CASE FILE: C18-0006

PROPOSAL: The Columbia River Gorge Commission received an application for improvements to an existing road and the installation of gate to provide service and access to a property on Burdoin Mountain.

APPLICANT: Jeri Rutherford

LANDOWNER: U.S. Forest Service

LOCATION: The subject property is 2.96 acres and located east of White Salmon, WA, on Burdoin Mountain, in the Northeast 1/4 of Section 34, Township 3 North, Range 11 East, W.M., Klickitat County. Tax Lot Number: 03-11-3454-0002/00.

LAND USE DESIGNATION: Special Management Area (SMA) – Agriculture

DECISION: Based upon the following findings of fact, the land use application by Jeri Rutherford, for a new gate is consistent with the standards of Section 6 and the purposes of the Columbia River Gorge National Scenic Area Act, P.L. 99-663, the Management Plan for the Columbia River Gorge National Scenic Area (Management Plan), and approvable under Commission Rule 350-81, and is hereby APPROVED.

CONDITIONS OF APPROVAL:
The following conditions of approval are given to ensure that the subject request is consistent with the standards of Section 6 and the purposes of P.L. 99-663, and the Management Plan and approvable under Commission Rule 350-81. Compliance with them is required. This decision must be recorded in county deeds and records to ensure notice of the conditions to all successors in interest (Management Plan, Review Uses Guideline 1, pg. II-96).

1. To ensure notice of the conditions to successors in interest, this Director’s Decision, Staff Report for C18-0006, and approved site plan shall be recorded in county deeds and records at the Klickitat County Auditor’s Office. Once recorded, the applicants shall submit a copy of the recorded documents to the Executive Director.

2. This decision does not exempt the proposal from other non-National Scenic Area rules and regulations. It is the applicant’s responsibility to ensure the use complies with all other applicable federal, state, and county laws and to obtain necessary approvals, including utility easement approvals.

3. Any new land uses or structural development such as alterations or grading not included in the approved application or site plan will require a new application and review.

4. The developments shall be constructed as shown on the approved project description, site plan and elevation drawings. Any changes shall be reviewed and approved by the Executive Director.
before the changes are implemented.

5. The gate shall be dark brown painted with matte paint and maintained as necessary to ensure that the material is nonreflective with no bare aluminum framing or bare structural surfaces.

6. All exterior materials shall have a flat, non-reflective finish.

7. If cultural resources are discovered during construction activities, all activities within 100 feet of the cultural resources shall immediately cease and the applicants shall notify the Gorge Commission within 24 hours of discovery and the State Physical Anthropologist, Dr. Guy Tasa at (360) 586-3534 or guy.tasa@dahp.wa.gov. The cultural resources shall remain as found and further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.

8. If human remains are discovered during construction activities, all activities shall cease immediately upon their discovery. Local law enforcement, the Executive Director and Indian Tribal governments shall be contacted immediately. Further disturbance is prohibited until permission is granted by the Executive Director of the Gorge Commission.

9. The applicant shall notify the Gorge Commission within 30 days of project completion to arrange for a **FINAL INSPECTION** to confirm compliance with all of the conditions of approval. Project completion means completion of all work to the exteriors of structures (including painting). The applicants shall arrange the inspection by calling the Gorge Commission at (509) 493-3323 or info@gorgecommission.org. Each inspection may take up to seven business days from the time of calling for the inspection.

DATED AND SIGNED THIS 7th day of April 2022 at White Salmon, Washington.

\[Signature\]

Krystyna U. Wolniakowski
Executive Director

**EXPIRATION OF APPROVAL:**
Commission Rule 350-81-044 governs the expiration of this Director’s Decision.

*This decision of the Executive Director becomes void on the 7th day of April 2024 unless construction has commenced in accordance with Commission Rule 350-81-044(4).*

Commission Rule 350-81-044(4) specifies that commencement of construction means actual construction of the foundation or frame of the approved structure.

Construction must be completed within two years of the date that the applicant commenced construction. The date of the Executive Director’s preconstruction inspection to confirm the location of proposed structural development as required by this decision shall be considered the date the applicant commenced construction, unless the applicant demonstrates otherwise.

Once the applicant has commenced construction of one element in this decision, the applicant will need to complete all elements in this decision in accordance with Commission Rule 350-81-044. The Commission does not use different “commencement of construction” dates for different elements in this decision.
The applicant may request one 12-month extension of the time period to commence construction and one 12-month extension to complete construction in accordance with Commission Rule 350-81-044(6). The applicant must submit the request in writing prior to the expiration of the approval. If the applicant requests an extension of time to complete construction after commencing construction, the applicants shall specify the date construction commenced. The Executive Director may grant an extension upon determining that conditions, for which the applicants were not responsible, would prevent the applicants from commencing or completing the proposed development within the applicable time limitation. The Executive Director shall not grant an extension if the site characteristics and/or new information indicate that the proposed use may adversely affect the scenic, cultural, natural or recreation resources in the National Scenic Area.

**APPEAL PROCESS:**

*The appeal period ends on the 7th day of May 2022.*

The decision of the Executive Director is final unless the applicant or any other person who submitted comment files a Notice of Intent to Appeal and Petition with the Commission within thirty (30) days of the date of this decision. Information on the appeal process is available at the Commission office.

**NOTES:**

Any new land uses or structural development such as driveways, parking areas, garages, workshops, fences or other accessory structures; or additions or alterations not included in the approved application or site plan will require a new application and review. New cultivation also requires a new application and review.

This decision does not address local, state, or federal requirements that may be applicable to the proposed development. The landowner is responsible for obtaining all applicable county, state, or federal permits required for the development.

c: Confederated Tribes and Bands of the Yakama Nation  
Confederated Tribes of the Umatilla Indian Reservation  
Confederated Tribes of Warm Springs Reservation of Oregon  
Nez Perce Tribe  
U.S. Forest Service National Scenic Area Office  
Washington Department of Archaeology and Historic Preservation  
Klickitat County Planning Department  
Klickitat County Building Department  
Klickitat County Public Works Department  
Klickitat County Health Department  
Klickitat County Assessor  
Washington Natural Heritage Program  
Washington Department of Fish and Wildlife  
Friends of the Columbia Gorge

**Attachments:**

Staff Report for C18-0006  
Approved site plan and elevation drawings
Jeri Rutherford
24 Locke Rd. White Salmon, WA
NE 1/4 Section 34, T3N, R11E
Tax Lot: 03-11-3454-0002/00
NOTES:
1. SIGNS TO BE PLACED A MINIMUM OF 500 FEET PRIOR TO SINGLE LANE SECTION OF ROAD.
2. SIGN POSTS SHALL BE 4 X 4 PRESSURE TREATED WOOD GRADE 2 OR EQUIVALENT, UNLESS OTHERWISE APPROVED IN WRITING BY THE CONTRACTING OFFICER (CO).
3. MOUNT SIGN PANELS WITH A MINIMUM OF TWO (2) 1/4-INCH DIAMETER BOLTS, DO NOT OBSTRUCT ANY PART OF THE SIGN LEGEND WITH MOUNTING BOLTS.
4. ALL SIGNS MUST MEET MINIMUM RETROREFLECTIVITY STANDARDS SET FORTH IN THE MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) SECTION 2A.06 USE ONLY TYPE 11 HIGH INTENSITY PRISMATIC SHEETING.
5. ALL SIGNS SHALL BE SUPPLIED WITH PROTECTIVE OVERLAY FILM AND EDGE FILM PER SECTION 718.02.
6. DO NOT STORE TRAFFIC CONTROL DEVICES ALONG THE ROADWAY WHEN NOT IN USE. COVER POST-MOUNTED SIGNS WHEN NOT APPLICABLE.

1. SIGN INSTALLATION DETAIL
   NOT TO SCALE

2. GATE SIGNAGE DETAIL
   NOT TO SCALE

DRAFT SUBJECT TO CHANGE
Contract Name: Buck STEM
Attachment K.1

1. **PLAN VIEW**
   NOT TO SCALE

- 18'-4"/-
- Field Verify

2. **GATE ELEVATION**
   NOT TO SCALE

- 23' 5"
- 17' 5"
- 16' 4"

- Hinge, 3'-18"
- 1/2" X 4" X 4", typ., 4 places
- 2" square tubing, 5/16" thick, typ., 5 places
- 4" sq. tube frame, 1/2" thick, typ.

- 10" dia. extra strong pipe (I.D. = 9.750" O.D. = 10.750")
- 1.75 cubic yards concrete (3000 psi minimum) per post installation

**Notes:**
- Mild steel welded construction
- square tube frame, primed and painted forest green color
- All welding callouts use industry standard symbols

**DRAFT SUBJECT TO CHANGE**
COLUMBIA RIVER GORGE COMMISSION
STAFF REPORT

CASE FILE: C18-0006

PROPOSAL: The Columbia River Gorge Commission received an application for improvements to an existing road and the installation of gate to provide service and access to a property on Burdoin Mountain.

APPLICANT: Jeri Rutherford

LANDOWNER: U.S. Forest Service

LOCATION: The subject property is 2.96 acres and located east of White Salmon, WA, on Burdoin Mountain, in the Northeast 1/4 of Section 34, Township 3 North, Range 11 East, W.M., Klickitat County. Tax Lot Number: 03-11-3454-0002/00.

LAND USE DESIGNATION: Special Management Area (SMA) – Agriculture

COMMENTS FROM INDIVIDUALS/AGENCIES/GOVERNMENTS:

Notice of the subject request was mailed to property owners within 200 feet of the subject parcel and the following organizations/agencies/governments:

- Confederated Tribes and Bands of the Yakama Nation
- Confederated Tribes of the Umatilla Indian Reservation
- Confederated Tribes of Warm Springs Reservation of Oregon
- Nez Perce Tribe
- U.S. Forest Service National Scenic Area Office (USFS NSA)
- Washington Department of Archaeology and Historic Preservation
- Klickitat County Planning Department
- Klickitat County Building Department
- Klickitat County Public Works Department
- Klickitat County Health Department
- Klickitat County Assessor
- Skamania County
- Washington Natural Heritage Program
- Washington Department of Fish and Wildlife (WDFW)
- Friends of the Columbia Gorge

Written comments were received from:

- Steve McCoy, Staff Attorney, Friends of the Columbia Gorge
- Chris Donnermeyer, Heritage Resource Program manager, USFS NSA
FINDINGS OF FACT:

A. LAND USE

1. Jeri Rutherford has applied for the installation of gate to provide service and access to her property on Burdoin Mountain. The subject parcel is currently owned by the U.S. Forest Service. The only development currently on the property is the existing road, USFS Road 1828-122.


   Road closure gates.

   The purpose of the gate is for the closure of USFS Road 1828-122, which is used to access the applicant's residence, approved in Decision C20-0010.

CONCLUSION:

The proposed development is an allowed expedited review use, subject to compliance with the guidelines in Commission Rule 350-81-052 that protect scenic, cultural, natural and recreation resource treaty rights.

B. SCENIC RESOURCES

1. Commission Rule 350-81-052(1)(a)(B) states:

   Except signs, the colors of structures topographically visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. This guideline shall not apply to additions, which may match the color of existing buildings.

   The development site is located on Burdoin Mountain at an approximate elevation of 800 feet. The site is visible in the middle ground (one to three miles) and background (greater than three miles) from four Key Viewing Areas (KVAs) to the south including SR 14, the Columbia River, the Historic Columbia River Highway (HCRH) and I-84. All four the KVAs are located at lower elevations than the project site, and trees in and around the site provide complete topographic screening. The applicant proposes painting the gate a deep brown matter color, that is a dark earth-tone, consistent with this rule. As proposed by the applicant, the gate is consistent with Commission Rule 350-81-052(1)(a)(B).

2. Commission Rule 350-81-052(1)(a)(C) states:

   Except signs, structures topographically visible from key viewing areas shall use low or non-reflective building materials, including roofing, gutters, vents and chimneys.

   The metal gate will be painted a deep brown matte color. A condition of approval is included in the Director's Decision to require a flat, low reflective finish consistent with Commission Rule 350-81-052(1)(a)(C).
3. Commission Rule 350-81-052(1)(a)(D) states:

   Outdoor lights shall be directed downward and sited, hooded, and shielded such that they are not highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

   No outdoor lights are proposed.


   Structures within one-half mile of a key viewing area and topographically visible from the key viewing area shall be sited, screened and/or designed to achieve the applicable scenic standard (e.g., visual subordinance, not visually evident).

   The proposed development is located .4 miles north of State Route 14, the closest KVA, and not located within one-half mile of any KVA. Rule 350-81-052(1)(a)(F) is not applicable.

CONCLUSION:

The proposed development is consistent with the expedited review guidelines for scenic resources in Commission Rule 350-81-052(1)(a).

C. CULTURAL RESOURCES

1. Commission Rule 350-81-052(1)(b) includes cultural resource protection provisions for uses eligible for the expedited review process. It states:

   (A) The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey, pursuant to 350-81-54(1)(c)(A) or historic survey, pursuant to 350-81-540(1)(c)(B).

   (B) The GMA guidelines that protect cultural resources and human remains discovered during construction [350-81-540(6) and (7)] shall be applied as conditions of approval for all development approved under the expedited development review process.

   Chris Donnermeyer, Heritage Resources Program Manage for the Columbia River Gorge National Scenic Area, provided a cultural resources survey determination for the proposed development on January 20, 2022. Mr. Donnermeyer determined that the proposed development does not require a reconnaissance survey or historic survey pursuant to Commission Rules 350-81-540(1)(c)(A) and (B) because the development would occur on a site that has been determined to be located within a low probability zone, is not within 100 feet of a high probability zone, does not occur within 500 feet of a known archaeological site, would not alter the exterior architectural appearance of significant buildings and structures that are 50 years old or older, and would not compromise features of the surrounding area that are important in defining the historic or architectural character of significant buildings or structures that are 50 years old or older. With conditions of approval to require the protection of cultural resources and human remains discovered during construction, the proposed development is consistent with the cultural resource protection guidelines in Commission Rule 350-81-052(1)(b).
CONCLUSION:

With conditions to protect unknown cultural resources or human remains discovered during construction, the proposed development is consistent with the cultural resource guidelines for expedited review uses in Commission Rule 350-81-052(1)(b).

D. NATURAL RESOURCES

1. Commission Rule 350-81-052(1)(d) lists natural resource protection guidelines for expedited review uses. To qualify for the expedited review process, Commission Rule 350-81-052(1)(d)(A)(i) requires new development is located outside buffer zones for wetlands, streams, rivers, ponds, and lakes, except for lot line adjustments or development located inside road, utility or railroad rights-of-way or easements that have been previously disturbed and regularly maintained.

The gate will be located inside the road easement for USFS Road 1828-122. The proposed development is consistent with 350-81-052(1)(d)(A)(i).

2. Commission Rule 350-81-052(1)(d)(B) contains expedited review guidelines to protect sensitive wildlife and sensitive plants. It requires eligible development to meet one of the following circumstances:

   (I) The development is at least 1,000 feet from known sensitive wildlife areas or sites (excluding sensitive aquatic species, deer winter range, and turkey habitat) and known sensitive plants; or

   (II) The development does not disturb the ground or is inside road, utility or railroad rights-of-way or easements or other areas that have been previously disturbed and regularly maintained; or

   (III) For sensitive wildlife, the development is within 1,000 feet of known sensitive wildlife areas or sites (excluding sensitive aquatic species, deer winter range and turkey habitat), but an appropriate federal or state wildlife agency determines (1) the sensitive wildlife area or site is not active or (2) the proposed development would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

   For sensitive plants, the development is within 1,000 feet of known sensitive plants, but the Oregon or Washington Natural Heritage Program or a person with recognized expertise in botany or plant ecology hired by the applicant has determined that the development would be at least 200 feet from the sensitive plants.

The gate will be located inside the road easement for USFS Road 1828-122. The proposal is consistent with Commission Rule 350-81-052(1)(d)(B)(II).

CONCLUSION:

As proposed, the development is consistent with the natural resource protection guidelines for expedited review in Commission Rules 350-81-052(1)(d).
E. RECREATION RESOURCES

1. Commission Rule 350-81-052(1)(c)(A) requires new development approved under the expedited review process to not detract from the use and enjoyment of recreation sites on adjacent parcels.

The parcel is designated Recreation Class 2 according to the Gorge Commission’s Recreation Intensity Class Map. No established recreation sites exist on adjacent properties. The proposal is consistent with this rule.

CONCLUSION:

As proposed, the development is consistent with the recreation resource protection guidelines for expedited review in Commission Rules 350-81-052(1)(c).

F. TREATY RIGHTS PROTECTION

1. Commission Rule 350-81-052(2) requires developments reviewed using the expedited review process to comply with the following treaty rights protection guidelines.

   (a) Proposed developments shall not affect or modify any treaty or other rights of any Indian tribe.

   (b) The expedited development review process shall cease and the proposed developments shall be reviewed using the full development review process if an Indian tribe submits substantive written comments during the comment period that identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the proposed development.

No substantive comments identifying treaty rights or concerns were received from Indian tribes during the comment period. The site is located over two thousand feet from the Columbia River and does not affect treaty fishing or fishing practices. The project also does not affect any first foods, or traditional foods, located in the vicinity. Given this information, the development does not affect or modify any treaty or other rights of any Indian tribe. Given this information, the proposed addition is consistent with Commission Rule 350-81-052(2).

CONCLUSION:

The proposed development is consistent with the treaty rights protection guidelines for expedited review uses in Commission Rule 350-81-052(2).

BG
FIND0006.18
Jeri Rutherford
5898 N. Bremerton Pl.
Boise, ID 83714
Dear Ms. Rutherford,

This letter responds to your project proposal that entails resurfacing and maintaining existing NFS Road No. 1828-122, replacement of an existing culvert, installation of a utility pole with access vault and underground power installation on the road shoulder, cable lines within the existing road spectrum, and installation of a gate at the intersection of 1828-122 and Locke Road. The primary reason for the road maintenance and utilities is to provide service and access to your private property; parcel no. 03-11-3452-004/00 in the E1/2NE/4SW1/4NE1/4, Sec. 34, T. 3 N., R. 11. E., W.M., Klickitat County, WA.

You are a successor in interest to two easements crossing National Forest System land along Road No. 1828-122 for ingress, egress and utilities serving your private property. One easement, contained in AFN 177603, is 60 feet wide, and crosses a portion of the NE1/4SW1/4NE1/4 of Section 34. The second easement, contained in AFN 178021, is 30 feet wide, and crosses a portion of the NW1/4SW1/4NE1/4 of Section 34.

The Forest Service intends to grant a special uses permit for construction activities associated with the proposed project in order to prescribe any measures necessary for the protection of NFS lands and resources. A long term special use permit for occupancy and use will not be required because of the existing easements. A cost recovery fee to cover permit processing will apply, however annual land use rental fees will not be required. All future use and maintenance activities affiliated with the project will be required to stay within the existing ingress, egress, and utility easements following installation of the culvert, utilities and gate.

This letter serves to document the consent of our office for this project as a property owner for the purposes of the Columbia River Gorge Commission Columbia River Gorge National Scenic Area application review process. Our office is currently reviewing the proposed activities on National Forest System lands. Any measures required to protect NFS lands and resources will become conditions of approval.

Please contact Miki Fujikawa at 541-308-1714, or mfujikawa@fs.fed.us, with any questions.

Sincerely,

LYNN BURDITT
Area Manager

cc: Bryce Guske, Columbia River Gorge Commission Land Use Planner
U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE

SPECIAL USE PERMIT

Authority: ORGANIC ADMINISTRATION ACT June 4, 1897

JERI RUTHERFORD of 5898 N BREMERTON PL BOISE ID 83714 (hereinafter "the holder") is authorized to use or occupy National Forest System lands in the COLUMBIA RIVER GORGE NATIONAL SCENIC AREA or unit of the National Forest System, subject to the terms and conditions of this special use permit (the permit).

This permit covers n/a acres or .02 miles in the Sec. 34, T. 3 N., R. 11 E., WILLAMETTE MERIDIAN ("the permit area"), as shown on the map attached as Appendix A. This and any other appendices to this permit are hereby incorporated into this permit.

This permit issued for the purpose of: Temporary construction activities and improvements:

- Grade existing USFS road #1828-122 to provide for smoothness, drainage and out sloping
- Installation of three new culverts (two 18-inch diameter and one 42-inch diameter)
- Cleanout one existing culvert and the adjacent inlet
- Minor clearing to provide 10' clearance on either side of roadway centerline (20 feet total width with in the 30 feet easement)
- New gravel surfacing (6-inch depth), 12 feet wide on tangent line with curve widening on curves
- New USFS standard bar gate, 20 feet wide
- Buried utility lines, two each, 1½ HDPE ducts and associated pull boxes
- Buried power line and associated pull boxes

TERMS AND CONDITIONS

I. GENERAL TERMS

A. AUTHORITY. This permit is issued pursuant to the ORGANIC ADMINISTRATION ACT of June 4, 1897 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 10/01/2019, one year from the date of issuance.

D. CONTINUATION OF USE AND OCCUPANCY. This permit is not renewable. Prior to expiration of this permit, the holder may apply for a new permit for 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. Issuance of a new permit is at the sole discretion of the authorized officer. At a minimum, before issuing a new permit, the authorized officer shall ensure 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 planned.

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.

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 10/01/2018 and shall be completed by 10/01/2019.

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. OPERATING PLAN. The holder shall prepare and annually revise by 10/01/2018 an operating plan. The operating plan shall be prepared in consultation with the authorized officer or the authorized officer’s designated representative and shall cover all operations authorized by this permit. The operating plan shall outline steps the holder will take to protect public health and safety and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor the holder’s operations for compliance with the terms and conditions of this permit. The operating plan shall be submitted by the holder and approved by the authorized officer or the authorized officer’s designated representative prior to commencement of operations and shall be attached to this permit as an appendix. The authorized officer may require an annual meeting with the holder to discuss the terms and conditions of the permit or operating plan, annual use reports, or other concerns either party may have.

D. MONITORING 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 shall comply with inspection requirements deemed appropriate by the authorized officer. 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 revocable solely under the procedures set forth in 36 CFR 214 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 EXISTING RIGHTS. This permit is subject to all valid existing rights. Valid existing 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 and damage to government-owned improvements covered by this permit.

1. 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 resulting from 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.J.

2. 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 ordinary and necessary wear and tear.

G. HEALTH AND SAFETY. The holder shall take all measures necessary to protect the health and safety of all persons affected by the use and occupancy authorized by this permit. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any physical or mechanical procedure, activity, event, or condition existing or occurring in connection with the authorized use and occupancy during the term of this permit that causes or threatens to cause a hazard to the health or safety of the public or the holder's employees or agents. The holder shall as soon as practicable notify the authorized officer of all serious accidents that occur in connection with these procedures, activities, events, or conditions. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.

H. ENVIRONMENTAL PROTECTION.

1. For purposes of clause IV.H 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.

2. 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 and occupancy of the permit area. Environmental damage includes but is not limited to 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. If the environment or any government property covered by this permit becomes damaged in connection with the holder's use and occupancy, the holder shall as soon as practicable repair the damage or replace the damaged items to the satisfaction of the authorized officer and at no expense to the United States.

3. The holder shall as soon as practicable, as completely as possible, and in compliance with all applicable laws and regulations abate any physical or mechanical procedure, activity, event, or condition existing or occurring in connection with the authorized use and occupancy during or after the term of this permit that causes or threatens to cause harm to the environment, including areas of vegetation or timber, fish or other wildlife populations, their habitats, or any other natural resources.

I. 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; (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.

J. 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


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.

1. Authorized Officer Concurrence. Pesticides may not be used outside of buildings in the permit area to control pests, including undesirable woody and herbaceous vegetation (including aquatic plants), insects, birds, rodents, or fish without prior written concurrence of the authorized officer. Only those products registered or otherwise authorized by the U.S. Environmental Protection Agency and appropriate State authority for the specific purpose planned shall be authorized for use within areas on National Forest System lands.

2. Pesticide-Use Proposal. Requests for concurrence of any planned uses of pesticides shall be provided in advance using the Pesticide-Use Proposal (form FS-2100-2). Annually the holder shall, on the due date established by the authorized officer, submit requests for any new, or continued, pesticide usage. The Pesticide-Use Proposal shall cover a 12-month period of planned use. The Pesticide-Use Proposal shall be submitted at least 60 days in advance of pesticide application. 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 require control measures which were not anticipated at the time a Pesticide-Use Proposal was submitted.

3. Labeling, Laws, and Regulations. Label instructions and all applicable laws and regulations shall be strictly followed in
the application of pesticides and disposal of excess materials and containers. No pesticide waste, excess materials, or containers shall be disposed of in any area administered by the Forest Service.

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 follow the applicable inadvertent discovery protocols for the undertaking provided in an agreement executed pursuant to section 106 of the National Historic Preservation Act, 54 U.S.C. 306108; if there are no such agreed-upon protocols, the holder shall leave these discoveries intact and in place until consultation has occurred, as informed, if applicable, by any programmatic agreement with tribes. Protective and mitigation measures developed under this clause shall be the responsibility of the holder. However, the holder shall give the authorized officer written notice before implementing these measures and shall coordinate with the authorized officer for proximate and contextual discoveries extending beyond the permit area.

E. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT (NAGPRA). 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 follow the applicable NAGPRA protocols for the undertaking provided in the NAGPRA plan of action or the NAGPRA comprehensive agreement; if there are no such agreed-upon protocols, the holder shall as soon as practicable notify the authorized officer 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 forest archaeologist 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 THREATENED AND ENDANGERED SPECIES, SENSITIVE SPECIES, AND SPECIES OF CONSERVATION CONCERN AND THEIR HABITAT.

1. Threatened and Endangered Species and Their Habitat. 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 within designated critical habitat shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on listed species or designated critical habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing threatened or endangered species or designated critical habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

2. Sensitive Species and Species of Conservation Concern and Their Habitat. The location of sites within the permit area needing special measures for protection of plants or animals designated by the Regional Forester as sensitive species or as species of conservation concern pursuant to FSM 2670 shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on sensitive species or species or species of conservation concern or their habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing sensitive species or species of conservation concern or their habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

H. 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.

I. 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.

VI. LAND USE FEE AND DEBT COLLECTION

A. LAND USE FEES. The use or occupancy authorized by this permit is exempt from a land use fee or the land use fee has been waived in full pursuant to 36 CFR 251.57 and Forest Service Handbook 2709.11, Chapter 30.

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 and a reasonable period, 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 ISSUANCE OF A NEW PERMIT. Upon revocation or termination of this permit without issuance of a new permit, 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.
VII. 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, N/A, dated 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.

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:

[Signature]

DATE

HOLDING NAME, PRECEDED BY NAME AND TITLE

OF PERSON SIGNING ON BEHALF OF HOLDER, IF HOLDER IS AN ENTITY

APPROVED:

LYNN BURDITT
AREA MANAGER, COLUMBIA RIVER GORGE NATIONAL SCENIC AREA

[Signature]

DATE

NAME AND TITLE OF AUTHORIZED OFFICER

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and, where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.
Appendix A: Map
Regrade existing USFS Road 1828-122, 20" clear and Grub, grade to drain, 6" agg base topping, buried utility conduits, approximately 1,320 LF (Typical)

Trim or Remove only if necessary White Oak over-hanging roadway

New Culvert 42"

Existing Culvert 18" (1)

New Culvert 18" (2)

New Power Pole

New Power Vault

Well – Actual Location T09

Vehicle Turn-Around

Remove dead/infected pine and fir trees – on Rutherford Property Protect and preserve white oak

Trim or Remove only if necessary White Oak over-hanging roadway, Widen the road to avoid if possible

4 ft high stock fence

Legend
Appendix B: Operating Plan

The following conditions are to be made part of the special use authorization (CRG918). This Operating Plan authorizes temporary construction activities and improvements to be conducted on NFS Road No. 1828-122 on National Forest System (NFS) land. The segment of Road No. 1828-122 on NFS land is approximately 1,000 feet in length. Two easements serve the private property for ingress, egress and utilities crossing NFS lands. The first easement (AFN 177603), is 60 feet wide, and crosses a portion of the NE1/4SW1/4NE1/4 of Section 34. The second easement, (AFN 178021), is 30 feet wide, and crosses a portion of the NW1/4SW1/4NE1/4 of Section 34.

Key Contacts

<table>
<thead>
<tr>
<th>Forest Service:</th>
<th>Forest Service:</th>
<th>Permit Holder:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permit Administrator</td>
<td>Engineer</td>
<td>Jeri Rutherford</td>
</tr>
<tr>
<td>Amy Linn</td>
<td>Pete Huppi</td>
<td>(208) 866-5313</td>
</tr>
<tr>
<td>(541) 308-1712</td>
<td>(503) 668-1784</td>
<td><a href="mailto:jcri@rideouttech.com">jcri@rideouttech.com</a></td>
</tr>
<tr>
<td><a href="mailto:ajlinn@fs.fed.us">ajlinn@fs.fed.us</a></td>
<td><a href="mailto:phuppi@fs.fed.us">phuppi@fs.fed.us</a></td>
<td>5898 N Bremerton Pl</td>
</tr>
<tr>
<td>902 Wasco, Suite 200</td>
<td>16400 Champion Way</td>
<td>Boise, ID 83714</td>
</tr>
<tr>
<td>Hood River, OR 97031</td>
<td>Sandy, OR 97055</td>
<td></td>
</tr>
</tbody>
</table>

Authorized Improvements/Project Specifications

- Grade existing USFS road #1828-122 to provide for smoothness, drainage and out sloping
- Installation of three new culverts (two 18-inch diameter and one 42-inch diameter)
- Cleanout one existing culvert and the adjacent inlet
- Minor clearing to provide 10’ clearance on either side of roadway centerline (20 feet total width with in the 30 feet easement)
- New gravel surfacing (6-inch depth), 12 feet wide on tangent line with curve widening on curves
- New USFS standard bar gate, 20 feet wide
- Buried utility lines, two each, 1½ HDPE ducts and associated pull boxes
- Buried power line and associated pull boxes

Engineering Design and Materials:

1. Gate design will be consistent with standards and guidelines provided by the Forest Service; permit holder will submit to the Forest Service any plans for a motorized gate and locking system.
2. Culvert material should be a corrugated aluminized steel pipe, 16-gauge.
3. Portions of exposed culvert should be flat black or otherwise non-reflective and dark earth-toned in color, using paint if necessary.
4. Gate and utility pole should be non-reflective and of a dark earth-toned color.
5. The size of the culvert replacements will be one 42-inch diameter and two 18-inch diameter.
6. Mirafi 140N filter fabric (or equivalent) is acceptable but not required unless the material below is an open graded drain rock.
7. Compaction of aggregate should occur in lifts no less than two times the value of the gradation being applied or 6" (which ever is larger). Example: 1-1/2" minus gradation should be compacted in lifts no less than 3" and no more than 6".
8. Aggregate must be purchased from a “weed free” certified rock source with documentation provided to the Forest Service prior to placement of aggregate.
9. For all culverts, the minimum manufacturer’s recommendation for cover will be expected or surpassed, as measured at the edge of the travel surface over the culvert’s inlet end.

Revegetation:

10. All disturbed ground and any erosion control measures need to be reseeded with local, “weed free” certified, native seed mix approved by the USFS botanist.
11. Revegetation may be evaluated by the Forest Service upon expiration of the permit; the permit holder may be required to conduct additional reseeding if condition is not satisfactory.

Equipment:

12. Earth-moving equipment moved to the job site shall be cleaned of soil, weeds and their seeds and inspected prior to each entrance onto NFS lands.

Cultural Resources:

13. Should any historic or prehistoric cultural resources be uncovered during project activities, cease work and follow the notification requirements and instructions listed in Appendix C: Columbia River Gorge National Scenic Area Heritage Program Inadvertent Discovery Plan.

Fire Prevention and Emergency Access:

14. All applicable Industrial Fire Precaution Level (IFPL) guidelines must be followed during project work, as well as any guidelines from State entities and the Forest Service.
15. Monitor IFPL levels daily to ensure all appropriate restrictions and fire-prevention measures are followed. The level of IFPL closedown is based on the fire danger in the area surrounding the operation. Additional information on specific closedown times, locations and requirements can be obtained from DNR: https://fortress.wa.gov/dnr/ifpl/IFPL.aspx.
16. Access to and from the Rutherford property will be adequate for emergency vehicles. Consult with Lyle Fire Department to ensure emergency vehicle access will adequate.

Other:

17. Coordinate with the Forest Service as needed on gate and locks so as to maintain Forest Service access to NFS lands.
18. Permit holder will be responsible for future repair or replacement of drainage structures or other improvements, should damage occur. Notify the Forest Service of any damage to road or improvements caused by maintenance or repair activities.
Operating Plan Acceptance

I/We have reviewed and agreed to comply with all conditions in this operating plan including the required changes, modifications, and special mitigation requirements. I/We understand that approval of new proposals to this operating plan will not be released until the Authorized Officer in charge gives written approval such proposals.

Permit Holder:

Date:

Operating Plan Approval

LYNN BURDITT
Name

Area Manager
Title

Authorized Officer Signature

Date

Included with this Operating Plan:
Appendix A: Permit Area Map
Appendix C: Columbia River Gorge National Scenic Area Heritage Program Inadvertent Discovery Plan
Appendix C: Inadvertent Discovery Plan
Cultural Resources Discovered After Construction Begins

1. The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the local government and the SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are pre-contact or otherwise associated with Native Americans.
   A. Halt of Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
   B. Notification. The project applicant shall notify the local government and the Gorge Commission within 24 hours of the discovery. If the cultural resources are pre-contact or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours. The CRGNSA Heritage Program Manager, Chris Donnermeyer, should also be notified at 541-308-1711, cdonnermeyer@fs.fed.us
   C. Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the SHPO. (See Oregon Revised Statute [ORS] 273.705, ORS 358.905 to 358.955, and Revised Code of Washington [RCW] 27.53). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in the "Reconnaissance Survey Reports--Large-Scale Uses" and "Evaluation of Significance: Evaluation Criteria and Information Needs" sections within the Management Plan for the Columbia River Gorge National Scenic Area, Chapter 2.

Based on the survey and evaluation report and any written comments, the local government shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant.

A mitigation plan shall be prepared if the affected cultural resources are significant.

D. Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in the "Mitigation Plans: Mitigation Plan Criteria and Information Needs" section within the Management Plan for the Columbia River Gorge National Scenic Area, Chapter 2. Construction activities may recommence when the conditions in the mitigation plan have been executed.

Discovery of Human Remains

1. The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.
   A. Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
   B. Notification. Local law enforcement officials, the local government, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.
   C. Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are pre-contact/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.
   D. Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.
E. Treatment. In Oregon, pre-contact/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in ORS 97.740 to 97.760. In Washington, the procedures set forth in RCW 27.44 and 68.05 shall generally be implemented if the remains are pre-contact/historic.

If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in the "Mitigation Plans: Mitigation Plan Criteria and Information Needs" section within the Management Plan for the Columbia River Gorge National Scenic Area, Chapter 2.

The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in the "Mitigation Plans: Conclusion of the Cultural Resource Protection Process" section within the Management Plan for the Columbia River Gorge National Scenic Area, Chapter 2 are met and the mitigation plan is executed.