

## Revised Stipulations for Idaho-BLM ROW Grants and Land Use Authorizations

The following is the list of standard stipulations that could be used in ROW (right-of-way) grants and other land use authorizations. The Authorized Officer and specialists must determine which stipulations are appropriate in each authorization. In addition to the terms and conditions identified in 43 CFR 2805.12 and 2920.7, this list provides a choice of stipulations to be applied according to specific conditions of each proposal. Additional mitigation may be identified during the National Environmental Policy Act (NEPA) process or because of various Information Bulletins, Information Memorandums, policy, guidance, conservation agreements, etc., which results in a “special” stipulation(s) not included in this list. When including a “special” stipulation, the Realty Specialist must ensure that supporting documentation is included in the administrative record/case file. This list is not intended to capture stipulations for every resource or resource use.

Stipulations are analysis driven, and should be individually examined as to whether or not they are applicable to a local situation. Other than replacing “ROW” with the appropriate land use authorization type, these standard stipulations have been reviewed and approved by a Solicitor and should not be reworded to accommodate an applicant’s or Holder’s request.

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## General Terms

1. The Holder will indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this grant or permit.
2. The Authorized Officer may suspend or terminate in whole, or in part, any notice to proceed which has been issued when, in his/her judgment, conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
3. At least 90 days prior to expiration or relinquishment of the ROW, the Holder will either file a renewal application or contact the Authorized Officer to arrange a joint termination inspection of the ROW. The inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan will include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The Authorized Officer must approve the plan in writing prior to the Holder's commencement of any termination activities.
4. There is reserved to the Secretary of the Interior, or his/her lawful delegate, the right to grant additional ROWs or permits for compatible uses on, over, under or adjacent to the land involved in this grant.
5. The Holder will notify the Authorized Officer of any change of mailing address within 30 days of such change.
6. Holder will, within \_\_\_\_ days following completion of the facility, submit proof of construction. Said proof will include "as built" drawings of the authorized facilities including but not limited to power lines and authorized roads, and highlighting any changes from the approved design.
7. Holder will maintain the ROW in a safe, usable condition, as directed by the Authorized Officer.
8. If any emergency repair activity results in disturbance outside the ROW boundary, the Holder will notify the Authorized Officer within 3 days of the occurrence. Upon review, the Authorized Officer may require remediation.
9. The Holder will protect all survey monuments found within the ROW. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the Holder will immediately report the incident, in writing, to the Authorized Officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management survey monuments or references are obliterated during Holder's operations, the Holder will secure the services of a registered land surveyor or Bureau cadastral surveyor to restore the disturbed monument and references using procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands of the United States, latest edition. The Holder will record such survey in the appropriate county and send a copy to the Authorized Officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the Holder will be responsible for the survey cost.

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10. The Holder will permit free and unrestricted public access upon the ROW for all lawful purposes except for those specific areas designated as restricted by the Authorized Officer to protect the public, wildlife, livestock, or facilities constructed within the ROW.
11. As provided in 43 CFR 2807.12(b), the Holder will be strictly liable for any activity or facility associated with the ROW area which the BLM determines presents a foreseeable hazard or risk of damage or injury to the United States as defined in 43 CFR 2807.12(b) 1 through 5. **[Note: To use this stipulation, the Authorized Officer must identify the activity and/or facility posing such hazard or risk, and the financial limitations on damages commensurate with such hazard or risk.]**
12. The Holder will not interfere with public land management practices of the BLM or any authorized BLM operators, licensees, agents, or public.
13. No gates, signs, barriers, obstructions, or other impediments are allowed on public lands either within or outside the ROW, unless specifically authorized.

### Notice to Proceed

14. The Holder will not initiate any construction or other surface disturbing activities on the ROW, other than routine operation and maintenance or emergency response activities, without prior written authorization from the Authorized Officer. Such authorization will be a written notice to proceed issued by the Authorized Officer. Any notice to proceed will authorize construction or use only as therein expressly stated and only for the particular location or use therein described.
15. The Authorized Officer may require a preconstruction conference with the Holder prior to the commencement of construction activities. The Holder and/or his/her representative, and the Holder's contractor, or agents involved with the construction will also attend this conference to review the grant stipulations including the plan(s) of development.

**Bonding** - **NOTE:** Bonding for electrical distribution and transmission line ROWs is not required due to Federal and State regulatory requirements that preclude public electrical utilities from abandoning their infrastructure.

#### **For use when bonding is long term:**

16. The Holder will furnish a bond, acceptable to the Authorized Officer, by the date specified by the Authorized Officer. The amount of this bond will be determined by the Authorized Officer. The bond must be maintained in effect until removal of improvements and restoration of the ROW has been accepted by the Authorized Officer. Should the bond delivered under this grant become unsatisfactory to the Authorized Officer, the Holder will, within 30 days of demand, furnish a new bond.

#### **For use when bonding is short term or for a specific phase of the land use authorization:**

17. The Holder will provide a bond in the amount of \_\_\_\_\_ (an adequate amount to ensure restoration of the disturbed area), to be maintained until restoration of disturbed areas and other requirements relative to the construction phase of the project have been accepted by

the Authorized Officer. Upon completion of these construction related requirements, the Authorized Officer may terminate or reduce the amount of the bond. Should the bond delivered under this grant become unsatisfactory to the Authorized Officer, the Holder will, within 30 days of demand, furnish a new bond.

## Indemnity Stipulations for Federal Agencies

**The following stipulations have been approved by the Solicitor and will be used as the standard indemnity stipulations for Federal agencies.**

18. The Holder agrees that, as a Federal agency subject to the Federal Tort Claims Act, 28 U.S.C. § 2671, *et seq.*, it will be solely responsible for considering, ascertaining, adjusting, determining, compromising, settling, and/or paying any claim for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any of the Holder's employees or contractors (including sub-contractors) while acting within the scope of their office or employment arising out of the Holder's use and maintenance of the ROW, even if such a claim is initially filed with the grantor and subsequently transferred to the Holder.
19. The Holder agrees, to the extent allowed by law, to compensate the grantor for or completely repair damage to land and natural resources within the ROW caused by the Holder's employees or contractors (including sub-contractors at any level). The Holder further agrees, to the extent legally permissible, to compensate the grantor in full for actions taken by the grantor's employees or contractors (including sub-contractors at any level) to abate or mitigate damage to land and natural resources within the ROW caused by the Holder's employees or contractors (including sub-contractors at any level), including but not limited to fire suppression activities.
20. The Holder agrees that, as a Federal agency subject to the Federal Tort Claims Act, 28 U.S.C. § 2671, *et seq.*, it will be solely responsible for any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601, *et seq.* or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 *et seq.*) on the ROW (unless the release or threatened release is wholly unrelated to the ROW Holder's activity on the ROW). This agreement applies without regard to whether a release is caused by the Holder, its agents, or unrelated third parties.

## Liability for Idaho State, County, and City Agencies or Entities

**The following stipulation has been approved by the Solicitor and will be used as the standard indemnity stipulation for State, County, and City agencies.**

21. To the extent allowed by the Idaho Tort Claims Act, Title 6, Chapter 9, Idaho Code, and as limited by Article VII, Section 11 of the Idaho Constitution and Idaho Code §§ 59-1015, -1016, and -1017, the Holder recognizes and agrees that it is liable to the United States for damage to life or property arising from the occupancy or use of public lands under this grant or permit.

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22. The Holder recognizes and agrees that it is liable to the United States for damages arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601, et seq.) or the Resource Conservation and Recovery Act (42 U.S.C. 6901, et seq.) in accordance with the Idaho Tort Claims Act and as limited by Article VII, Section 11 of the Idaho Constitution and Idaho Code §§ 59-1015, -1016, and -1017 (unless the release or threatened release is wholly unrelated to the right-of-way Holder's activity on the right-of-way, in which case the Holder shall have no liability).

### Construction Plans & Operations and Maintenance

23. If required by the Authorized Officer, the Holder will obtain the services of a licensed professional engineer to locate, survey, design, and construct the proposed ROW. At a minimum, construction drawings should include (1) width, (2) maximum grade, (3) design speed of the road, (4) site plan, (5) building design, (6) floor plan, (7) tower design, and (8) electrical drawing, where applicable.
24. The Holder will construct, operate, and maintain the facilities, improvements, and structures within the ROW in strict conformity with the plan(s) of development which was (were) approved and made part of the grant on [user entry]. Any relocation, additional construction, or use that is not in accord with the approved plan(s) of development, will not be initiated without the prior written approval of the Authorized Officer. A complete copy of the ROW grant, including all stipulations and approved plan(s) of development, will be available for review by the Authorized Officer on the ROW area during construction, operation, and termination. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health and safety or the environment.
25. The Holder will conduct all activities associated with the construction, operation, maintenance, and termination of the ROW within the authorized limits of the ROW. If at any time the Holder wishes to reconstruct or relocate any portion of the ROW, or the improvements thereon, in a manner that has been determined to be a substantial deviation, prior written authorization must be obtained from the Authorized Officer.
26. Following construction, the Holder will post as directed by the Authorized Officer, the Bureau serial number assigned to this ROW grant at the following location(s) in letters no less than 3 inches high.
27. Specific sites as identified by the Authorized Officer (e.g., archaeological sites, areas with threatened and endangered species, or fragile watersheds) where construction equipment and vehicles are not allowed will be clearly marked onsite by the Holder before any construction or surface disturbing activities begin. The Holder will be responsible for assuring that construction personnel are well trained to recognize these markers and understand the equipment movement restrictions involved.
28. Construction or maintenance activities will not be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of \_\_\_\_ inches deep, the soil will be deemed too wet to adequately support construction equipment.
29. Surface disturbing activities will not occur within \_\_\_\_ feet of any stream or riparian area, which will be clearly marked as specified by the Authorized Officer. Any deviation from this requirement will have the prior written approval of the Authorized Officer.

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30. Holder will remove only the minimum amount of vegetation and/or topsoil necessary for the construction and/or maintenance of structures and facilities.
31. To the extent possible, topsoil removed during construction will be stockpiled within the ROW or at an approved location during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation.
32. Holder will limit excavation to the areas of construction within the ROW. Any off-site borrow areas must be approved in writing by the Authorized Officer in advance of excavation. All waste material resulting from construction or use of the site by Holder will be removed from the site. All waste disposal sites on public land must be approved in writing by the Authorized Officer in advance of use.
33. Construction holes left open overnight will be covered. Covers will be secured in place and will be strong enough to prevent livestock or wildlife from falling through and into a hole.
34. The Holder will furnish and install culverts of the gauge, materials, diameter(s), and length(s) approved by the Authorized Officer. Culverts will be free of corrosion, dents, or other deleterious conditions.
35. ROW will be maintained in a sanitary condition at all times; waste materials will be disposed of promptly at an appropriate waste disposal site. 'Waste' is defined as all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ash, and equipment that are a result of the Holder's activities.
36. Cut slopes will not be disturbed without prior approval of the Authorized Officer.
37. The Holder will notify the Authorized Officer at least **90** days prior to any non-emergency activities that would cause surface disturbance in the ROW. Surface disturbing activities are not considered routine maintenance. The Authorized Officer will determine if resource inventories, treatments or mitigation are required for the activity. The Holder will be responsible for the cost of inventory, avoidance, treatment or mitigation; including any maintenance-caused damage. The Authorized Officer will determine avoidance, treatment and mitigation measures that are necessary after consulting with the holder. **NOTE: The above stipulation pertains to authorizations issued prior to NEPA-related resource clearance requirements.**

### Access

38. New access roads or cross-country vehicle travel, outside the ROW, will not be permitted without prior written approval by the Authorized Officer. The Holder will obtain a ROW to use any roads outside the ROW that require surface-disturbing repair or maintenance.
39. If snow removal from the road is undertaken, equipment used for snow removal operations will be equipped with shoes to keep the blade \_\_\_inches off the road surface. Holder will take special precautions where the surface of the ground is uneven and at drainage crossings to ensure that equipment blades do not destroy vegetation.

### Hazardous Materials and Toxic Substances

40. Holder will comply with the applicable Federal and State Laws and regulations concerning the use of pesticides (i.e. insecticides, herbicides, fungicides, rodenticide, and other similar substances) in all activities/operations under this grant. Pesticides will be

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used only in accordance with their registered uses and within the limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the Holder will obtain from the Authorized Officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the Authorized Officer. Pesticides will not be permanently stored on public lands authorized for use under this grant. Applicator(s) will hold a current applicator's license or be under the direct supervision of a licensed applicator.

41. The Holder(s) will comply with all applicable Federal, State and local laws and regulations, existing or hereafter enacted or promulgated, with regard to any Hazardous Material, as defined in this paragraph, that will be used, produced, transported or stored on or within the ROW or any of the ROW facilities, or used in the construction, operation, maintenance or termination of the ROW or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 et seq., as amended, (hereinafter "CERCLA") and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., as amended, (hereinafter "RCRA") and its regulations. The term hazardous material also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, 42 U. S. C. § 2011 et seq., as amended. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA section 101(14), 42 U.S.C. § 9601(14), nor does the term include natural gas.
42. The Holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq.) on the ROW (unless the release or threatened release is wholly unrelated to the ROW Holder's activity on the ROW). This agreement applies without regard to whether a release is caused by the Holder, its agent, or unrelated third parties.
43. The Holder(s) will comply with the Toxic Substances Control Act of 1976 as amended, 15 U.S.C. § 2601 et seq. (1982) with regards to any toxic substances that are used, generated by or stored on the ROW or on facilities authorized under this ROW grant. (See 40 CFR Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR Part 117 will be reported as required by the Comprehensive Environmental Response, Compensation, and Liability Act, section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances will be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal agency or State government.
44. The Holder will inform the Authorized Officer within 48 hours of any accidents on Federal lands that require reporting to the Department of Transportation as required by 49 CFR Part 195 (hazardous liquids transported by pipeline).

## Fire Prevention and Control

**All of the following fire stipulations will be used in powerline authorizations. Stipulations #47 and #48 (at a minimum) will be used in all other types of authorizations.**

45. When performing construction and maintenance (including emergency repairs) activities during the “closed” fire season (May 10 – October 20), as set by Idaho State Law, Title 38-115, or during any other closed fire season prescribed by the BLM Idaho State Director, the Holder, including those working on their behalf, will equip at least one on-site vehicle with firefighting equipment, including, but not limited to, fire suppression hand tools (i.e. shovels, rakes, Pulaski’s, etc.), a 16-20 pound fire extinguisher, and a sufficient supply of water for initial attack, with a mechanism to effectively spray the water (i.e. backpack pumps, watersprayer, etc.).
46. Within the bounds of the ROW, the Holder will provide and maintain a vegetation clearance of \_\_\_\_\_ feet around the base of wood poles or other facilities with the potential to catch and/or spread fire.
47. During conditions of extreme fire danger or when the State of Idaho and/or the BLM Idaho State Director issues a fire restriction order, operations will be limited or suspended in specific areas, or additional measures may be required by the Authorized Officer.
48. In accordance with 43 CFR 2805.12(d) (or subsequent revisions), the Holder will do everything reasonable to prevent wildfires on or in the immediate vicinity of the ROW. The Holder will immediately report fires to the BLM Authorized Officer or Fire Dispatch 800-974-2373 and take all necessary fire suppression actions, when safe to do so, with their personnel and equipment on any fires they cause to ignite.
49. During or following initial attack, the Holder will report to the Fire Investigator or BLM Incident Commander and will not enter into the origin area on BLM fires unless given permission to do so.
50. The Holder will collaborate and cooperate with the BLM in its efforts to investigate, suppress and respond to all future wildland fires. The duty to “collaborate” and “cooperate” includes, but is not limited to, the following duties regardless of whether BLM is on the scene:
  - a. The duty to provide the BLM (Authorized Officer or local fire dispatch center) with reasonable and timely notice concerning all wildland fires involving the Holder’s facilities, or discovered during routine operations.
  - b. The duty to share factual information with the BLM concerning the wildland fires, including but not limited to the names of Holder’s employees with knowledge of the incident; and to allow employees to be interviewed by BLM’s investigators regarding factual information relating to a wildland fire.
  - c. The duty to reasonably account for Holder’s actions taken at the scene of a wildland fire.
  - d. The duty to minimize disturbance of potential evidence located on the scene; to properly handle and preserve any evidence collected; to not engage in any destructive testing without BLM’s consent; and to make all evidence available to the BLM in a rapid and timely manner.
  - e. The duty to not hamper the BLM investigation of origin and cause of the wildland fire; and to reasonably assist BLM’s investigation at the scene.



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- f. The duty to provide information concerning the construction, maintenance and/or repairs of any of Holder's facilities located at or adjacent to a wildland fire.
- g. The duty, during BLM fire suppression efforts: to defer to and follow the instructions of the BLM's incident commander regarding activities within the boundaries of the wildland fire and checking in and out of the wildland fire; and to recognize BLM's primary authority over the scene.

### Cultural

- 51. Pursuant to 43 CFR 10, the Holder of this authorization must immediately notify the Authorized Officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4 (c) and (d), the Holder must stop activities in the vicinity of the discovery and protect it until notified to proceed by the Authorized Officer. The BLM Authorized Officer will determine avoidance, protection or mitigation measures in consultation with the Holder, Idaho State Historic Preservation Officer (SHPO), and affected Tribes. Costs associated with the discovery, evaluation, protection or mitigation of the discovery will be the responsibility of the Holder.
- 52. Any cultural and/or paleontological resource (historic or prehistoric site or object, or fossil) discovered by the Holder, or any persons working on his/her behalf on public or Federal land will be immediately reported to the Authorized Officer. Holder will suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Holder will be responsible for the cost of evaluation and mitigation, and any decision as to proper avoidance, protection or mitigation measures will be made by the Authorized Officer after consulting with the Holder and others under Section 106 of the National Historic Preservation Act.

### Avian Protection

- 53. Operations and maintenance within the ROW will comply with the most current nest management guidelines provided by the U.S. Fish and Wildlife Service (USFWS) as clarified in ID-IB-2010-039, or most recent guidance.
- 54. **This stipulation must be included in every above-ground powerline authorization.** Unless otherwise agreed to by the Authorized Officer in writing, powerlines will be constructed or rebuilt in accordance to standards outlined in the most recent version of the report, *Suggested Practices for Avian Protection on Power Lines* (Avian Power Line Interaction Committee, 2006). The Holder will assume the burden and expense of proving that pole designs not shown in the above publication are "eagle safe." Such proof will be provided by a qualified raptor biologist approved by the Authorized Officer. The BLM reserves the right to require modifications or additions to all power line structures placed on this ROW, should they be necessary to ensure the safety of large perching birds. Such modifications and/or additions will be made by the Holder without liability or expense to the United States.
- 55. If proposed maintenance activities are located within one mile of bald or golden eagle nests, the Holder will coordinate with the BLM and the USFWS to determine the

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likelihood of disturbance and any appropriate measures necessary to comply with the Bald and Golden Eagle Protection Act (16 U.S.C. § 668 et seq.).

56. To the extent possible, operations and maintenance activities will be conducted either prior to or following the affected migratory bird nesting season (insert date) to avoid and/or minimize take of migratory birds as defined in the Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. § 703 et seq.) as amended. If any ground disturbing activities must occur during the nesting season (e.g., soil disturbance or vegetation removal), the Holder will coordinate with the BLM and USFWS to determine appropriate measures to comply with the MBTA.

### Plants

57. The Holder will be responsible for control of noxious weeds and non-native invasive plants that result from construction, use, or maintenance authorized in the Holder's ROW grant. The Holder must coordinate with the Authorized Officer and/or local authorities for acceptable weed control measures (within limits imposed in the grant stipulations) prior to implementing weed treatments.
58. The Holder will use only BLM-approved herbicides and adjuvants, and the applicator(s) will hold a current State of Idaho applicator's license or be under the direct supervision of a licensed applicator.
59. The Holder will seed all disturbed areas with a seed mixture(s) approved by the Authorized Officer. The seed mixture(s) will be applied in the amounts specified in pounds of pure live seed (PLS)/acre. Seed will be tested and the viability testing of seed will be done in accordance with State law(s) and within \_\_\_ months prior to purchase. Commercial seed will be certified "weed free". The seed mixture container will be tagged in accordance with State law(s) and available for inspection by the Authorized Officer.
60. The Holder will prepare a seedbed by (scarifying the disturbed area) (distributing topsoil uniformly) (disking the topsoil) as directed by the Authorized Officer to enhance successful germination and seedling establishment to control invasive species.  
**Select the text with parentheses as appropriate; delete the other text, the parentheses, and this note.**
61. The Holder may clear brush and remove hazard trees less than 8 inches in Diameter Breast Height (DBH) within the ROW if necessary for operation and maintenance and/or for the health and safety of the Holder and his/her agents. Trees 8 inch DBH or greater within the ROW, and potential hazard trees outside the ROW, will be marked by the Holder. Prior to harvest, hazard trees outside the ROW and trees 8 inch DBH or greater will be verified and measured by the Authorized Officer. Vegetation and timber that is cut remains the property of the Government (43 CFR 2805.15) and may be sold to the Holder for appraised value in accordance with 43 CFR 5400.

Pursuant to Section 512(e) of the Federal Land Policy and Management Act of 1976 (Public Law 115-141), if vegetation or hazard trees have contacted or present an imminent danger of contacting an electric transmission or distribution line from within or adjacent to the ROW, the Holder may prune or remove the vegetation or hazard tree to avoid the disruption of electric service and eliminate immediate fire and safety

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hazards. In this case, the Holder will notify the local BLM field or district office no later than 1 day after the date of the response to emergency conditions.

62. The Holder will clean equipment, machinery and vehicles that disturb soil or vegetation prior to entry into BLM-managed lands. Cleaning is defined as removal of all dirt, grease, plant parts and material that may carry seeds or plant material from tires, tracks, belly plates, undercarriages, etc. Pressure washing is recommended. To the extent practical, the Holder will avoid or minimize travel through or parking in areas infested with noxious weeds to avoid spreading seeds or plant parts. At the BLM's discretion, equipment, machinery, and vehicles may be inspected prior to entry onto BLM-managed lands.

### Slickspot Peppergrass (*Lepidium papilliferum*)

**Use the following stipulations for all land use authorizations with slickspot peppergrass concerns, including new, renewals, assignments and amendments (From the 2014 LEPA Conservation Agreement)**

63. The Holder will rehabilitate slickspot peppergrass (*Lepidium papilliferum*) habitat disturbed by construction or use to as near a native condition as possible. If ecological site conditions preclude the use of native species, the Holder may use non-invasive, non-native species for rehabilitation purposes, as approved by the Authorized Officer.
64. The Holder will control noxious and invasive, non-native weeds on all portions of ROW or permitted areas disturbed during construction, maintenance, or use.
65. Within the slickspot peppergrass Zone of Consideration, the Holder will establish at least a 50% perennial plant cover after all ground disturbing activities have been completed unless ecological site conditions preclude that level of cover. If a native species component existed prior to the ground disturbance, then the native species component of the perennial cover should be restored.

**Use the following stipulation for authorizations located within Idaho National Heritage Program (INHP) B- or C-ranked Element Occurrences (EOs) and critical habitat.**

66. The Holder will control invasive, non-native species located in an additional \_\_\_ foot wide strip along the outside boundaries of the ROW.

**Use the following stipulations for authorizations located within the slickspot peppergrass Consideration Zone:**

67. As directed by the Authorized Officer the Holder will be responsible for control of noxious weed species that result or would result from the construction, use, or maintenance of their grant.

Any herbicide use will comply with all applicable Federal and State laws. Herbicides will be used only in accordance with their registered uses within limitations imposed by the Secretary of the Interior. Prior to the use of the herbicides, the Holder will obtain from the Authorized Officer, written approval of a Herbicide Use Proposal Plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, locations of storage and disposal of containers, and any other information deemed necessary by the Authorized Officer. Applicator(s) will hold a current

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applicator's license.

For areas and acres treated the Holder will submit to the BLM no later than 14 days after application a completed Pesticide Application Record Form. Other control methods include but are not limited to annual mowing.

68. Within the slickspot peppergrass Zone of Consideration, the Holder will establish at least a 50% perennial plant cover after all ground disturbing activities have been completed unless ecological site conditions preclude that level of cover. If a native species component existed prior to the ground disturbance, then the native species component of the perennial cover should be restored.
69. The Holder will seed all disturbed areas with an agreed upon seed mixture, using an agreed upon method suitable for the location. Seeding will be repeated if a satisfactory stand is not obtained as determined by the authorizing officer upon evaluation after the third growing season.
70. The Holder will conduct all activities associated with the construction, operation, and termination of the ROW within the authorized limits of the ROW.
71. The Holder will wash all equipment prior to entry to the construction site and anytime the equipment re-enters the site if it has been moved from the immediate location.
72. In emergency situations the Holder may start work immediately, but will notify BLM as soon as possible. Every effort will be made to limit disturbance and every attempt will be made to avoid slickspots during these operations.

### **Use the following slickspot peppergrass stipulations for authorizations within the Jarbidge Field Office. (2016 Informal Consultation between JFO and FWS).**

73. Stage equipment in existing disturbed areas.
74. Avoid driving over or staging equipment on slickspots.
75. When performing construction and maintenance (including emergency repairs) activities during the "closed" fire season (May 10 – October 20), as set by Idaho State Law, Title 38-115, or during any other closed fire season prescribed by the BLM Idaho State Director, the Holder, including those working on their behalf, will equip at least one on-site vehicle with firefighting equipment, including, but not limited to, fire suppression hand tools (i.e. shovels, rakes, Pulaski's, etc.), a 16-20 pound fire extinguisher, and a sufficient supply of water for initial attack, with a mechanism to effectively spray the water (i.e. backpack pumps, watersprayer, etc.).
76. During conditions of extreme fire danger or when the State of Idaho and/or the BLM Idaho State Director issues a fire restriction order, operations will be limited or suspended in specific areas, or additional measures may be required by the Authorized Officer.
77. Soil removed during site preparation will not be stockpiled or spread on slickspots or within 20 ft. of a slickspot.
78. Construction and/or maintenance-related traffic will be restricted to routes approved by the Authorized Officer. New access roads or cross-country vehicle travel will not be permitted unless prior written approval is given by the Authorized Officer. Authorized roads used by the Holder will be rehabilitated or maintained when construction activities are complete.
79. The Holder will notify the BLM as soon as possible (preferably 60 days in advance) of the location of structures proposed for repair and/or replacement and their proximity to slickspot microsites. In the instance that structure replacement and/or repair will occur

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within 20 feet of a slickspot microsite, the BLM will contact the Fish and Wildlife Service to determine if additional section 7 consultation will be necessary.

80. The Holder will not perform maintenance activities when soils are saturated except in the case when emergency work must take place in order to restore power.
81. The Holder will control noxious and invasive, non-native weeds on all portions of ROW or permitted areas disturbed during construction, maintenance or use.
82. The Holder will establish at least a 50% perennial plant cover after all ground disturbing activities have been completed unless ecological site conditions preclude that level of cover. If a native species component existed prior to the ground disturbance, then the native species component of the perennial cover should be restored.

### Sage-Grouse

#### **Direction for addressing land use authorizations in Greater Sage-Grouse habitat:**

To meet the objectives of the “Idaho Greater Sage-Grouse Record of Decision and Approved Resource Management Plan Amendment (ARMPA), March, 2019,” managers will impose appropriate stipulations on a case-by-case basis in accordance with the ARMPA management decisions, buffers, seasonal restrictions, and required design features.

### Water Rights

#### **For use in authorizations with associated water rights. Use “Holder”, “Lessee”, or “Permittee” as appropriate.**

83. In exchange for this authorization, the Holder agrees that, in obtaining the water right associated with this authorization and applying that water to a beneficial use, he is acting as an agent of the United States. The portion of said water right being used on Federal land will be held solely in the name of the United States Bureau of Land Management. The use of water on Federal land in violation of this authorization is considered a trespass under 43 CFR § 2920.1-2, and will subject the authorization to immediate suspension and/or termination per 43 CFR § 2920.9-3.
84. The use of water on Federal land without permission from the Idaho Department of Water Resources (IDWR) in the form of an approved water permit, license or decree is a violation of this authorization.
85. Holder will be responsible for all costs associated with obtaining, maintaining in good standing, and using water rights to conduct agricultural activities on Federal land described in this authorization, including but not limited to: acquiring water rights solely in the name of the United States, fines, transfer fees, assessment fees, measurement fees, mitigation, power or fuel costs, and purchase, installation & maintenance of any required measurement devices, etc. Holder assumes all liability for compliance with applicable state and Federal rules, regulations, and laws governing water use, irrigated agriculture, and associated activities, and for damages caused to Federal land by the Holder.
86. Failure of the Holder to remain in compliance with State and Federal rules, regulations, or laws regarding the use of water or any stipulated condition within this authorization to the satisfaction of the Authorized Officer will result in suspension and/or termination of this authorization in accordance with 43 CFR 2920.9-3.
87. No right, title, interest, or economic expectation of use accrues to the Holder due to the use of Federal land pursuant to this authorization. The Holder will not cause any water to

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be conveyed off Federal land without the written permission of the BLM Authorized Officer.

88. Holder agrees to hold the United States harmless from loss, injury, damage and/or reduction in value of water rights or the farming operation should this authorization be suspended, modified, terminated according to its terms, or expires and is not renewed. If this authorization is suspended, modified, expires and is not renewed, or is terminated according to its terms, then the Holder may initiate a water transfer with the Idaho Department of Water Resources (IDWR) pursuant to Idaho Code § 42-222 to move water associated with this authorization from Federal to non-Federal land within sixty (60) days of the date the use of Federal land is no longer authorized in writing by BLM. The Holder agrees to bear all costs of said water transfer. The United States agrees to cooperate in said water transfer, however, the Holder agrees that upon completion of the water transfer, the Holder will not assume title to any water right(s) or portion thereof that describes acres within a place of use on Federal land, and any portion of the water right(s) not transferred will remain solely in the name of the United States. If said water transfer is not initiated within sixty (60) days of the date this authorization expires or is suspended/terminated, or is initiated but then withdrawn, or IDWR does not allow the transfer of all or a portion of the water used on Federal land associated with this authorization, then the Holder agrees that any portion of the water use describing Federal land as a place of use will be deemed abandoned, forfeited and no longer legally valid. The Holder further agrees to release and hold harmless the United States from any loss, injury, damage and/or reduction in value of water rights should IDWR not allow transfer of the water right(s), or any portion thereof, and the water rights are abandoned, forfeited and no longer legally valid.

### 2920 Apiary Permits

89. This land use permit is subject to all valid existing rights and will not excuse the permittee from obtaining any additional approvals lawfully required by the BLM or other Federal, state, or local agencies.
90. The permittee will not make any changes in roads leading to or near the subject lands or be allowed to construct new roads, without prior written authorization from the BLM Authorized Officer.
91. The permittee will place honey bee colonies in areas where no vegetation will need to be cleared except the mowing of grasses either with hand equipment (such as a hand scythe, weed eater, etc.), or with mowing machinery, for fire protection, if allowed. No removal of vegetation which includes soil disturbance such as blading is allowed and no leveling of the site is allowed without prior written authorization from the BLM Authorized Officer.
92. The permittee will take every precaution to prevent fires. This includes, but is not limited to, ensuring proper spark arresters on all internal combustion engines, proper use of all bee smokers, including properly extinguishing the smoker when moving between hives, and any other activities which they or their employees might engage in during their use of the public lands. Further, the permittee will be responsible for the cost of suppression of all fires set or caused by themselves or their employees.

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93. The permittee will keep the site free from all safety and health hazards or problems not inherent in apiary use.
94. Apiary sites will be restricted to a maximum area of 100 feet by 100 feet. The number of colonies per site will not exceed 80.
95. The permittee will not place bee colonies within 100 feet of any public access road, dwelling, farm building or stock watering source.
96. Colonies authorized by this permit will not be placed within a ½ mile radius of any other apiary belonging to someone other than the permittee.
97. In the event of conflict with other valid existing uses, the Authorized Officer may require apiary sites be moved to another location.
98. The permittee will place his/her name or other identifying information on any hives placed on public land

### Commercial Filming and Photography

99. The permittee or designee will have a copy of this permit with them at all times when filming at the BLM location.
100. All vehicles will stay on designated roads, turnouts and parking areas. No off-road, cross-country vehicle use is permitted.
101. No surface disturbing activities are permitted.
102. No intentional filming of cultural or paleontological resource sites is allowed. Discovery of cultural or paleontological sites or cultural artifacts must be immediately reported to BLM.
103. The final filming product will have written and/or verbal acknowledgement of filming location on public lands managed by the Bureau of Land Management, if feasible.
104. The permittee will provide and hold a certificate of liability insurance for not less than \$\_\_\_\_\_ with the United States Government added as “additional insured” on the policy for the dates of the permit.
105. Rights of access to or through private land, state land, or public land under any jurisdiction other than the Bureau of Land Management are not granted or implied by this permit. Obtaining permission for access to or use of any non-BLM lands is the sole responsibility of the permittee.
106. This permit is not exclusive; that is, the BLM reserves the right to use or permit others to use any part of the permitted area for any purpose, provided such use does not interfere with the rights and privileges hereby authorized.
107. Permittee will provide an orientation to his/her employees and clients on the conditions and stipulations of the permit. Permittee is responsible for all actions of employees on the public lands.