

Energy, Minerals and Natural Resources Department
State Parks Division
1220 S. St. Francis Drive
Santa Fe, NM 87505
Telephone (505) 476-3355

Special Use Permit

Pursuant to 19.5.2.40 and .41 NMAC, Applicants must submit Special Use Permit Applications to the State Parks Division (Division) park superintendent/manager where the special event or public assembly is proposed at least 15 days prior to the special event or public assembly, or at least 30 calendar days prior to the special event if the special event is a regatta, motorboat or boat race, marine parade, tournament, or exhibition. Special Use Permits are valid for five consecutive days only. The Division may charge fees in addition to the Special Use Permit fee to cover costs of additional staff, facilities, etc. needed for the special event or public assembly. The Division may enter into an agreement with the Special Use Permittee to have the Special Use Permittee pay a fee equal to the estimated fees, such as day use fees, that individuals attending the special event would have paid in fees in lieu of such fees. Permittees shall not sell goods or services without a concession permit.

| | | | |
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| Applicant name: | | | |
| Address: | | | |
| City/state/zip code: | | | |
| Telephone number (include area code): | | | |
| Facsimile number (include area code): | | | |
| E-mail address: | | | |
| Name of park: | | | |
| Location of the proposed special event or public assembly within the park: | | | |
| Date of the proposed special event or public assembly: | | Start and end times for the proposed special event or public assembly: | Start: |
| | | | End: |
| Number of people expected to attend: | | | |
| Detailed description of the proposed special event or public assembly: | | | |
| | | | |
| Designation of the type of proposed special event or public assembly (e.g., special use, marine event, park event, etc.): | | | |
| | | | |

Indemnification – Applicable to Non-Governmental Applicants Only

By signing below, Applicant certifies if the EMNRD State Parks Division grants a Special Use Permit to Applicant, Applicant shall defend, indemnify, and hold harmless EMNRD, the Division, and the State of New Mexico from all actions, proceedings, claims, demands, costs, damages, attorneys' fees, and all other liabilities and expenses of any kind from any source that may arise out of a Special Use Permit's performance that may arise from this Special Use Permit Application, caused by the negligent act or failure to act of the Applicant, its officers, employees, servants, subcontractors, or agents, or if caused by the actions of any client of the Applicant resulting in injury or damage to persons or property during the time when the Applicant or any officer, agent, employee, servant, or subcontractor thereof has or is performing services pursuant to the Special Use Permit. In the event that any action, suit, or proceeding related to the services performed by the Applicant or any officer, agent, employee, servant, or subcontractor under the Special Use Permit is brought against the Applicant, the Applicant shall, as soon as practicable but no later than two days after it receives notice thereof, notify EMNRD's legal counsel and the Risk Management Division of the New Mexico General Services Department by certified mail. Nothing in this section shall be deemed to be a waiver by the State of New Mexico of the provisions of the Tort Claims Act, NMSA 1978, §§ 41-4-1 *et seq.*

Compliance with Laws and Rules

By signing below, Applicant acknowledges Applicant shall abide by all applicable state and federal statutes and rules or regulations in connection with the permitted activity.

Fee and Insurance

Note: In the event the permit is approved, Applicant shall submit the applicable Special Use Permit fee. If required by the Superintendent for special events, the Applicant shall also submit proof of insurance in an amount directed by the Superintendent and which shall name the state, EMNRD, and the Division as additional co-insured.

Bond

If applicable, Applicant may also be required to provide a bond payable to the Division Director, in an amount adequate to cover costs such as restoration, rehabilitation and cleanup of the area used, and other costs resulting from the event. Please refer to the Permit Approval Section to determine the specific amount. If a bond is required, Applicant shall provide a copy of the bond to the Division prior to undertaking any activity under the Special Use Permit. Please note: Bond and insurance requirements apply only to special events, NOT public assemblies.

Required clauses for parks on U.S. Department of the Interior, Bureau of Reclamation (Reclamation) property

Applicant acknowledges this Permit is revocable at Reclamation's discretion.

Non-Governmental Applicant Hold Harmless: By signing below, Applicant certifies if the EMNRD State Parks Division grants a Special Use Permit (Permit) to Applicant, Applicant agrees to indemnify and hold EMNRD, the Division, the United States, the applicable District (Carlsbad Irrigation District, El Paso Water Improvement District #1, Elephant Butte Irrigation District, and Middle Rio Grande Conservancy District), and their agents, employees, and assigns, harmless from any and all claims whatsoever for personal injuries or damages to property when such injuries or damages directly or indirectly arise out of the existence, construction, maintenance, repair, condition, use or presence of the Permit upon lands of the United States, regardless of the cause of said injuries or damages; provided, however, that nothing in this Permit shall be construed as releasing EMNRD, the Division, the United States, or the District from responsibility for its own negligence. Nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 989 (28 U.S.C. § 1346(b), 2671 *et seq.*) or other applicable law.

Governmental Applicant Waiver of Claims: The Governmental Applicant and the Energy, Minerals and Natural Resources Department and the United States do not have the authority to indemnify or hold harmless the other party from all claims, liabilities, losses, damages, charges, etc. The Governmental Applicant shall be responsible for errors, omission, and negligence of its employees to the extent provided under the New Mexico Tort Claims Act, NMSA 1978, Section 41-1-1 *et*

seq. if a New Mexico state agency or local public body, or the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 989 (28 U.S.C. § 1346(b), 2671 et seq. if a federal agency. EMNRD shall be responsible for errors, omission, and negligence of its employees to the extent provided under the New Mexico Tort Claims Act, NMSA 1978, Section 41-1-1 et seq. Nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 989 (28 U.S.C. § 1346(b), 2671 et seq.) or other applicable law or EMNRD beyond the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1 et seq. As to the Permit, third party claims that may arise under the performance of this Permit shall be determined solely under the Federal Tort Claims Act if a federal agency, or New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1 et seq. if a New Mexico state agency or local public body.

Signed: _____ Date: _____

Applicant's printed name and title: _____

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Special Use Permit

| | | | |
|---|-------------|---------------|-----------------|
| For Division use: | Year | Park # | Permit # |
| <input type="checkbox"/> Permit is approved. | | | |

Permit is approved with the following conditions:

| | |
|--------------------------|--|
| <input type="checkbox"/> | for non-New Mexico government or non-federal government Applicants, the filing of a bond payable to the Division Director, in an amount adequate to cover costs such as restoration, rehabilitation and cleanup of the area used, and other costs resulting from the event. Amount of bond required: \$ _____ |
| <input type="checkbox"/> | insurance is not required. |
| <input type="checkbox"/> | the acquisition of comprehensive general liability insurance in which the state, EMNRD, and Division are named as co-insured, in the amount of \$ _____, which is sufficient to protect the state, EMNRD, and the Division. |
| <input type="checkbox"/> | other items as specified in the Special Use Permit Additional Terms and Conditions (as attached). (The permit may contain such conditions as are reasonably consistent with protection and use of the park for the purposes for which it is established or operated. It may also contain reasonable limitations on the equipment used and the time and area within which the special event is allowed.) |
| <input type="checkbox"/> | The Park may charge fees in addition to the Special Use Permit fee to cover costs of additional staff, facilities, etc. needed for the special event or public assembly. The Division may enter into an agreement with the Special Use Permittee to have the Special Use Permittee pay a fee equal to the estimated fees, such as day use fees, that individuals attending the special event would have paid in lieu of such fees. Amount of additional fees required: \$ _____ |
| <input type="checkbox"/> | Contact the New Mexico Wildlife Department Aquatic Invasive Species (AIS) Coordinator. |

For Division use:

Permit is denied for the reasons specified below. Check the applicable reason(s).

Special Events

The superintendent/manager shall deny a Special Use Permit if such activities would:

| Category | Explanation of Denial |
|----------|-----------------------|
|----------|-----------------------|

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| _____ | cause injury or damage to park resources; | |
| _____ | be contrary to the purposes for which the park is established or operated; or unreasonably impair the purposes for which the park is established or operated; | |
| _____ | unreasonably interfere with interpretive, visitor service or other program activities, or with the Division's administrative activities; | |
| _____ | substantially impair the operation of the Division's public use facilities or services of concessionaires or contractors; | |
| _____ | present a danger to the public health and safety; | |
| _____ | result in significant conflict with other existing uses; or | |
| _____ | not comply with the laws or policies of the landowner (e.g. United States Department of the Interior, Bureau of Reclamation; New Mexico Department of Game and Fish; United States Army Corps of Engineers, New Mexico State Land Office; etc.). | |

Public Assemblies/Meetings

| Category | | Explanation of Denial |
|-----------------|--|------------------------------|
| _____ | a prior application for a Special Use Permit for the same time and place has been made that has been or will be granted and the activities authorized by that Special Use Permit do not reasonably allow multiple occupancy of that particular area; | |
| _____ | it reasonably appears that the event will present a danger to the public health or safety; or | |
| _____ | the event is of such nature or duration that it cannot reasonably be accommodated in the particular location applied for, considering such things as damage to park resources or facilities, interference with program activities, or impairment of public use facilities. | |

The superintendent/manager shall designate on a map available in the park office, the locations available for public assemblies. Locations may be designated as not available if such activities would: (1) cause injury or damage to park resources; (2) unreasonably interfere with interpretive, visitor service or other program activities, or with the Division's administrative activities; (3) substantially impair the operation of public use facilities or services of Division concessionaires or contractors; or (4) present a danger to the public health and safety.

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ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT, STATE PARKS DIVISION

Signed: _____ Date: _____
(Park Superintendent / Manager)

Printed name and title: _____

For state parks on Reclamation property:

UNITED STATES OF AMERICA, DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION

Signed: _____ Date: _____

Printed name and title: _____

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Special Use Permit Additional Terms and Conditions

The State Parks Division (Division) may revoke a Special Use Permit if the permit holder fails to abide by the conditions or restrictions attached to or indicated on the special use permit. The Division may revoke a Special Use Permit if the permit holder violates 19.5.2 NMAC. The Division may also revoke a Special Use Permit for any of the conditions that constitute grounds for denial of a Special Use Permit as provided in Subsection C and D of 19.5.2.40 NMAC and Subsection B of 19.5.2.41 NMAC for special events and Subsection B of 19.5.2.42 NMAC for public assemblies, or for violation of the terms and conditions of the Special Use Permit.

| | | | |
|-------------------|-------------|---------------|-------------------|
| For Division use: | Year | Park # | Permit No. |
| | | | |

Park name: _____

Event name: _____

| | |
|---------------------|--|
| Permit fees: | Special Use Fee \$ _____ Commercial Fee \$ _____ Marine Event Fee \$ _____ Other Fees \$ _____ Total Event Fee \$ _____ Waiver approved: By: _____ Pursuant to (check one) _____ 19.5.2.32.E NMAC _____ 19.5.2.39.G NMAC |
|---------------------|--|

Insurance:
Please note: Insurance requirements only apply to special events, NOT public assemblies.

A certificate of insurance for public liability for personal injury and property damage in amounts greater than or equal to the liability limits set forth in NMSA 1978, Section 41-4-19, as it may be amended, which shows the state, EMNRD, and the Division as co-insured, shall be provided to the park superintendent/manager no later than 48 hours prior to the event.

Additional services and amenities, where available:

Fees for staff to include administration, traffic control, set up, security, etc. will be charged at

- \$25.00 per hour, per person. # of staff _____ X # of hours _____ X \$25.00/hr. = \$_____.
- Tents where available (includes set up and take down).
 - 20 x 20 = \$200.00 first day \$100.00 subsequent days.
 - 20 x 40 = \$300.00 first day \$150.00 subsequent days
- Portable Toilets .
 - \$45.00 per set of two per day (includes daily servicing).
 Portable Restroom Trailer
 - \$250.00 per day. Transport of trailer to other locations may include a mileage charge.
- Event Stage
 - Includes set up and take down - \$300.00 per day. Transport of stage to other locations.

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- May include a mileage charge of \$0.725 per mile to and from event location.

Other fees and services:

- Trash Can - \$5.00 each
- Picnic Table - \$5.00 each
- Fire Grill/Ring - \$5.00 each
- Other: _____
- Other: _____
- Fees for other amenities including but not limited to: camping/day-use sites, exclusive use of: parking areas/lots, specific park areas/locations, shelters, buildings, etc. may be listed below and added to the overall cost of the Special Use Permit.

Item description: _____

Cost: _____

Item description: _____

Cost: _____

Item description: _____

Cost: _____

Items the Permittee will be responsible for as part of the Special Use Permit:

- Any modification to the park premises (land or water) shall be temporary and submitted with the application for review by the park superintendent/manager.
- Set-up of facilities/equipment shall be started no more than _____ hours prior to the event. Take-down shall be completed no more than _____ hours after the event.
- Permittee shall obtain applicable permits from the Regulation and Licensing Department, Alcohol and Gaming Division for the sale or serving of alcoholic beverages and submit them to the park superintendent/manager prior to the event.
- Permittee shall have an event headquarters where a responsible person(s) can be contacted by park staff.
- All advertising and promotion of the event must be approved by the park superintendent/manager and will indicate the event is within the state park.
- Content and placement of event signs, buoys, markers, banners or any other method of posting event information within the park must approved by the park superintendent/manager prior to the event.
- Permittee shall provide, with no cost to the park, _____ portable toilet(s) for the event, and shall coordinate the placement, set-up and take-down of the portable toilet(s) with the park superintendent/manager prior to the event.
- Permittee shall pick-up and properly dispose of all litter generated as a result of the event within _____ hours after the event. Failure of the Permittee to complete litter pick up will result in an additional charge of \$25.00 per hour per park staff member required to complete the litter pick up.
- In the event the activity involves recreational boating, Permittee must contact DGF AIS Coordinator.
- Permittee shall provide, with no cost to the park, _____ waste receptacle(s) of the _____ type for the duration of the event, and shall

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coordinate the placement, set-up, and take-down of the waste receptacle(s) with the park superintendent/manager prior to the event.

The park superintendent/manager approves the use of loudspeakers under the following conditions:

Pursuant to 19.5.2.40.C NMAC, the Permittee shall pay \$ _____ per coordinator/participant/attendee in lieu of them paying the fees on their own.