

IN-OFFICE BENEFICIAL USE FIELD REPORT

Permit No: 77-14361

Examiner: Cody Parker

Date: May 21, 2018

In-office qualification (IDAPA 035.01.r):

- ☒ Irrigation ≤ 5 acres
☐ Stockwater storage ≤ 14.6 af
☒ Total diversion rate ≤ 0.24 cfs and not irrigation or storage

Current Owner Name: Salmon River Tours Co.

Address: PO Box 1459, Riggins, 83549

Beneficial Use Fee Paid: \$50.00

Receipt: C101976

Source: Lemhi Creek

Source change? ☒ N ☐ Y Change clarifies originally intended source.
If not – void permit.

Point of Diversion			NE				NW				SW				SE			
Twp	Rge	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
25N	09E	29											X					

Method of Determination: Pipe to creek seen from GoogleEarth imagery, digital PLS map

POD change? ☒ N ☐ Y

Place of Use			NE				NW				SW				SE				Totals
Twp	Rge	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
25N	09E	29												X					
														0.1					0.1

Method of Determination: Aerial imagery, permit holder pictures, digital PLS map

POU change? ☒ N ☐ Y

Purpose of Use: Irrigation, Commercial

Purpose change? ☒ N ☐ Y

Method of Determination: Aerial imagery, permit holder

Standard Season of Use: 03/15 to 10/31 (irrigation)

Update required on license? ☒ N ☐ Y**Overlap Review**POD overlap? ☒ N ☐ Y WR's:Analysis Attached ☒ Comments:POU overlap? ☒ N ☐ Y WR's:

Comments:

Diversion Rate

Permitted Rate: 0.11 cfs

BU Standard Limit:

cfs

BU Fee Limit: 0.20 cfs

Theoretical (optional):

cfs

Theoretical:

Irrigation: 0.1 acres x 0.03 cfs/acre = 0.003 cfs (recommend 0.01 cfs minimum)

Commercial: 6 sinks @ 3gpm + 3 showers @ 5 gpm = 33 gpm = 0.07 cfs

Estimated Total = 0.08 cfs

Recommended Total Div Rate: 0.08 cfs

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Annual Volume

For Irrigation: $0.01 \text{ cfs} \times 1.9835 \times 231 \text{ days} = 4.6 \text{ af}$
 $0.1 \text{ acres} \times 3.0 \text{ af/ac (FHR)} = 0.3 \text{ af}$
 Smaller of two volumes $= 0.3 \text{ af}$

For other uses:

4 buildings with domestic type uses in each (sinks and showers).

0.6 afa per building = 2.4 afa (for 12 months)

Guests primarily over a 6-month period (July to November) => recommend 1.2 afa

Recommended Amounts

Beneficial Use	Season of Use	Diversion Rate (cfs)	Annual Volume (af)
Irrigation	03/15 to 10/31	0.01	0.3
Commercial	01/01 to 12/31	0.07	1.2
Totals		0.08 cfs	1.5 af

Amendments Required

☐ Change P.D. ☐ Add P.D. ☒ None
☐ Change P.U. ☐ Add P.U. ☐ Other:

Conditions: - 029, -939, 121=>103

Have conditions of permit been met? ☒ Y ☐ N

Narrative: This permit authorizes the diversion of 0.11 cfs from Lemhi Creek for commercial use and irrigation of up to 0.1 acres. Proof was submitted on May 5, 2016. I completed this field exam on May 21, 2018.

The point of diversion is a pipe placed directly into Lemhi Creek. Water is gravity fed through the pipe to be made available at the place of use. Any unused water is diverted back into Lemhi Creek directly upstream of the confluence with the Salmon River. From the information provided by the permit holder it appears that a valve was installed part way between the point of diversion and the place of use. The valve could be locked if needed to provide the Department control of the diversion. The pipe is all above ground and there is more than a sufficient length exposed to take a Panametric measurement if needed. The permit holder has confirmed that they did indeed comply with all fish screening and passage requirements of the IDFG, though he did not go into detail about what those requirements were specifically.

Water is used commercially in the lodge and the 3 cabins. Commercial use includes 6 sinks and 3 showers which are used for washing and cooking. At 3 gpm per sink and 5 gpm per shower the total diversion rate comes out to 33 gpm or 0.07 cfs, which is the commercial rate I have recommended for the license.

The commercial volume I have recommended is 1.2 afa. The commercial use for this permit is more or less the same type of water use as domestic. There are 4 structures which can house up to 25 people at max. I considered this use to be the same as domestic use for 4 homes (internal use only) at 0.6 afa per home per Admin AP Memo 22. Guests are at the property primarily during the July to November period (6-months) so I recommended 1.2 afa; 0.6 afa per "home" x 4 homes x 1/2 year.

The permit authorizes the minimum amount of acres that we can approve due to significant figures. The permit holder showed me pictures of the lawns to prove that irrigation use has been developed, though he could not make the pictures available for the file. The lawns could not be identified from aerial imagery due to the tree canopy. The permit holder helped me draw the approximate locations of the

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lawns during an office visit to determine the location. All irrigation is located within the SWSW. The total acreage indicated by the permit holder is 0.07 acres, which rounds up to 0.1 acres.

There are no overlapping rights for the POU or POD.

There is a copy of the Forest Service Special Use Permit included in the file to show that condition 939 has been satisfied.

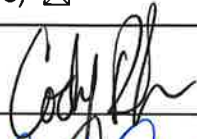
Workflow

Exam Date Entered ☒
POU/POD shapes ☒
Combined Rights Entry ☐
Wild & Scenic Entry ☐
Draft License and Map ☒
FE Database (N: drive) ☒

Supporting Documents

Aerial Photograph ☒ Well Log ☐
POU/POD Map ☒ Diagrams ☐
LandSat ☐ Theoretical ☐
Photographs ☒ Other: ☐
Site Visit Date:

Authentication

Field Examiner's Name: 

Date: 7-5-18

Reviewer: 

Date: 7/5/18

State of Idaho
Department of Water Resources
Beneficial Use Field Report
77-14361

COMMERCIAL

09E

25N



0 0.035 0.07 0.14 Miles

-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections



State of Idaho
Department of Water Resources
Beneficial Use Field Report
77-14361

IRRIGATION



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections

0 0.035 0.07 0.14 Miles



The following pictures were sent to Western Region staff to have placed in the water right file for water right permit 77-14361. Please see email dated December 29, 2016, from Nick Miller.



Miller, Nick

From: Spencer, Steven M -FS <sspencer@fs.fed.us>
Sent: Wednesday, December 06, 2017 9:26 AM
To: Miller, Nick
Cc: Mike & Kristi Jo McLain
Subject: RE: Salmon River Tours Co. Permit 77-14361

Nick,

With respect to previous communication concerning 77-014361, because Salmon River Tours now has a special use permit Forest Service concerns are resolved and processing of this water right by IDWR is appropriate.

If you have any questions about this matter please contact me.

Thank you,

Steve



Steven M. Spencer
Water Use Specialist
Idaho Water Right Coordinator

Forest Service
Intermountain & Northern Regions
p: 208-365-7055
sspencer@fs.fed.us

1805 Hwy 16 Rm 5
Emmett, ID 83617

www.fs.usda.gov



Caring for the land and serving people

From: Mike & Kristi Jo McLain [mailto:kristijo8738@gmail.com]
Sent: Tuesday, December 05, 2017 5:57 PM
To: Nick Miller Idwr <nick.miller@idwr.idaho.gov>
Cc: Spencer, Steven M -FS <sspencer@fs.fed.us>
Subject: Salmon River Tours Co. Permit 77-14361

December 1, 2017

Nick Miller
Manager, IDWR Western Region
2735 Airport Way
Boise, Idaho 83705-5082

Dear Nick,

As per our phone conversation November 28, 2017, I am writing to inform you, IDWR, and Steve Spencer of the USDA Forest Service, that the requirements set forth by IDWR, and the Forest Service in September of 2016, have been met.

The requirement of; "A simple valve or the ability to lift the intake above the water and prevent it from falling back in would suffice." was satisfied by photos in November 2016.

The final requirement of having issuance of a Special-Use Permit by the Forest Service for "Operation of a water Transmission system" was satisfied and issued in September 2017.

We ask IDWR to proceed with the issuance of permit 77-14361. We also request a field exam if IDWR feels it is necessary.

Thank You very much for your past and future assistance with the issuing of this permit.

Sincerely,

Mike McLain
Salmon River Tours Co.

cc:
Steven Spencer, USFS

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure of the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

Miller, Nick

From: Mike & Kristi Jo McLain <kristijo8738@gmail.com>
Sent: Tuesday, December 05, 2017 5:57 PM
To: Miller, Nick
Cc: Steve Spencer
Subject: Salmon River Tours Co. Permit 77-14361
Attachments: SAL_915_07_SalmonRiverToursSignedPermit.pdf

December 1, 2017

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Manager, IDWR Western Region
2735 Airport Way
Boise, Idaho 83705-5082

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Thank You very much for your past and future assistance with the issuing of this permit.

Sincerely,

Mike McLain
Salmon River Tours Co.

cc:
Steven Spencer, USFS

Authorization ID: SAL_915_07
Contact Name: SALMON RIVER TOURS CO.
Expiration Date: 12/31/2046
Use Code: 915

FS-2700-4 (V. 01/2014)
OMB 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE**

SPECIAL USE PERMIT

Authority: FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976

SALMON RIVER TOURS CO. of P.O. BOX 7 NORTH FORK ID 83466 (hereinafter "the holder") is authorized to use or occupy National Forest System lands in the PAYETTE NATIONAL FOREST administered by the NEZ PERCE-CLEARWATER NATIONAL FORESTS or unit of the National Forest System, subject to the terms and conditions of this special use permit (the permit).

This permit covers approximately .18 acres in the Sec. 29, T. 25 N., R. 9 E., BOISE MERIDIAN, ("the permit area"), as shown on the map attached as Appendix A. This permit issued for the purpose of:

Operation of a water transmission system for China Bar, that is operated by one 4" diameter pipe and one 2" diameter pipe that is on approximately 400' of NFS lands (right-of-way of 400' by 20'). The holder is authorized to use their permitted State of Idaho water right amount of 0.11 CFS for domestic use (0.01 CFS for irrigation from 3/15 to 10/31 and 0.1 CFS for commercial from 01/01 to 12/31).

TERMS AND CONDITIONS

I. GENERAL TERMS

A. AUTHORITY. This permit is issued pursuant to FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976 and 36 CFR Part 251, Subpart B, as amended, and is subject to their provisions.

B. AUTHORIZED OFFICER. The authorized officer is the Forest or Grassland Supervisor or a subordinate officer with delegated authority.

C. TERM. This permit shall expire at midnight on 12/31/2046, approximately 30 years from the date of issuance.

D. RENEWAL. This permit is not renewable. 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. Renewal of the use and occupancy authorized by this permit shall be at the sole discretion of the authorized officer. At a minimum, before renewing the use and occupancy authorized by this permit, the authorized officer shall require that (1) the use and occupancy to be authorized by the new permit is consistent with the standards and guidelines in the applicable land management plan; (2) the type of use and occupancy to be authorized by the new permit is the same as the type of use and occupancy authorized by this permit; and (3) the holder is in compliance with all the terms of this permit. The authorized officer may prescribe new terms and conditions when a new permit is issued.

E. AMENDMENT. This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms that may be required by law, regulation, directive, the applicable forest land and resource management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS. In exercising the rights and privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulation, or policy. The Forest Service assumes no responsibility for enforcing laws, regulations, and other legal requirements that fall under the jurisdiction of other governmental entities.

G. NON-EXCLUSIVE USE. The use or occupancy authorized by this permit is not exclusive. The Forest Service reserves

the right of access to the permit area, including a continuing right of physical entry to the permit area for inspection, monitoring, or any other purpose consistent with any right or obligation of the United States under any law or regulation. The Forest Service reserves the right to allow others to use the permit area in any way that is not inconsistent with the holder's rights and privileges under this permit, after consultation with all parties involved. Except for any restrictions that the holder and the authorized officer agree are necessary to protect the installation and operation of authorized temporary improvements, the lands and waters covered by this permit shall remain open to the public for all lawful purposes.

H. ASSIGNABILITY. This permit is not assignable or transferable.

I. TRANSFER OF TITLE TO THE IMPROVEMENTS.

1. Notification of Transfer. The holder shall notify the authorized officer when a transfer of title to all or part of the authorized improvements is contemplated.

2. Transfer of Title. Any transfer of title to the improvements covered by this permit shall result in termination of the permit. The party who acquires title to the improvements must submit an application for a permit. The Forest Service is not obligated to issue a new permit to the party who acquires title to the improvements. The authorized officer shall determine that the applicant meets requirements under applicable federal regulations.

J. CHANGE IN CONTROL OF THE BUSINESS ENTITY.

1. Notification of Change in Control. The holder shall notify the authorized officer when a change in control of the business entity that holds this permit is contemplated.

a. In the case of a corporation, control is an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business so as to permit the exercise of managerial authority over the actions and operations of the corporation or election of a majority of the board of directors of the corporation.

b. In the case of a partnership, limited partnership, joint venture, or individual entrepreneurship, control is a beneficial ownership of or interest in the entity or its capital so as to permit the exercise of managerial authority over the actions and operations of the entity.

c. In other circumstances, control is any arrangement under which a third party has the ability to exercise management authority over the actions or operations of the business.

2. Effect of Change in Control. Any change in control of the business entity as defined in paragraph 1 of this clause shall result in termination of this permit. The party acquiring control must submit an application for a special use permit. The Forest Service is not obligated to issue a new permit to the party who acquires control. The authorized officer shall determine whether the applicant meets the requirements established by applicable federal regulations.

II. IMPROVEMENTS

A. LIMITATIONS ON USE. Nothing in this permit gives or implies permission to build or maintain any structure or facility or to conduct any activity, unless specifically authorized by this permit. Any use not specifically authorized by this permit must be proposed in accordance with 36 CFR 251.54. Approval of such a proposal through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer.

B. PLANS. All plans for development, layout, construction, reconstruction, or alteration of improvements in the permit area, as well as revisions to those plans must be prepared by a professional engineer, architect, landscape architect, or other qualified professional based on federal employment standards acceptable to the authorized officer. These plans and plan revisions must have written approval from the authorized officer before they are implemented. The authorized officer may require the holder to furnish as-built plans, maps, or surveys upon completion of the work.

C. CONSTRUCTION. Any construction authorized by this permit shall commence by N/A and shall be completed by N/A.

III. OPERATIONS.

A. PERIOD OF USE. Use or occupancy of the permit area shall be exercised at least 365 days each year.

B. CONDITION OF OPERATIONS. The holder shall maintain the authorized improvements and permit area to standards

of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer and consistent with other provisions of this permit. Standards are subject to periodic change by the authorized officer when deemed necessary to meet statutory, regulatory, or policy requirements or to protect national forest resources. The holder shall comply with inspection requirements deemed appropriate by the authorized officer.

C. INSPECTION BY THE FOREST SERVICE. The Forest Service shall monitor the holder's operations and reserves the right to inspect the permit area and transmission facilities at any time for compliance with the terms of this permit. The holder's obligations under this permit are not contingent upon any duty of the Forest Service to inspect the permit area or transmission facilities. A failure by the Forest Service or other governmental officials to inspect is not a justification for noncompliance with any of the terms and conditions of this permit.

IV. RIGHTS AND LIABILITIES

A. LEGAL EFFECT OF THE PERMIT. This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR 251, Subpart C and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

B. VALID OUTSTANDING RIGHTS. This permit is subject to all valid outstanding rights. Valid outstanding rights include those derived under mining and mineral leasing laws of the United States. The United States is not liable to the holder for the exercise of any such right.

C. ABSENCE OF THIRD-PARTY BENEFICIARY RIGHTS. The parties to this permit do not intend to confer any rights on any third party as a beneficiary under this permit.

D. SERVICES NOT PROVIDED. This permit does not provide for the furnishing of road or trail maintenance, water, fire protection, search and rescue, or any other such service by a government agency, utility, association, or individual.

E. RISK OF LOSS. The holder assumes all risk of loss associated with use or occupancy of the permit area, including but not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), avalanches, rising waters, winds, falling limbs or trees, and other forces of nature. If authorized temporary improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, the permit shall terminate.

F. DAMAGE TO UNITED STATES PROPERTY. The holder has an affirmative duty to protect from damage the land, property, and other interests of the United States. Damage includes but is not limited to fire suppression costs, damage to government-owned improvements covered by this permit, and all costs and damages associated with or resulting from the release or threatened release of a hazardous material occurring during or as a result of activities of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees on, or related to, the lands, property, and other interests covered by this permit. For purposes of clause IV.F and section V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials, pollutant, contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws.

1. The holder shall avoid damaging or contaminating the environment, including but not limited to the soil, vegetation (such as trees, shrubs, and grass), surface water, and groundwater, during the holder's use or occupancy of the permit area. If the environment or any government property covered by this permit becomes damaged during the holder's use or occupancy of the permit area, the holder shall immediately repair the damage or replace the damaged items to the satisfaction of the authorized officer and at no expense to the United States.

2. The holder shall be liable for all injury, loss, or damage, including fire suppression, prevention and control of the spread of invasive species, or other costs in connection with rehabilitation or restoration of natural resources associated with the use or occupancy authorized by this permit. Compensation shall include but not be 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, and all administrative, legal (including attorney's fees), and other costs. Such costs may be deducted from a performance bond required under clause IV.I.

3. The holder shall be liable for damage caused by use of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees to all roads and trails of the United States to the same extent as provided under clause IV.F.1, except that liability shall not include reasonable and ordinary wear and tear.

G. HEALTH, SAFETY, AND ENVIRONMENTAL PROTECTION. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any activity or condition arising out of or relating to the authorized use or occupancy that causes or threatens to cause a hazard to public health or the safety of the holder's employees or agents or harm to the environment (including areas of vegetation or timber, fish or other wildlife populations, their habitats, or any other natural resources). The holder shall prevent impacts to the environment and cultural resources by implementing actions identified in the operating plan to prevent establishment and spread of invasive species. The holder shall immediately notify the authorized officer of all serious accidents that occur in connection with such activities. The responsibility to protect the health and safety of all persons affected by the use or occupancy authorized by this permit is solely that of the holder. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations and activities of the holder for hazardous conditions or compliance with health and safety standards.

H. INDEMNIFICATION OF THE UNITED STATES. The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use or occupancy authorized by this permit. This indemnification provision includes but is not limited to acts and omissions of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees in connection with the use or occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may in the future become applicable, and including but not limited to those environmental laws listed in clause V.A of this permit; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) the release or threatened release of any solid waste, hazardous waste, hazardous materials, pollutant, contaminant, oil in any form, or petroleum product into the environment. The authorized officer may prescribe terms that allow the holder to replace, repair, restore, or otherwise undertake necessary curative actions to mitigate damages in addition to or as an alternative to monetary indemnification.

I. BONDING. The authorized officer may require the holder to furnish a surety bond or other security for any of the obligations imposed by the terms and conditions of this permit or any applicable law, regulation, or order.

V. RESOURCE PROTECTION

A. COMPLIANCE WITH ENVIRONMENTAL LAWS. The holder shall in connection with the use or occupancy authorized by this permit comply with all applicable federal, state, and local environmental laws and regulations, including but not limited to those established pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., the Oil Pollution Act, as amended, 33 U.S.C. 2701 et seq., the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., CERCLA, as amended, 42 U.S.C. 9601 et seq., the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 et seq., and the Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq.

B. VANDALISM. The holder shall take reasonable measures to prevent and discourage vandalism and disorderly conduct and when necessary shall contact the appropriate law enforcement officer.

C. PESTICIDE USE. Pesticides may not be used outside of buildings to control undesirable woody and herbaceous vegetation (including aquatic plants), insects, rodents, fish, and other pests and weeds without prior written approval from the authorized officer. A request for approval of planned uses of pesticides shall be submitted annually by the holder on the due date established by the authorized officer. The report shall cover a 12-month period of planned use beginning 3 months after the reporting date. Information essential for review shall be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests or weeds require control measures that were not anticipated at the time an annual report was submitted. Only those materials registered by the U.S. Environmental Protection Agency for the specific purpose planned shall be considered for use on National Forest System lands. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers.

D. ARCHAEOLOGICAL-PALEONTOLOGICAL DISCOVERIES. The holder shall immediately notify the authorized officer of all antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall leave these discoveries intact and in place until directed otherwise by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the holder.

E. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION. In accordance with 25 U.S.C. 3002(d) and 43 CFR 10.4, if the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on National Forest System lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall immediately notify the authorized officer by telephone of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the authorized officer certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a binding written agreement has been executed between the Forest Service and the affiliated Indian tribes that adopts a recovery plan for the human remains and objects.

F. PROTECTION OF HABITAT OF THREATENED, ENDANGERED, AND SENSITIVE SPECIES. The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA) of 1973, 16 U.S.C. 1531 et seq., as amended, or identified as sensitive or otherwise requiring special protection by the Regional Forester under Forest Service Manual (FSM) 2670, pursuant to consultation conducted under section 7 of the ESA, may be shown on the ground or on a separate map. The map shall be attached to this permit as an appendix. The holder shall take any protective and mitigative measures specified by the authorized officer. If protective and mitigative measures prove inadequate, if other sites within the permit area containing threatened, endangered, or sensitive species or species otherwise requiring special protection are discovered, or if new species are listed as threatened or endangered under the ESA or identified as sensitive or otherwise requiring special protection by the Regional Forester under the FSM, the authorized officer may specify additional protective and mitigative measures. Discovery of these sites by the holder or the Forest Service shall be promptly reported to the other party.

G. CONSENT TO STORE HAZARDOUS MATERIALS. The holder shall not store any hazardous materials at the site without prior written approval from the authorized officer. This approval shall not be unreasonably withheld. If the authorized officer provides approval, this permit shall include, or in the case of approval provided after this permit is issued, shall be amended to include specific terms addressing the storage of hazardous materials, including the specific type of materials to be stored, the volume, the type of storage, and a spill plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

H. CLEANUP AND REMEDIATION

1. The holder shall immediately notify all appropriate response authorities, including the National Response Center and the authorized officer or the authorized officer's designated representative, of any oil discharge or of the release of a hazardous material in the permit area in an amount greater than or equal to its reportable quantity, in accordance with 33 CFR Part 153, Subpart B, and 40 CFR Part 302. For the purposes of this requirement, "oil" is as defined by section 311(a)(1) of the Clean Water Act, 33 U.S.C. 1321(a)(1). The holder shall immediately notify the authorized officer or the authorized officer's designated representative of any release or threatened release of any hazardous material in or near the permit area which may be harmful to public health or welfare or which may adversely affect natural resources on federal lands.

2. Except with respect to any federally permitted release as that term is defined under Section 101(10) of CERCLA, 42 U.S.C. 9601(10), the holder shall clean up or otherwise remediate any release, threat of release, or discharge of hazardous materials that occurs either in the permit area or in connection with the holder's activities in the permit area, regardless of whether those activities are authorized under this permit. The holder shall perform cleanup or remediation immediately upon discovery of the release, threat of release, or discharge of hazardous materials. The holder shall perform the cleanup or remediation to the satisfaction of the authorized officer and at no expense to the United States. Upon revocation or termination of this permit, the holder shall deliver the site to the Forest Service free and clear of contamination.

I. CERTIFICATION UPON REVOCATION OR TERMINATION. If the holder uses or stores hazardous materials at the site, upon revocation or termination of this permit the holder shall provide the Forest Service with a report certified by a professional or professionals acceptable to the Forest Service that the permit area is uncontaminated by the presence of hazardous materials and that there has not been a release or discharge of hazardous materials upon the permit area, into surface water at or near the permit area, or into groundwater below the permit area during the term of the permit. This certification requirement may be waived by the authorized officer when the Forest Service determines that the risks posed by the hazardous material are minimal. If a release or discharge has occurred, the professional or professionals shall document and certify that the release or discharge has been fully remediated and that the permit area is in compliance with all federal, state, and local laws and regulations.

VI. LAND USE FEE AND ACCOUNTING ISSUES

A. LAND USE FEES. The holder shall pay an initial annual land use fee of \$73.00 for the period from August 1, 2017 to December 31, 2017, and thereafter on January 1, shall pay an annual land use fee of \$73.00. The annual land use fee shall be adjusted annually using the current indexing factor.

B. MODIFICATION OF THE LAND USE FEE. The land use fee may be revised whenever necessary to reflect the market value of the authorized use or occupancy or when the fee system used to calculate the land use fee is modified or replaced.

C. FEE PAYMENT ISSUES.

1. **Crediting of Payments.** Payments shall be credited on the date received by the deposit facility, except that if a payment is received on a non-workday, the payment shall not be credited until the next workday.

2. **Disputed Fees.** Fees are due and payable by the due date. Disputed fees must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

3. **Late Payments**

(a) **Interest.** 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 it became due. The rate of interest assessed shall be the higher of the Prompt Payment Act rate or the rate of the current value of funds to the Treasury (i.e., the Treasury tax and loan account rate), as prescribed and published annually or quarterly by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. Interest on the principal shall accrue from the date the fee amount is due.

(b) **Administrative Costs.** If the account becomes delinquent, administrative costs to cover processing and handling the delinquency shall be assessed.

(c) **Penalties.** A penalty of 6% per annum shall be assessed on the total amount that is more than 90 days delinquent and shall accrue from the same date on which interest charges begin to accrue.

(d) **Termination for Nonpayment.** This permit shall terminate without the necessity of prior notice and opportunity to comply when any permit fee payment is 90 calendar days from the due date in arrears. The holder shall remain responsible for the delinquent fees.

4. **Administrative Offset and Credit Reporting.** Delinquent fees and other charges associated with the permit shall be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 et seq. and common law. Delinquencies are subject to any or all of the following:

(a) Administrative offset of payments due the holder from the Forest Service.

(b) If in excess of 60 days, referral to the Department of the Treasury for appropriate collection action as provided by 31 U.S.C. 3711(g)(1).

(c) Offset by the Secretary of the Treasury of any amount due the holder, as provided by 31 U.S.C. 3720 et seq.

(d) Disclosure to consumer or commercial credit reporting agencies.

5. **Consolidated Payment.** Payment of annual land use fees for 5 years shall be consolidated. The first consolidated payment shall be made on August 1, 2017, when the first full annual land use fee payment is due, and thereafter every 5 years from January 1, 2022, until this permit expires.

VII. REVOCATION, SUSPENSION, AND TERMINATION

A. REVOCATION AND SUSPENSION. The authorized officer may revoke or suspend this permit in whole or in part:

1. For noncompliance with federal, state, or local law.

2. For noncompliance with the terms of this permit.

3. For abandonment or other failure of the holder to exercise the privileges granted.

4. With the consent of the holder.

5. For specific and compelling reasons in the public interest.

Prior to revocation or suspension, other than immediate suspension under clause VII.B, the authorized officer shall give the holder written notice of the grounds for revocation or suspension. In the case of revocation or suspension based on clause VII.A.1, 2, or 3, the authorized officer shall give the holder a reasonable time, typically not to exceed 90 days, to cure any noncompliance.

B. IMMEDIATE SUSPENSION. The authorized officer may immediately suspend this permit in whole or in part when necessary to protect public health or safety or the environment. The suspension decision shall be in writing. The holder may request an on-site review with the authorized officer's supervisor of the adverse conditions prompting the suspension. The authorized officer's supervisor shall grant this request within 48 hours. Following the on-site review, the authorized officer's supervisor shall promptly affirm, modify, or cancel the suspension.

C. APPEALS AND REMEDIES. Written decisions by the authorized officer relating to administration of this permit are subject to administrative appeal pursuant to 36 CFR Part 214 as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service.

D. TERMINATION. This permit shall terminate when by its terms a fixed or agreed upon condition, event, or time occurs without any action by the authorized officer. Examples include but are not limited to expiration of the permit by its terms on a specified date and termination upon change of control of the business entity. Termination of this permit shall not require notice, a decision document, or any environmental analysis or other documentation. Termination of this permit is not subject to administrative appeal and shall not give rise to any claim for damages by the holder against the Forest Service.

E. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT RENEWAL. Upon revocation or termination of this permit without renewal of the authorized use, the holder shall remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and shall restore the site to the satisfaction of the authorized officer. If the holder fails to remove all structures and improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

VIII. MISCELLANEOUS PROVISIONS

A. MEMBERS OF CONGRESS. No member of or delegate to Congress or resident commissioner shall benefit from this permit either directly or indirectly, except to the extent the authorized use provides a general benefit to a corporation.

B. CURRENT ADDRESSES. The holder and the Forest Service shall keep each other informed of current mailing addresses, including those necessary for billing and payment of land use fees.

C. SUPERSEDED PERMIT. This permit supersedes a special use permit designated, N/A.

D. SUPERIOR CLAUSES. If there is a conflict between any of the preceding printed clauses and any of the following clauses, the preceding printed clauses shall control.

E. Forest Service Representative (R1-X16). The District Ranger, Salmon River Ranger District, Telephone No. (208) 839-2211, is responsible for administering this special-use authorization. The holder should contact the District Ranger regarding any questions concerning the occupancy and use authorized and the provisions of this authorization.

F. Information From Holders (R1-X17). As a condition of this authorization, the holder is responsible for providing the authorized officer with any information in possession necessary for determining annual rental fees, ownership, or other matters concerning the administration of the authorized use by the Forest Service.

Regarding the submission of such information, the holder understands that it is a crime for any person to knowingly and willfully make false, fictitious, or fraudulent statements to matters under the jurisdiction of the United States Government (Title 18, U.S.C. Section 1001).

G. Water Facilities and Water Rights (D-25).

This permit does not confer any water rights on the holder. Any necessary water rights must be acquired by the holder in accordance with State law. Any expenses for acquiring water rights shall be the responsibility of the holder. The United States reserves the right to place any conditions on installation, operation, maintenance, and removal of facilities to pump, divert, store, or convey water on National Forest System lands covered by this permit that are necessary to protect public property, public safety, and natural resources on National Forest System lands in compliance with applicable law. The holder waives any claims against the United States for compensation in connection with imposition of any conditions on installation, operation, maintenance, and removal of water facilities under this permit.

H. Improvement Relocation (X-33).

This authorization is granted with the express understanding that should future location of United States Government-owned improvements or road rights-of-way require the relocation of the holder's improvements, such relocation will be done by, and at the expense of, the holder within a reasonable time as specified by the Authorized Officer.

THIS PERMIT IS ACCEPTED SUBJECT TO ALL ITS TERMS AND CONDITIONS.

BEFORE ANY PERMIT IS ISSUED TO AN ENTITY, DOCUMENTATION MUST BE PROVIDED TO THE AUTHORIZED OFFICER OF THE AUTHORITY OF THE SIGNATORY FOR THE ENTITY TO BIND IT TO THE TERMS AND CONDITIONS OF THE PERMIT.

ACCEPTED:

Mike McLain Director *[Signature]* 8/5/17

MIKE MCLAIN, PRECEDED BY NAME AND TITLE SIGNATURE DATE
SALMON RIVER TOURS

APPROVED:

[Signature]

CHERYL F. PROBERT SIGNATURE DATE
NEZ PERCE - CLEARWATER NATIONAL FORESTS SUPERVISOR 9-1-17

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