

Authorization ID: #AUTH\_ID#  
Contact ID: #HOLDER\_ID#  
Expiration Date: #EXPIRATION\_DATE#  
Use Code: #USE\_CODE#

FS-2700-4b (v.09/12)  
OMB No. 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE  
Forest Service  
FOREST ROAD SPECIAL USE PERMIT  
AUTHORITY  
#AUTHORITY\_NAME#**

#HOLDER\_NAME# of #HOLDER\_ADD\_LINE\_1#, #HOLDER\_ADD\_LINE\_2#, #HOLDER\_ADD\_LINE\_3#, #HOLDER\_CITY#, #HOLDER\_STATE# #HOLDER\_ZIP# (hereafter called the holder) is hereby authorized to [ ] the following described National Forest Development Road within the [ ] National Forest for the following purposes:

#PURPOSE#

The road covered by this permit is located in the County of [ ], State of [ ], and is shown on the attached map and identified as follows: #TOWNSHIP\_SECT\_RANGE# #FIRST\_DIVISION# #FIRST\_DIV\_NAME\_NUMBER#, #SECOND\_DIVISION# #SECOND\_DIV\_NAME\_NUMBER#, #THIRD\_DIVISION# #THIRD\_DIV\_NAME\_NUMBER#

This permit authorizes use of approximately #USE\_MILES# miles of road.

**THIS PERMIT IS MADE SUBJECT TO THE FOLLOWING TERMS, PROVISIONS, AND CONDITIONS:**

1. This permit is subject to all existing easements and valid rights existing on this date.
2. Holder shall comply with applicable Federal or State law and shall comply with State standards for public health and safety, environmental protection, and siting construction, operation, and maintenance if those standards are more stringent than applicable Federal standards.
3. The holder shall cut no timber except as authorized by construction stipulations or maintenance agreements.
4. Holder shall pay the United States for all injury, loss, or damage, including fire suppression costs, in accordance with Federal and State laws and regulations.
5. Holder shall indemnify the United States for any and all injury, loss, or damage, including fire suppression costs the United States may suffer as a result of claims, demands, losses, or judgments caused by the holder's use or occupancy under this permit.
6. Holder shall pay annually in advance a sum determined by the Forest Service to be the fair market value of the use authorized by this permit. The initial payment is set at [ ] for the remainder of the calendar year. Payments for each subsequent calendar year shall be the amount of [ ] adjusted using the Implicit Price Deflator-Gross National Product index (IPD-GNP), or other factor selected by the Forest Service, to reflect more nearly the current fair market value of the use. At intervals to be determined by certain changes in the indexes used to establish the linear rights-of-way fee schedule, the fee shall be reviewed and adjusted as necessary to assure that it is commensurate with the value of the rights and privileges authorized. In addition to the annual payment, the holder shall pay its proportionate share of road costs prior to using the road for commercial use. Failure of the holder to pay the annual payment, late charges, or other fees or charges shall cause the permit to terminate.
7. Late Payment Interest, Administrative Costs and Penalties. Pursuant to 31 U.S.C. 3717, et seq., interest shall be charged on any fee amount not paid within 30 days from the date the fee or fee calculation financial statement

specified in this authorization becomes due. The rate of interest assessed shall be the higher of the rate of the current value of funds to the U.S. Treasury (i.e., Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly or at the Prompt Payment Act rate. Interest on the principal shall accrue from the date the fee or fee calculation financial statement is due.

In the event the account becomes delinquent, administrative costs to cover processing and handling of the delinquency will be assessed.

A penalty of 6 percent per annum shall be assessed on the total amount delinquent in excess of 90 days and shall accrue from the same date on which interest charges begin to accrue.

Payments will be credited on the date received by the designated collection officer or deposit location. If the due date for the fee or fee calculation statement falls on a non-workday, the charges shall not apply until the close of business on the next workday.

Disputed fees are due and payable by the due date. No appeal of fees will be considered by the Forest Service without full payment of the disputed amount. Adjustments, if necessary, will be made in accordance with settlement terms or the appeal decision.

If the fees become delinquent, the Forest Service will:

Liquidate any security or collateral provided by the authorization.

If no security or collateral is provided, the authorization will terminate and the holder will be responsible for delinquent fees as well as any other costs of restoring the site to its original condition including hazardous waste cleanup.

Upon termination or revocation of the authorization, delinquent fees and other charges associated with the authorization will be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 *et seq.* Delinquencies may be subject to any or all of the following conditions:

Administrative offset of payments due the holder from the Forest Service.

Delinquencies in excess of 60 days shall be referred to United States Department of Treasury for appropriate collection action as provided by 31 U.S.C. 3711 (g), (1).

The Secretary of the Treasury may offset an amount due the debtor for any delinquency as provided by 31 U.S.C. 3720, *et seq.*)

8. Holder shall pay the Forest Service for its share of maintenance cost or perform maintenance, as determined by the Forest Service for all commercial use of the road. The maintenance obligation of the holder shall be proportionate to total use and commensurate with its use. Any maintenance to be performed by the holder shall be authorized by and shall be performed in accordance with an approved maintenance plan. In the event the road requires maintenance, restoration, or reconstruction work to accommodate the holder's needs, the Forest Service shall authorize the work required in the same manner as provided herein for maintenance or in clause 10 for reconstruction. The holder shall perform such work at its own expense.

9. The exercise of the use permitted shall be subordinate to any easement on said road subsequently granted by the United States to a public road agency for operation as a public highway.

10. Any construction or reconstruction of the road shall be in accordance with plans, specifications, and written stipulations approved by the Forest Service prior to beginning such construction or reconstruction.

11. The United States shall have unrestricted use of the road and right-of-way for all purposes deemed necessary or desirable in connection with the protection, administration, management, and utilization of Federal lands or resources, and it shall have the right alone to extend rights and privileges for use of the right-of-way and road thereon to States and local subdivisions thereof and to other users including members of the public, except

users of land or resources owned or controlled by the holder. The Forest Service shall control such use to avoid unreasonable interference with use of the road by the holder.

12. The Forest Service may relocate the road to the extent necessary to accommodate the management needs of the National Forests.

13. This permit may be terminated or suspended upon breach of any of the conditions herein, or revoked at the discretion of the Regional Forester.

#### **USER NOTES CLAUSE 14**

**Alternative wordings may be substituted for the standard clause as noted in FSH 2709.12, sec. 43. Review the selections for the clause that is most applicable and make your selection.**

**Selection item 1.** Below is the standard clause for this permit.

14. Unless sooner terminated in accordance with the provisions of the permit, or revoked by the Regional Forester, this permit shall expire and terminate on #EXPIRATION\_DATE#. Prior to expiration of this permit, the holder may apply for a new permit that would renew the use and occupancy authorized by this permit. Applications for a new permit must be submitted at least 6 months prior to expiration of this permit.

**Selection item 2.** Alternative wording 1.

14. Unless sooner terminated, or revoked by the Regional Forester, this permit shall expire and terminate on #EXPIRATION\_DATE#. At that time, if the holder still needs the road for the purposes for which this permit is granted, the permit will be reissued for a period of 10 years (or the estimated remaining life of the project, whichever is less). At the time of re-issuance, the terms and conditions may be modified and new conditions or stipulations added at the discretion of the Forest Service.

**Selection item 3.** Alternative wording 2.

**Note: If this clause is selected, remove the expiration date from top of form; leave the expiration date field blank in the authorization screen.**

14. Unless sooner terminated, or revoked by the Regional Forester, this permit shall continue as long as needed for access to the .

15. Nonexclusive Use and Public Access. Unless expressly provided for in additional terms, use of the permit area is not exclusive. The Forest Service reserves the right to use or allow others to use any part of the permit area, including roads, for any purpose, provided, such use does not materially interfere with the holder's authorized use. A final determination of conflicting uses is reserved to the Forest Service.

16. Forest Service Right of Entry and Inspection. The Forest Service has the right of unrestricted access of the permitted area or facility to ensure compliance with laws, regulations, and ordinances and the terms and condition of this permit.

17. Liability. For purposes of this section, "holder" includes the holder's heirs, assigns, agents, employees, and contractors.

A. The holder assumes all risk of loss to the authorized improvements.

B. The holder shall indemnify, defend, and hold the United States harmless for any violations incurred under any such laws and regulations or for judgments, claims, or demands assessed against the United States in connection with the holder's use or occupancy of the property. The holder's indemnification of the United States shall include any loss by personal injury, loss of life or damage to property in connection with the occupancy or use of the property during the term of this permit. Indemnification shall include, but is not limited to, the value of resources damaged or destroyed; the costs of restoration, cleanup, or other mitigation; fire suppression or other types of abatement costs; third party claims and judgments; and all administrative,

interest, and other legal costs. This paragraph shall survive the termination or revocation of this authorization, regardless of cause.

### USER NOTES FOR "C" CLAUSE

**Selection item 1.** This selection is the default liability clause for all authorizations. Use this clause when one of the following conditions exist: (1) The holder is NOT a Federal Agency, State or political subdivision thereof; (2) the authorized officer determines that the risk to public land, resources, or interest is NOT greater than the holder's assets or ability to correct and; (3) the use is NOT a high-risk or poses a high hazard (such as high-voltage power lines, oil and gas pipelines, large dams or reservoirs, and so forth, which could expose the government to significant injuries, losses or damages in the event of malfunction).

C. The holder has an affirmative duty to protect from damage the land, property, and interests of the United States.

**Selection item 2.** Use in situations in which the authorized officer determines that the risk to public land, resources, or interest is greater than the holder's assets or ability to correct.

If holder is a State or political subdivision thereof and such entity has statutory or constitutional authorities limiting the amount of liability or indemnification payable, the authorized officer shall prepare a risk assessment to determine the United States potential for losses due to personal injury, loss of life, or property damage caused by the State's use or occupancy. If the authorized officer determines, through the risk assessment that the potential for injury, loss, or damage caused by the State's use or occupancy is in excess of the State's liability limitation, the State shall procure, as a requirement to be fulfilled before execution of this permit, insurance, and name the United States, together with the State, as an insured on the policy(ies), in the amount determined in the risk assessment that exceeds the State's liability limitation.

C. The holder has an affirmative duty to protect from damage the land, property, and interests of the United States.

The holder shall maintain #LIAB\_INS\_AMOUNT# worth of insurance coverage, naming the United States additionally insured on the policies(s), to partially fund the indemnification obligations of the holder for any and all losses due to personal injury, loss of life, or property damage, including fire suppression and hazardous waste costs. The holder shall furnish proof of insurance (such as a surety bond, or certificate of insurance) to the authorized officer prior to execution of this permit and verify annually, and in writing, the insurance obligation to the authorized officer. The authorized officer may allow the holder to replace, repair, restore, or otherwise undertake necessary curative actions, to the satisfaction of the authorized officer, in order to mitigate damages in addition to or as an alternative to monetary indemnification.

**Selection item 3.** Use if the authorized use is a high-risk or poses a high hazard (such as high-voltage power lines, oil and gas pipelines, large dams or reservoirs, and so forth, which could expose the government to significant injuries, losses, or damages in the event of malfunction).

C. The holder has an affirmative duty to protect from damage the land, property, and interests of the United States.

The holder shall be strictly liable (liability without proof of negligence) to the United States for any injury, loss, or damage arising under this authorization. Such strict liability shall be in the amount of \$1 million unless the Forest Supervisor determines at the time of issuance of this authorization that a lesser amount of strict liability is appropriate based upon a risk assessment for the use authorized by this instrument. Liability for injury, loss, or damage to the United States in excess of the prescribed amount of strict liability shall be determined under the general law of negligence.

**Selection item 4.** Use if the authorized use is a high-risk or poses a high hazard (such as high-voltage power lines, oil and gas pipelines, large dams or reservoirs, and so forth, which could expose the government to significant injuries, losses, or damages in the event of malfunction) AND in situations in which the

authorized officer determines that the risk to public land, resources, or interest is greater than the holder's assets or ability to correct.

If the holder is a State or political subdivision thereof and such entity has statutory or constitutional authorities limiting the amount of liability or indemnification payable, the authorized officer shall prepare a risk assessment to determine the United States potential for losses due to personal injury, loss of life, or property damage caused by the State's use or occupancy. If the authorized officer determines, through the risk assessment that the potential for injury, loss, or damage caused by the State's use or occupancy is in excess of the State's liability limitation, the State shall procure, as a requirement to be fulfilled before execution of this permit, insurance, and name the United States, together with the State, as an insured on the policy(ies), in the amount determined in the risk assessment that exceeds the State's liability limitation.

C. The holder has an affirmative duty to protect from damage the land, property, and interests of the United States.

The holder shall maintain #LIAB\_INS\_AMOUNT# worth of insurance coverage, naming the United States additionally insured on the policies(s), to partially fund the indemnification obligations of the holder for any and all losses due to personal injury, loss of life, or property damage, including fire suppression and hazardous waste costs. The holder shall furnish proof of insurance (such as a surety bond, or certificate of insurance) to the authorized officer prior to execution of this permit and verify annually, and in writing, the insurance obligation to the authorized officer. The authorized officer may allow the holder to replace, repair, restore, or otherwise undertake necessary curative actions, to the satisfaction of the authorized officer, in order to mitigate damages in addition to or as an alternative to monetary indemnification.

The holder shall be strictly liable (liability without proof of negligence) to the United States for any injury, loss, or damage arising under this authorization. Such strict liability shall be in the amount of \$1 million unless the Forest Supervisor determines at the time of issuance of this authorization that a lesser amount of strict liability is appropriate based upon a risk assessment for the use authorized by this instrument. Liability for injury, loss, or damage to the United States in excess of the prescribed amount of strict liability shall be determined under the general law of negligence.

D. In the event of any breach of the conditions of this authorization by the holder, the authorized officer may, on reasonable notice, cure the breach for the account at the expense of the holder. If the Forest Service at any time pays any sum of money or does any act which will require payment of money, or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, and/or defending any action or proceeding to enforce the United States rights hereunder, the sum or sums so paid by the United States, with all interests, costs and damages shall, at the election of the Forest Service, be deemed to be additional fees hereunder and shall be due from the holder to the Forest Service on the first day of the month following such election.

E. With respect to roads, the holder shall be proportionally liable for damages to all roads and trails of the United States open to public use caused by the holder's use to the same extent as provided above, except that liability shall not include reasonable and ordinary wear and tear.

F. The Forest Service has no duty to inspect the permit area or to warn of hazards and, if the Forest Service does inspect the permit area, it shall incur no additional duty or liability for identified or non-identified hazards. This covenant may be enforced by the United States in a court of competent jurisdiction.

18. Members of Congress. No Member of or Delegate to Congress or Resident Commissioner shall benefit from this permit either directly or indirectly, except when the authorized use provides a general benefit to a corporation.

19. Appeals and Remedies. Any discretionary decisions or determinations by the authorized officer are subject to the appeal regulations at 36 CFR 251, Subpart C, or revisions thereto.

20. Assignability. This authorization is not assignable or transferable. If Holder, through death, voluntary transfer, enforcement of contract, foreclosure, or other valid legal proceeding shall cease to be owner of the above described real property accessed by the authorized road, this authorization shall terminate.

21. Superior Clauses. In the event of any conflict between any of the preceding printed clauses or any provision thereof and any of the following clauses or any provision thereof, the preceding printed clauses shall control.

#INSERT TERM HERE#

In Witness Whereof, the parties hereto have caused this permit to be duly executed on this [ ] day of [ ] .

Holder USDA - Forest Service

By: \_\_\_\_\_

#HOLDER\_NAME#

[ ]

[ ]

By: \_\_\_\_\_

[ ]

Forest Supervisor

[ ]

National Forest

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