conducted a market survey to determine the proposed rental fee for 2003.

<sup>54</sup> The implicit price deflator-gross domestic product as published in the Survey of Current Business of the U.S. Department of Commerce, Bureau of Economic Analysis.

Region 5								
Year	Authorizations <sup>55</sup>	OIG Calculated Rental Fee <sup>56</sup>	Inflation Index <sup>57</sup>	OIG Calculated Indexed Rental Fee	Current Rental Fee	OIG Calculated Proposed Rental Fee	OIG Estimated Rental Fee Collection	Rental Fee that could have been collected
	A	B	C	D	E	F	G	H
				(B * C)		(A * D)	(A * E)	(F-G)
2003	2,951	\$200.00	1.000	\$200.00	\$30.00	\$590,200	\$88,530	\$501,670
2004	2,951	\$200.00	1.015	\$203.00	\$30.00	\$599,053	\$88,530	\$510,523
2005	2,951	\$203.00	1.022	\$207.47	\$30.00	\$612,244	\$88,530	\$523,714
2006	2,951	\$207.47	1.032	\$214.11	\$30.00	\$631,839	\$88,530	\$543,309
2007	2,951	\$214.11	1.039	\$222.46	\$30.00	\$656,479	\$88,530	\$567,949
2008	2,951	\$222.46	1.031	\$229.36	\$30.00	\$676,841	\$88,530	\$588,311
2009	2,951	\$229.36	1.019	\$233.72	\$30.00	\$689,708	\$88,530	\$601,178
Total Region 5								\$3,836,654

<sup>55</sup> SUDS is constantly being updated, and we were unable to go back to each year and determine the actual number of special use authorizations per year with the minimum use fee. We were provided with a copy of SUDS data as of January 2001, when it was first created. This database showed a slightly higher number of authorizations for region 5 for this analysis. Therefore, we used the April 2008 number of authorizations for each of the minimum use fees for each region because it was lower. We recognize that the actual number of authorizations could have been higher or lower in each year.

<sup>56</sup> OIG Calculated Rental Fee used the average of the annual compounded interest for the regions that conducted a market survey to determine the proposed rental fee for 2003.

<sup>57</sup> The implicit price deflator-gross domestic product as published in the Survey of Current Business of the U.S. Department of Commerce, Bureau of Economic Analysis.

Region 6								
Year	Authorizations <sup>58</sup>	OIG Calculated Rental Fee <sup>59</sup>	Inflation Index <sup>60</sup>	OIG Calculated Indexed Rental Fee	Current Rental Fee	OIG Calculated Proposed Rental Fee	OIG Estimated Rental Fee Collection	Rental Fee that could have been collected
	A	B	C	D	E	F	G	H
				(B * C)		(A * D)	(A * E)	(F-G)
2003	1,378	\$104.67	1.000	\$104.67	\$80.00	\$144,235	\$110,240	\$33,995
2004	1,378	\$104.67	1.015	\$106.24	\$85.00	\$146,399	\$117,130	\$29,269
2005	1,378	\$106.24	1.022	\$108.58	\$85.00	\$149,623	\$117,130	\$32,493
2006	1,378	\$108.58	1.032	\$112.05	\$85.00	\$154,405	\$117,130	\$37,275
2007	1,378	\$112.05	1.039	\$116.42	\$95.00	\$160,427	\$130,910	\$29,517
2008	1,378	\$116.42	1.031	\$120.03	\$95.00	\$165,401	\$130,910	\$34,491
2009	1,378	\$120.03	1.019	\$122.31	\$95.00	\$168,543	\$130,910	\$37,633
Total Region 6								\$234,673

The tables above show the calculation of the amount of the minimum use fee that could have been collected by each region if the minimum use fee were updated.

**Summary Schedule of Proposed Increase Based on Market Surveys of other Regions  
(2003-2009)**

Region	Annual Index Applied to Rental Fee – OIG Calculation
1	\$525,790
3	\$305,664
4	\$480,930
5	\$3,836,654
6	\$234,673
	\$5,383,711

The table above summarizes all of the minimum use fees not collected for each region.

<sup>58</sup> SUDS is constantly being updated, and we were unable to go back to each year and determine the actual number of special use authorizations per year with the minimum use fee. We were provided with a copy of SUDS data as of January 2001, when it was first created. This database showed a slightly higher number of authorizations for region 5 for this analysis. Therefore, we used the April 2008 number of authorizations for each of the minimum use fees for each region because it was lower. We recognize that the actual number of authorizations could have been higher or lower in each year.

<sup>59</sup> OIG Calculated Rental Fee used the average of the annual compounded interest for the regions that conducted a market survey to determine the proposed rental fee for 2003.

<sup>60</sup> The implicit price deflator-gross domestic product as published in the Survey of Current Business of the U.S. Department of Commerce, Bureau of Economic Analysis.

## **Exhibit C: Use Fees Do Not Reflect Annual Index of Fair Market Value Calculation of Minimum Use Fee – Annual Index (2005-2009)**

Region 9	Authorizations <sup>46</sup>	OIG Calculated Rental Fee	Inflation Index <sup>61</sup>	OIG Calculated Indexed Rental Fee	Current Rental Fee	OIG Calculated Proposed Rental Fee	OIG Estimated Rental Fee Collection	Rental Fee that could have been collected
	A	B	C	D	E	F	G	H
				(B * C)		(A * D)	(A * E)	(F-G)
2005	368	\$50.00	1.000	\$50.00	\$50.00	\$18,400	\$18,400	\$0
2006	368	\$50.00	1.032	\$51.60	\$50.00	\$18,989	\$18,400	\$589
2007	368	\$51.60	1.039	\$53.61	\$50.00	\$19,728	\$18,400	\$1,328
2008	368	\$53.61	1.031	\$55.27	\$50.00	\$20,339	\$18,400	\$1,939
2009	368	\$57.56	1.000	\$57.56	\$57.56	\$21,182	\$21,182	0
								\$3,856

The table above shows the calculation of the amount of the fee that could have been collected by region 9 if the annual index fee was properly updated.

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<sup>61</sup> We did not index the proposed fee in the first year when a new rate is applied. We also did not index the fee in 2009 because a manual adjustment was done in SUDS to reflect what the minimum use fee should be.

## **Exhibit D: Inaccurate Information Found in SUDS**

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All of the items noted below are based on data contained in the SUDS database as of April 21, 2008.

- **BILLING CYCLE** - we identified that the billing cycle field should only have one of eight different options. The approved options are Annually, Semi-Annually, Quarterly, Monthly, Consolidated, One-Time Payment, Periodic, and Exempt.
  - **LUMP SUM** - we identified 3,804 special use authorizations that have “lump sum” in the billing cycle field, which is not one of the approved eight options.
  - **NO BILL** - we identified 927 special use authorizations that have “No Bill” in the billing cycle field, which is also not one of the approved eight options. It appears that these “No Bill” authorizations are from a prior system due to the expirations dating back to 1900. We were not able to observe any information in SUDS that would show that these bills should have been exempt from billing.
- **PENDING SIGNATURE** - per the SUDS National Program Manager, any authorization that has been placed in “pending signature” status should only be in that status for 60 days. If after 60 days the authorization is not signed, the authorization should be closed. We identified 1,534 authorizations that have had a “pending signature” status for more than 60 days and should have been closed.
- **FUTURE DATES** - we identified that there are no internal controls to prevent SUDS from allowing an authorization to be issued in the future. We sorted the database by the issue date field and identified 19 authorizations that have a future issue date; thus the authorization is technically not active until that future date.
- **EXPIRATION DATES GREATER THAN 50 YEARS** - we identified a lack of controls to prevent SUDS from allowing an authorization to be more than 50 years old before expiring. While some special use authorizations do have a need for an expiration date greater than 50 years, this is on an exception basis only. The majority of special use authorizations have an expiration date between 1 and 50 years as allowed by FS regulations. We sorted the database by the expired date field and identified 19 authorizations that have an expiration date greater than 50 years. One special use authorization does not expire until the year 3007.
- **SPECCD FIELD INACCURATE INPUT** - we learned from the SUDS National Program Manager that isolated cabins are supposed to be listed in SUDS as “unusual tenure” in the SPECCD field of the database. We identified 174 special use authorizations that are not marked with the “unusual tenure” in the SPECCD field. These isolated cabins are being phased out of FS inventory, so the unusual tenure is being used to identify these authorizations in SUDS.
- **CLOSED/TERMINATED/REVOKED** - we identified special use authorizations with a status of closed, terminated, and/or revoked that are not being removed from the database

to archive once closed. We identified 4,731 records in the database with a status of closed, terminated, and/or revoked. Since these records are still part of the main database, it is possible that the closed special use authorizations might be included in the active authorizations when preparing reports from SUDS.

- EXPIRED AUTHORIZATIONS - we identified 5,952 expired special use authorizations with uncollected fees encumbering 191 million acres that were still listed as “Issue” or “Active” in SUDS.
- ACREAGE IN SUDS - we noted that the acreage for special use authorizations in SUDS totaled about 299 million acres, a figure much larger than the 193 million acres of National Forest System land managed by FS.

## Exhibit E: Sites Visited

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AUDIT SITE	LOCATION
FS Washington Office	Washington, DC
<u>Region 2</u> Rocky Mountain Regional Office Arapaho National Forest Boulder Ranger District Clear Creek Ranger District White River National Forest Dillon Ranger District Holy Cross Ranger District	Denver, CO Boulder, CO Idaho Springs, CO Silverthorne, CO Minturn, CO
<u>Region 5</u> Pacific Southwest Regional Office San Bernardino National Forest Front Country Ranger District Mountaintop Ranger District San Jacinto Ranger District Shasta-Trinity National Forest Mt. Shasta Ranger District Shasta Lake Ranger District	Vallejo, CA San Bernardino, CA Lytle Creek, CA Skyforest, CA Idyllwild, CA Redding, CA Mt. Shasta, CA Redding, CA
Albuquerque Service Center	Albuquerque, NM

The table above lists the locations reviewed during the audit.

**USDA'S**

**FOREST SERVICE**

**RESPONSE TO AUDIT REPORT**



Forest  
Service

Washington  
Office

1400 Independence Avenue, SW  
Washington, DC 20250

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**File Code:** 1430/2700

**Date:** May 20, 2011

**Route To:** (2340), (2700)

**Subject:** Forest Service Administration of Special Uses Program

**To:** Gil H. Harden, Assistant Inspector General for Audit, Office of Inspector General

The Forest Service has reviewed the Office of the Inspector General (OIG) draft Audit Report No. 08601-55-SF, Forest Service Administration of Special Uses Program. The Agency appreciates OIG's review of its Special Uses Program. The Forest Service generally agrees with the findings and recommendations and the need to address these issues.

The enclosed response outlines our proposed actions for each of the audit recommendations. Please contact Donna Carmical, Chief Financial Officer, at (202) 205-1321 or [dcarmical@fs.fed.us](mailto:dcarmical@fs.fed.us) with any questions.

*/s/ Thomas L. Tidwell*  
THOMAS L. TIDWELL  
Chief

cc: Jim Bedwell  
Greg Smith  
Julett Denton  
Carolyn Holbrook  
Janet M Roder



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USDA Forest Service (FS)

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Office of Inspector General (OIG) Audit Report No. 08601-55-SF  
Forest Service Administration of Special Uses Program

Forest Service Response to the Official Draft Report

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**OIG Recommendation 1:** Propose that the Secretary seek legislative changes allowing FS to retain special use fees that are not currently covered under statute.

**FS Response to Recommendation 1:** The Forest Service agrees that seeking legislation to provide additional authority to retain special use fees would benefit management of the special uses program and will raise this matter with the Under Secretary for Natural Resources and Environment. However, the authority for legislation lies with Congress, and the agency has little control over the outcome. Additionally, legislation is needed for permanent cost recovery retention authority since the current authority will expire in 2012. The FS will work with the Under Secretary to develop a legislative proposal for fee retention by June 2012.

**Estimated Completion Date for Recommendation 1:** June 29, 2012

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**OIG Recommendation 2:** Ensure that there is a sufficient number of qualified staff available to manage the Special Use Program and to perform site inspections, NEPA reviews, and market surveys. Consider the feasibility of pooling regional special use experts or using FS enterprise units to provide specialist reviews when necessary.

**FS Response to Recommendation 2:** While the agency generally agrees with the recommendation's objective, the agency is not in a position to redirect significantly more resources to managing special uses and prefers to explore several approaches to improve qualified staff availability to process and administer special uses.

Cost recovery – Units will continue to use cost recovery where appropriate to provide good customer service in processing and monitoring permits. The FS will review cost recovery rates to verify that they are sufficient to cover the work.

The FS will consider organizing zone specialists or employing enterprise teams where appropriate to perform NEPA reviews and site inspections. Currently, there is limited expertise available through enterprise teams for special use administration. Additionally, FS will review aspects of its special use directives to determine whether efficiencies can be achieved through revising inspection frequencies or other administrative aspects. Furthermore, regions will be asked to assess the funding gap between tasks covered by cost recovery and other special use administration not subject to cost recovery.

Market value fees – The FS will review fee schedules to update minimum fees for categories of use or regional minimum fees that have not been updated in the past 10 years. Region-based market surveys could be incorporated into the program of work with oversight from a regional appraiser. Alternatively, each region has the capability to procure priority appraisal services, including market surveys, either by use of staff appraisers or private contract appraisers.

Fee retention – The FS will seek sufficient fee retention authority to cover aspects of special use administration that are not recovered under cost recovery.

Specific steps are as follows:

- Review cost recovery rates and recommend revisions by June 2012.
- Request regions to evaluate staffing efficiencies and develop an action plan by January 2012.
- Review special use directives to identify administrative efficiencies by June 2012.
- Schedule market surveys or other fee review process by June 2012. See recommendation 5 regarding a market survey for minimum fees.
- Assess the funding gap for special use administrative costs not subject to cost recovery by June 2012.
- Seek legislation for fee retention by June 2012.

**Estimated Completion Date for Recommendation 2:** June 29, 2012

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**OIG Recommendation 3:** Require the regions to establish procedures to review their minimum land use fee at least every 5 years to reflect fair market value for land usage.

**FS Response to Recommendation 3:** The Forest Service generally agrees with this requirement which is presently addressed in directives at FSH 2709.11, section 31.12. However, 5 years may be too frequent for this type of review. See response to recommendation 5 for further detail. The importance of value maintenance will be emphasized in a letter from the Chief to Regional Foresters by August 2011.

**Estimated Completion Date for Recommendation 3:** August 31, 2011

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**OIG Recommendation 4:** Require the regions to annually report to the Washington office when they have updated their minimum use fees.

**FS Response to Recommendation 4:** The Forest Service will clarify its directives at FSH 2709.11, section 31.51a by adding an annual timeframe for adjusting regional minimum fees for inflation. However, the agency believes that it is unnecessary for regions to annually report inflation adjustments. The directive will be modified by June 2012.

**Estimated Completion Date for Recommendation 4:** June 29, 2012.

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**OIG Recommendation 5:** Determine the feasibility of conducting a national market survey to establish a national minimum use fee that could be updated annually.

**FS Response to Recommendation 5:** The Forest Service agrees that conducting a national market survey to establish minimum fees could be more efficient than conducting separate regional surveys. The FS will organize a team of specialists including valuation staff to determine the merits of national vs. Regional minimum fees. If a national minimum fee is feasible, it would be indexed (as opposed to updated) annually using an acceptable index such as the IPD-GDP currently applied to other fee schedules. If a market survey or other analysis is required, the Forest Service will allocate funds for that work in FY 2012.

**Estimated Completion Date for Recommendation 5:** June 29, 2012

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**OIG Recommendation 6:** Revise the SUDS database to automatically update individual authorizations for the annual inflation index.

**FS Response to Recommendation 6:** The Forest Service agrees that automatic indexing through SUDS is an appropriate long term goal. However, at this time, regional directives govern inflation adjustments and these directives vary on how inflation adjustment is made. It would be more practical to establish automatic indexing upon completion of a national (or regional) market survey(s) or other analysis to adjust minimum fees. Automatic indexing through SUDS would be implemented upon completion of the work necessary to adjust the minimum fee.

**Estimated Completion Date for Recommendation 6:** June 29, 2012

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**OIG Recommendation 7:** Create and implement a risk-based inspection system that will enable district rangers to focus limited monitoring resources on sites likely to violate the terms of their authorization.

**FS Response to Recommendation 7:** There are currently three directive sections that address inspections: permit holder responsibility (FSM 2716.51), agency responsibility (FSM 2716.52), and inspection frequencies (FSM 2716.53).

Direction regarding permit holder responsibility will be revised to address specific health and safety requirements for some types of public service such as public drinking water, food service, and building occupancy. Direction will be added to address inspection frequency for the holder's responsibility.

The section on agency responsibility appropriately addresses goals for agency inspection. However, the current requirement for a written inspection report is not being consistently met. The Chief will emphasize the importance of documenting inspections in a letter to Regional Foresters.

The FS concurs with this audit recommendation. Current inspection frequencies are found in FSM 2716.53 and are based on use type. This system is simple to monitor but is not strategic in focusing on risk. Criteria on which to base risk will be developed so that limited resources may be strategically directed. Additionally, SUDS will be modified to enable tracking revised inspection requirements. Emphasis letter from the Chief will be issued by August 2011. The agency will revise the directive at FSM 2716.5 by June 2012.

**Estimated Completion Date for Recommendation 7:** June 29, 2012

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**OIG Recommendation 8:** Develop a plan to address the inspection deficiencies found and provide a schedule showing when the inspections will be completed.

**FS Response to Recommendation 8:** The Chief will write a letter to Regional Foresters, requiring each region to develop a schedule to address identified inspection deficiencies at communications sites. Regional schedules to address inspection deficiencies at communication sites during the audit review will be prepared by January 2012.

**Estimated Completion Date for Recommendation 8:** January 31, 2012

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**OIG Recommendation 9:** Follow up on the violations we identified during our site inspections and take appropriate corrective action.

**FS Response to Recommendation 9:** After the OIG provides a specific list by permit of violations found during the audit, the Washington Office will provide that list to Regions for corrective action. Upon receipt of the list of specific violations, the Forest Service will provide that list to Regional Foresters by August 2011. Regions will be required to report progress on corrective actions by June 2012.

**Estimated Completion Date for Recommendation 9:** June 29, 2012

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**OIG Recommendation 10:** Reallocate resources to ensure all communications sites have an approved communication site management plan.

**FS Response to Recommendation 10:** The Chief will direct regions to allocate required resources to ensure that all communication sites have an approved and current site management plans. Each region will be required to provide an action plan by May 2012 and a time line for completion. This direction will be provided to the Regions by August 2011.

**Estimated Completion Date for Recommendation 10:** August 31, 2011

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**OIG Recommendation 11:** Require the regions to develop a schedule to show when all backlogged communication site management plans will be completed.

**FS Response to Recommendation 11:** See recommendation 8. In conjunction with Recommendation 10 above, Regions will be directed to provide annual updates to the Director of Lands on the progress on reducing the backlog of communication site management plans and what efforts are being made to stay on schedule. Directions will be provided to Regions by August 2011.

**Estimated Completion Date for Recommendation 11:** August 31, 2011

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**OIG Recommendation 12:** Determine the cost benefit of adding additional communication site specialists to cover the volume of communication site management plans that need to be prepared and updated.

**FS Response to Recommendation 12:** In conjunction with Recommendation 10 above, regions will be directed to provide an inventory of communication sites and backlog of communication sites plans May 2012. The Director of Lands will determine the cost benefit of adding another employee versus contracting the work through short seasonal contracts. The cost benefit analysis will be completed by June 2012.

**Estimated Completion Date for Recommendation 12:** June 31, 2012

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**OIG Recommendation 13:** Terminate authorizations when authorization holders do not provide FS timely notification to renew.

**FS Response to Recommendation 13:** The Forest Service recognizes the significance of addressing the backlog of expired authorizations. In conjunction with Item 14 below, regions will be directed via letter to address expired authorizations. This letter will be issued by August 2011. Regions will be asked to report progress by June 2012.

**Estimated Completion Date for Recommendation 13:** June 29, 2012

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**OIG Recommendation 14:** Allocate resources to eliminate the backlog of expired authorizations and to ensure that the appropriate environmental analyses are timely conducted.

**FS Response to Recommendation 14:** The Forest Service will emphasize the importance of reducing the backlog of expired permits through a letter to regions. FY2011 Program Direction requires regions to provide an inventory of expired authorizations to the Director of Lands by August 30, 2012 and a plan to reduce backlog of expired and expiring authorizations. Regions are directed to use Cost Recovery where appropriate, to provide timely permit decisions. Require plan from Region to reduce backlog by June 2012.

**Estimated Completion Date for Recommendation 14:** June 29, 2012

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**OIG Recommendation 15:** Develop a schedule to show when the expired and expiring authorizations will be reissued and updated in SUDS.

**FS Response to Recommendation 15:** In conjunction with Items 13 and 14 above, once new authorizations are issued, SUDS will be updated. The schedule for processing the backlog of expired authorizations will be completed by June 2012.

**Estimated Completion Date for Recommendation 15:** June 29, 2012

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**OIG Recommendation 16:** Develop and implement procedures to notify authorization holders of their responsibility to notify FS of their intent to either renew the special use authorization and/or terminate the usage at the end of the special use authorization.

**FS Response to Recommendation 16:** Notice to holders is an inherent part of the process to determine whether to proceed with reauthorization or terminate a use. Additionally, FS will review directives related to expiration and reissuance to determine whether direction should be modified. Address process in the letter to Regional Foresters by August 2011. Review directives by August 2011. If appropriate, revise directives by June 2012.

**Estimated Completion Date for Recommendation 16:** June 29, 2012

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**OIG Recommendation 17:** Verify and validate all SUDS data for accuracy, and correct all data accuracy errors in SUDS.

**FS Response to Recommendation 17:** Action to implement recommendations 18 and 19 should precede recommendation 17. Definitions of data elements and standards will be established prior to instructing the field to correct data errors. Once the data elements have been defined in a directive (June 29, 2012), national forests will have one year to correct data errors (June 28, 2013).

**Estimated Completion Date for Recommendation 17:** June 29, 2012

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**OIG Recommendation 18:** Establish data entry controls within SUDS to ensure the integrity of its data.

**FS Response to Recommendation 18:** When the Special Use Data System (SUDS) was implemented in 2000, the Forest Service did not replace FSH 2709.11, chapter 60 regarding the Forest Land Use Report with a directive on SUDS. This directive should be revised and reissued. Data entry controls will be addressed in this directive. Develop a revised handbook for SUDS by June 2012.

**Estimated Completion Date for Recommendation 18:** June 29, 2012

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**OIG Recommendation 19:** Create and maintain minimum documentation for the system, including a narrative description and record layout in accordance with applicable Federal requirements.

**FS Response to Recommendation 19:** Documentation of data elements including narrative description and record layout will be included in the revised directive for FSH 2709.11, chapter 60. Develop a revised handbook for SUDS.

**Estimated Completion Date for Recommendation 19:** June 29, 2012

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**OIG Recommendation 20:** Ensure that the Special Use Program has access to sufficient computer programmers to ensure that the system works as intended and is updated promptly.

**FS Response to Recommendation 20:** The Forest Service agrees that sufficient computer programmers must be available for timely maintenance of directives and forms in SUDS. Require that National Forest Systems and Natural Resource Manager (NRM) (formerly I-web) provide sufficient computer programmer resources for timely service and maintenance of SUDS. A dialog between NFS and NRM will be conducted.

**Estimated Completion Date for Recommendation 20:** August 31, 2011

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**OIG Recommendation 21:** Establish a data entry protocol for the entering of acres associated with outfitting and guiding permits.

**FS Response to Recommendation 21:** The Forest Service agrees that it must establish a data entry protocol for entering acres associated with outfitting and guiding permits. The protocol for acres for outfitting and guiding permits will be included in FSH 2709.11, chapter 60.

**Estimated Completion Date for Recommendation 21:** June 29, 2012