

Revised Draft Guidance on Issuing Special Use Permits

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1. Introduction:

In 2014, the Fish and Game Commission adopted regulations that standardized the process for issuing Special Use Permits for occasional or one-time activities or events not specifically designated as public uses in Sections 550, 551, or 630 of Title 14, California Code of Regulations (CCR). Special Use Permits may not be issued for activities that conflict with the current uses, management or purposes of the subject property. Environmental research and education activities that are not conducted for the purpose of generating revenue do not require a Special Use Permit, but do require written authorization from the Region. For authorizing research and educational uses, see subsections 550(e) and (f), Title 14, CCR.

The regulations require that an applicant for a Special Use Permit pay a fee to the California Department of Fish and Wildlife (CDFW). The fee is charged in order to recover CDFW's average cost associated with reviewing and issuing a permit. Additionally, CDFW may recover any additional costs associated with the permitted activity or event, beyond issuing the permit (e.g., posting signs, monitoring an event).

The purpose of this document is to provide guidance to Department staff on implementing the regulations regarding Special Use Permits. It is intended to be a companion document to the following subsections of Title 14, CCR and the information provided in the permit application [Form DFW 730 (New 01/2014)]. Please review the regulations and application form for information that is not included in this guidance document. All state regulations can be found at:

<https://govt.westlaw.com/calregs/Search/Index> Use Title 14 and the section number without the letters or numbers in parentheses (e.g., 550, 550.5) for the online search.

550(b) (7): Definition of Special Use

550(d): The regulation that requires Special Use Permits

550.5(d): Detailed information and instructions about Special Use Permits 703(a)
(2): Fees for Special Use Permits (May move to Section 702 in 2016).

The link for the “Special Use of Department Lands Permit Application” is located on the “Directory of Licenses, Permits and Certificates” webpage, which is accessed from www.wildlife.ca.gov/licensing .

This guidance document applies to both Wildlife Areas and Ecological Reserves, but for brevity’s sake, all lands are referred to as wildlife areas or “areas”, and all land managers as Area Managers. Administrative staff that work in Regional headquarters will be referred to as “Regional HQ”

If you have questions about Special Use Permits, please contact the Lands Program staff in Sacramento. As of 2015, the point of contact is Julie Horenstein (Julie.Horenstein@wildlife.ca.gov, 916-324-3772).

2. For Area Managers

A. Early Consultation:

If a prospective applicant contacts Regional HQ or Sacramento in advance of submitting a Special Use Permit application, they will be encouraged to contact the appropriate Area Manager first. The applicant and Area Manager should discuss the potential special use before the application is submitted. This discussion could result in an event being tentatively placed on an area’s calendar or conversely, an applicant may decide not to apply for a Special Use Permit after all.

Special Use Permit applications and permit fees are sent by the applicant to the Regional Headquarters and are due at least 45 days in advance of the special use (subsection 550.5(d)(2)(B), Title 14). Permit fees are based on the year that the application is submitted, not the year of the event. For example, if someone submits an application in 2016 for an event in 2017, the 2016 permit fee will apply.

B. Reviewing Applications:

Regional HQ will send applications that are received to Area Managers for review via e-mail or fax. After initial review, the Area Manager should let Regional HQ know within ten working days whether the application will be approved (or at least is likely to be approved).

If approval is likely, then Regional HQ can deposit the permit fee. If the application is going to be denied, see the section below on denying an application.

- 1) Other relevant information for reviewing applications:
 - a) CDFW cannot issue special use permits for activities or events that conflict with current uses, management or purposes of the subject property, would have a significant effect on the environment, or would constitute an unlawful use of state resources under Government Code Section 8314(e.g., political campaign activities or using state lands for personal gain without appropriate compensation to the state).
 - b) Criteria for considering the appropriateness of a proposed Special Use is included in subsection 550.5(d)(3)(A), Title 14, CCR.
 - c) Special Use Permits are only to be used for one-time or occasional activities or events. Multiple events may be permitted on a single Special Use Permit if they take place within the same 12 month period on the same property (i.e., one property per Special Use Permit application).
 - d) If the special use involves photography or filming for other than personal use or the news media, the permittee must obtain a valid permit from the California Film Commission (CFC, www.film.ca.gov) prior to conducting those activities. There is no charge for obtaining a permit from the CFC and their website www.film.ca.gov. For more information see "Guidelines for Filming on Department of Fish and Game Lands" on the CDFW intranet under "Land Management Planning Information".
(<http://dfgintranet/portal/ExploreCDFW/Programs/Program30ManagementofDepartmentLands/LandManagementPlanningGeneralInfo/tabid/945/Default.aspx>).
 - e) Insurance: See item 14 under Section 4 (Terms and Conditions) of Attachment A on the application form. No specific procedure has been developed for insurance beyond what is provided on the application form.
 - One suggestion: Under subsection 550.5(d)(5)(A), Title 14, the RM or his designee can impose special conditions in addition to the standard terms and conditions in the application form. That could include a requirement that the certificate of insurance be supplied with the signed original of Attachment B (the applicant's acceptance of terms and conditions) which is due 5 days before Type 1 or Type 2 events or 10 days before a Type 3 event (per subsection 550.5(d)(6)).
 - If you google "special event insurance", you will see that there are many companies that offer it. Organizations that apply for special use permits are often familiar with obtaining this type of insurance.

C. Approving Special Use Permits

- 1) The Special Use Permit Application becomes the actual permit. When approving a Special Use Permit, the Area Manager completes items one through ten on page 4 of the application (titled “This page is for Department Completion Only”). Attach any map, diagram, explanation of additional costs, and/or special conditions (in addition to the standard terms and conditions that are part of the form).
 - a) Any additional charges or deposits in addition to the Special Use Permit fee should be itemized in the table on page 4 (Item 10). Examples include a cleaning deposit or recovering CDFW costs for monitoring an event or posting and removing signs.
 - b) Approval of a Special Use Permit requires the signature of both the Area Manager and the Regional Manager or the Regional Manager’s designee. (Regional Managers may choose the Area Manager as designee).
 - c) **The use of CDFW electronic signatures is acceptable.**
- 2) Fill in the property name and dates for events covered by the permit on Attachment B (application page 9).
- 3) **Approval of Type 1 or Type 2 permits** (smaller special uses or dog trials, respectively, defined in subsection 550.5(d)(1), Title 14):
 - a) the Area Manager and the Regional Manager or his designee signs the permit on page 4 of the application.
 - b) The entire permit is then mailed to the applicant by the Area Manager (and copied to Regional HQ) with a short cover letter that states that the permit has been approved **but is not legally valid** until the Department has received the signed original of Attachment B: “Applicant Acceptance of Terms, Conditions and Costs” (page 9 of the application).
 - If there is a cost to the applicant beyond the permit fee, or a cleaning deposit is required, the cover letter should also explain that the payment of an additional cost and/or deposit indicated on page 4 of the application form is due with Attachment B.
 - An example of a cover letter for a Type 1 or Type 2 permit is in the last section (Section 5) of this guidance document.
 - Special Use Permits are not valid unless they include the entire application form, signed by both parties and all of the attachments. (see subsection 550.5(d)(7), Title 14).

- c) For a Type 1 or Type 2 permit, Attachment B is to be returned by the applicant to Regional HQ at least 5 days before the special use. Payment for any additional cost or deposit is also due at that time.
 - d) Regional HQ staff notifies the Area Manager when Attachment B (signed by the applicant) is received, along with any required additional payment or deposit.
 - Both the Area Manager and Regional HQ should retain copies of the completed, signed application and correspondence with the applicant about the permit.
- 4) **Approval of Type 3 permits** (larger special uses, defined in subsection 550.5(d)(1), Title 14):
- a) the entire application package with all attachments are sent to the applicant by the Area Manager (and copied to Regional HQ) **without any CDFW signature**.
 - b) The package is accompanied by a short cover letter explaining that before the permit can be finalized, the applicant must sign Attachment B and send it with the entire application, including attachments and any required additional payment or deposit to the Regional HQ at least 10 days before the special use event or activity (subsection 550.5(d)(6)(B)). An example of such a letter is attached to this guidance.
 - c) After the necessary items are received from the applicant by Regional HQ, the application/permit is signed on page 4 by the Area Manager and the Regional Manager or designee (**scanning and e-mailing signature pages and using CDFW e-signatures is okay**).
 - d) Regional HQ sends the original valid permit in its entirety to the Applicant/Permittee, with copies to the Area Manager and a Regional file for Special Use Permits.
- 5) Per subsection 550.5(d)(7), a valid special use permit includes the original application plus all attachments. It includes the Applicant's signature on Page 2 of the application and on Attachment B. It also includes the Area Manager's and Regional Manager's (or designee's) signatures on Page 4 of the application.

D. Denying Special Use Permits

Per subsection 550.5(d)(3)(C), the Department must notify an applicant in writing if a Special Use Permit is denied, including an explanation of the reason(s) for the denial. The notification should also mention that the permit fee will be returned in a

separate mailing. The Area Manager is responsible for preparing and sending the notification to the Applicant. Copy Regional HQ on the notification so they can return the fee. Section 5 of this guidance document includes an example of a denial letter.

E. Refunds of Deposits or for Special Use Cancellations

If an entire cleaning or damage deposit is to be returned to the Permittee, let Regional HQ know via e-mail or fax and they will return the deposit to the applicant.

If only part of a deposit will be returned, document the problems and send the applicant notice in writing of why only “amount X” of their deposit will be returned. Copy Regional HQ on the written notice, and they will request a partial refund from CDFW’s Accounting Services Branch.

Rules about cancellation refunds are included in Section 3,B,2 of this document. (see “Refunds” within “For Regional Headquarters Administrative Staff”). Area Managers should notify Regional HQ of cancellations and indicate if they qualify for a refund. Regional HQ prepares and submits refund requests to Accounting (ASB).

3. For Regional Headquarters Administrative Staff:

A. Applications:

For the “Special Use of Department Lands Permit Application”, go to www.wildlife.ca.gov/licensing and then select the “Directory of Licenses, Permits and Certificates”. If you give a member of the public a copy of the application, please download it from this directory.

- 1) If Regional HQ is contacted by an applicant before he or she submits an application, the prospective applicant should be encouraged to contact the Area Manager (AM) in advance of filling out the application.
- 2) Completed applications are to be sent by the applicant to the appropriate Regional HQ Office with full payment of the Special Use Permit fee at least 45 days in advance of the requested date.
- 3) Regional HQ staff should not discuss whether a particular date is available. If asked, this question should be referred to the AM.
- 4) Permit fees are based on the year that the application is submitted, not the year of the event. For example, if someone submits an application in 2016 for an event in 2017, the 2016 permit fee will apply.

- 5) Regional HQ staff should contact the Applicant if the application is not accompanied by the full permit fee and explain that the application will not be processed until the full permit fee is received by CDFW.
- 6) If the permit fee is paid-in-full:
 - a) Fill in the box on Page 4 of the application titled “For Regional Administration Only”. This includes assigning and entering a **Special Use Permit number**. The permit number should also be included when logging-in or recording applications and checks received by the Region.
 - The Special Use Permit number uses the formula: “SUP(2-digit fiscal year) R (Region #)-(three-digit sequential numbering of Special Use Permits issued that FY by that Region)”.
 - **Example:** SUP14R3-005 means the fifth Special Use Permit processed by Region 3 during fiscal year (FY) 2014/2015. The fiscal year is the two-digit representation of the first calendar year in the FY.
 - b) The application is forwarded to the Area Manager. Regional HQ staff should not deposit the payment until the Area Manager informs Regional HQ that the event or activity is going to be approved (or is mostly likely going to be approved). Area Managers will do their best to inform Regional HQ of their decision within 10 working days. Note that the A.M. may need to confer with the applicant prior to a decision.
- 7) If an event is going to be approved, Regional HQ deposits the payment according to instructions provided in the “Special Use Permit Fee Deposits and Refunds” section below. If an event is denied, the AM will send notification in writing to the applicant, and “cc” Regional HQ. Regional HQ returns the fee to the applicant. If the fee has already been deposited, see instructions below regarding refunds.

B. Payments and Refunds:

This topic is also addressed in Attachment A of the permit application form [DFW 730 (New 01/2014)] and subsection 550.5(d)(2), Title 14, CCR. The Special Use Permit fees are not processed through the Automated License and Data System (ALDS).

- 1) Deposits: After an Area Manager informs Regional HQ that an application is going to be approved (or most likely will be approved), Regional HQ deposits the Special Use Permit fee (check, money order, cashier’s check) at the bank. Please send a copy of the deposit slip and the following information as an e-mail attachment to ASBDeposit@wildlife.ca.gov or fax to the supervisor for Cash Receipts within the Accounting Services Branch (ASB):

- a) **Project #:** 36009970213000 (deposits revenue into the Native Species Conservation & Enhancement Account within the Fish & Game Preservation Fund)
- b) **Reporting Structure 3600XXXX:** Reporting Structure code used for the subject wildlife area, ecological reserve, or the appropriate group of properties (e.g. reporting structure code for unstaffed lands in Region “X”). ASB will track “program income” for properties acquired or managed with federal funds.
- c) **Account Code/Alt Account Code:** Note that the second code will only be used if conditions for a Special Use Permit require that a payment be made in addition to the Special Use Permit fee. Examples include requiring a damage/cleaning deposit, recovering CDFW staff costs to prepare for or monitor an event, or requiring an additional fee for an event that generates revenue for the applicant/permittee.
 4151500/4151500001= SPECIAL USE PERMIT FEES.
 4151500/4151500000= Miscellaneous Revenue – Use of Property and Money.
- d) **Permit Number:** Include the Special Use Permit number described in Section 3A of this document (Applications, item 6, beginning with: “If the fee is paid in full...”).

State Administrative Manual Sections (SAM) 8022, 8023 and 8032.1 regarding the receipt and deposit of payments should be followed. Also when applicable, see SAM Section 10513 (Entry #13), regarding checks or money orders that might not ultimately be deposited (e.g. a cleaning or damage deposit required for an event). Generally speaking, checks for Special Use Permit fees must be deposited within 10 working days of receipt. Area Managers need to receive Special Use Permit applications in time to review and advise Regional HQ, within that timeframe, as to whether or not an application is likely to be approved.

2. Refunds:

- a) If multiple events are authorized on one permit, a refund will only be given if all of the events covered by the permit are cancelled.
- b) Type 1 and Type 2 permit fees are fully refundable in case of cancelation by the permittee, up until the scheduled start date of the event or activities.
- c) Type 3 permit fees are fully refundable until ten calendar days prior to the scheduled start of the event or activities, after which the entire permit fee will be forfeited if the permittee cancels. To qualify for a refund for a Type 3 permit, the permittee must notify the Area Manager in writing.

d) Complete the Headquarters Refund Request Form (Form# DFG-21) available from the Forms tab on the Accounting Services Branch intranet page. Attach supporting documentation, and provide the following information:

- Deposit Slip Number
- Project #
- Reporting Structure
- Account/Alt Account code
- Permit #

Email to: asbbillingrefund@wildlife.ca.gov or Fax to (916) 653–5850

- 3) Additional Costs/Payments: The Special Use Permit fee is intended to cover only CDFW's average cost for issuing a Special Use Permit. It is not intended to cover additional costs to CDFW that are associated with a special use activity or event, such as CDFW staff posting and then removing signs for an event, or monitoring an event while it is occurring. CDFW is authorized to recover additional costs in subsection 550(d)(2), Title 14, CCR. The recovery of additional costs is explained in detail in subsection 550.5(d)(4) and (d)(6), and in Item 10 on Page 4 of the Special Use Permit application.
- 4) Cleaning/Damage Deposits: If a cleaning or damage deposit is required as part of a Special Use Permit, it is due five days before the start of a Type 1 or Type 2 Special Use, or ten days before the start of a Type 3 Special Use (per subsections 550.5(d)(4)(C), 550.5(d)(6)(A), (550.5(d)(6)(B))). The deposit should be held at the Regional Headquarters until after the Special Use (SAM Section 10513). If the Area Manager verifies that there is no damage or cleaning to be done, Regional HQ should return the check to the permittee. If less than the full deposit is going to be returned to the permittee, the Area Manager will document the problems and notify the permittee in writing (e-mail ok) with a copy sent to Regional HQ. If it is determined that only a portion of the deposit should be returned, the check should be deposited and then the refund process should be used to return the appropriate portion of the deposit to the permittee. Information about processing deposits and refunds is provided earlier in this document.
- 5) Events that generate revenue for the applicant: Special Uses that will generate revenue for an individual or organization require the applicant to submit Attachment "C" with the permit application. An additional fee or percentage of the gross receipts may be charged for these types of events. The Area and/or Regional Manager will determine whether an additional amount should be charged as a condition of the permit. Regulations for these types of special uses are in subsection 550.5(d)(4), Title 14.

C. Denying Special Use Permits

The Area Manager will notify an applicant in writing and “cc” Regional HQ if the request for a special use permit is denied. The notification will explain that the permit fee will be returned separately from the notification. If not deposited, return the permit fee to the applicant. If already deposited, submit a request for a refund per the instructions on page 8. Special Use Permit fees are refundable when a permit is denied approval (Subsection 550.5(d)(2)(B)(2), Title 14).

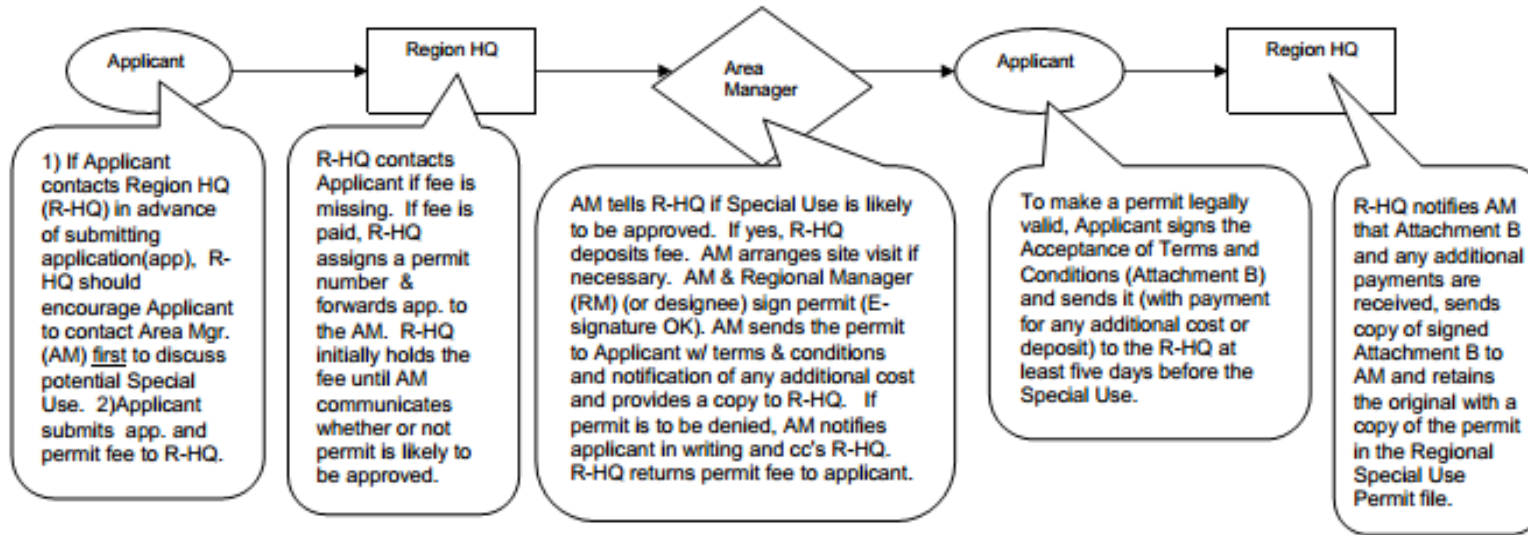
D. Documenting/tracking Special Use Permits

Maintaining Regional HQ files of the Special Use Permits provides back-up documentation for accounting of the Special Use Permit fees collected for each property and Region. These files also provide information that is necessary to evaluate policies and regulations regarding Special Use Permits.

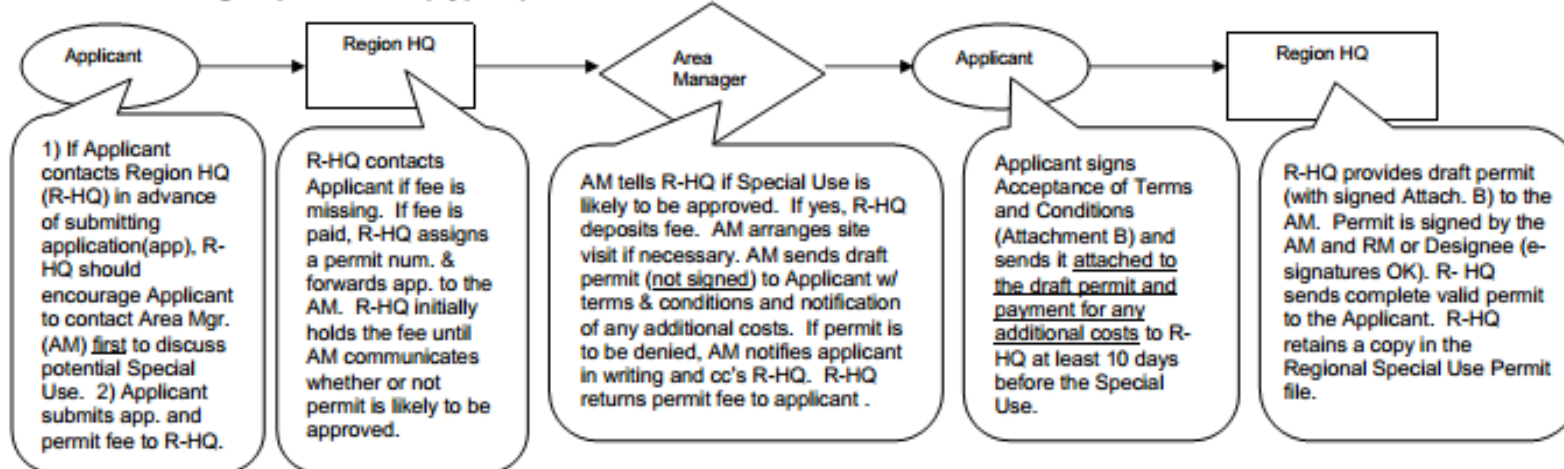
4. Diagram of Special Use Permit Processes

Process for Small Special Use (Type 1) and Dog Trial (Type 2) Permits

(DRAFT)



Process for Large Special Use (Type 3) Permits



5. THREE EXAMPLES OF COVER LETTERS FOR RESPONDING TO SPECIAL USE PERMIT APPLICATIONS

A) Example of an Approval Letter for a Type 1 or Type 2 Special Use Permit

RE: Special Use Permit for Jones Lake Wildlife Area, XYZ County

Dear Ms. Smith,

Your application for a Type 1 Special Use Permit to film a student video on the Jones Lake Wildlife Area on September 2, 2015 is approved, but it is not yet considered a valid Special Use Permit. In order for your application form to become a valid Special Use Permit, you must sign and return "Attachment B: Applicant Acceptance of Terms, Conditions and Costs" to the regional office where you submitted your application. It should be returned at least five days before the special use is scheduled to take place. Please make and keep a copy of signed Attachment B.

(Eliminate the following paragraph if there is no additional cost. Include it or a variation thereof, if there is an additional cost.)

If there is an additional payment or a deposit required beyond the Special Use Permit Fee, it will be explained on page 4 of the permit application package. Payment in full for any additional cost or deposit must be made at least five days prior to this special use in order for this Special Use Permit to be valid. Payment should be sent to the same regional office where you submitted your application, and can be sent with the signed original of Attachment B.

You must have the valid permit in your immediate possession during the special use and provide it upon request to any CDFW representative on the wildlife area. The valid Special Use Permit includes the entire application form signed by you and CDFW, and all attachments, maps, and/or diagrams associated with the permit.

You and all employees, agents, representatives, contractors, volunteers and participants involved in conducting this special use are responsible for knowing and complying with all of the terms and conditions included in this Special Use Permit and with all applicable laws and regulations. Noncompliance may result in a revocation of the permit, possible denial of future applications for Special Use Permits, as well as the issuance of a citation and fine. Regulations for the use of CDFW lands are available in the booklet titled "Waterfowl, Upland Game, Public Use of Department Lands" which is available at www.wildlife.ca.gov/Regulations.

One additional item: commercial filming on state-owned lands (including student films) requires a State Film Permit from the California Film Commission. There is no fee for this permit. For information and an on-line application, please go to: <http://www.film.ca.gov/Permits.htm> .

If you have any questions regarding your Special Use Permit, please contact me by phone at XXXXXX-XXXX or by e-mail at John.Doe@wildlife.ca.gov.

Sincerely,
John Doe, Area Manager

B) Example of an Approval Letter for a Type 3 Special Use Permit:

RE: Special Use Permit for the Jones Lake Wildlife Area, XYZ County

Dear Ms. Smith,

Your request for a Special Use Permit to include the portion of Lakeview Road that traverses the Jones Lake Wildlife Area within the route of the Save the Penguins Marathon on September 5, 2015, has been reviewed and your draft permit is enclosed. In order to receive final approval and for your application form to become a valid Special Use Permit, you should do the following:

1. Review the entire permit application including any attachments added by CDFW. Please contact me if you have any questions. If your organization agrees to all of the terms, conditions and costs of this permit, please have the appropriate representative for the organization sign Attachment B (“Applicant Acceptance of Terms, Conditions and Costs”).
2. Send the following items to the same Regional office where you originally sent the application. These items need to be received by the Regional office by August 26, 2015:
 - a. The original application form with all attachments, including the signed original of Attachment B.
 - b. Payment in full of the “Total Due” shown on page 4 of the application form. Please see the attachment titled “Explanation of Additional Costs” for the justification for this payment in addition to the Special Use Permit fee. The Department is authorized to collect additional funds for Special Use Permits under subsections 550(d)(2) and 550.5(d)(4), Title 14, CA Code of Regulations. *(Note to Staff – The small print below the “Total Due” line in Item 10 on page 4 of the application form requests CDFW staff to attach an explanation for any costs or deposits that are charged in addition to the Special Use Permit fee.)*

Your organization’s on-site representative must have the valid permit in his or her immediate possession during the special use and provide it upon request to any CDFW representative on the wildlife area. The valid Special Use Permit includes the entire application form signed by the responsible party and CDFW, and all attachments, maps, and/or diagrams associated with the permit.

You and all employees, agents, representatives, contractors, volunteers and participants involved in conducting this special use are responsible for knowing and complying with all of the terms and conditions included in this Special Use Permit and with all applicable laws and regulations. Noncompliance may result in a revocation of the permit, potentially denial of future applications for Special Use Permits, as well as the issuance of a citation and fine. Regulations for the use of CDFW lands are available in the booklet titled “Waterfowl, Upland Game, Public Use of Department Lands” which is available at www.wildlife.ca.gov/Regulations.

In case the special use event is cancelled, please note that the Special Use Permit fee is refundable only if I receive written notification of the cancellation at least 10 days before the scheduled start of the permitted special use (e-mail notice is OK). *(Note to staff: subsection 550.5(d)(2)(B)(1) requires written cancellation notification to the Area Manager at least 10 days in advance for a refund on a Type 3 permit)*

If you have any questions regarding the finalization and use of your Special Use Permit please contact me by phone at XXX-XXX-XXXX or by e-mail at John.Doe@wildlife.ca.gov.

Sincerely,
John Doe, Area Manager

C) Example of a Denial Letter for a Special Use Permit:

RE: Special Use Permit for the Sandy Hill Ecological Reserve, XYZ County Dear

Mr. Applicant,

Thank you for your application for a special use at the Sandy Hill Ecological Reserve, however, after reviewing the application, CDFW has decided to deny this request. It was determined that the proposed kite flying contests would not be an appropriate use of this property because:

1. The subject area within the Reserve is a nesting site for shorebirds, including Species X, which is state-listed as Endangered. Sandy Hill Ecological Reserve was acquired to protect nesting habitat for shorebird species, particularly listed species such as Species X. Running or walking off-trail in this area is prohibited to minimize human-caused disturbance to the nesting birds.
2. According to the information provided in the application form, the contests would require exclusive use of part of the reserve for three weekends during a time of the year when this area typically receives a lot of use by the general public. There is no similar area in the vicinity for the public to use.

Per subsection 550(b)(7), Title 14, CA Code of Regulations, CDFW may not issue Special Use Permits for uses that conflict with the normal uses, purposes, or management of the property.

The permit fee will be returned to you in a separate mailing. If you have any questions about the denial of this application, please contact me at XXX-XXX-XXXX or by e-mail at Jane.Smith@wildlife.ca.gov.

Sincerely,
Jane Smith, Reserve Manager