

PROJECT SPECIAL PROVISIONS
PERMITS

The Contractor's attention is directed to the following permits, which have been issued to the Department of Transportation by the authority granting the permit.

PERMIT**AUTHORITY GRANTING THE PERMIT**

16 USC 1761-1771

U.S. Department of Agriculture

The Contractor shall comply with all applicable permit conditions during construction of this project. Those conditions marked by * are the responsibility of the department and the Contractor has no responsibility in accomplishing those conditions.

Agents of the permitting authority will periodically inspect the project for adherence to the permits.

The Contractor's attention is also directed to Articles 107-10 and 107-14 of the Standard Specifications and the following:

Should the Contractor propose to utilize construction methods (such as temporary structures or fill in waters and/or wetlands for haul roads, work platforms, cofferdams, etc.) not specifically identified in the permit (individual, general, or nationwide) authorizing the project it shall be the Contractor's responsibility to coordinate with the Engineer to determine what, if any, additional permit action is required. The Contractor shall also be responsible for initiating the request for the authorization of such construction method by the permitting agency. The request shall be submitted through the Engineer. The Contractor shall not utilize the construction method until it is approved by the permitting agency. The request normally takes approximately 60 days to process; however, no extensions of time or additional compensation will be granted for delays resulting from the Contractor's request for approval of construction methods not specifically identified in the permit.

Where construction moratoriums are contained in a permit condition which restricts the Contractor's activities to certain times of the year, those moratoriums will apply only to the portions of the work taking place in the waters or wetlands provided that activities outside those areas is done in such a manner as to not affect the waters or wetlands.

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Authorization ID: FRE102002
Contact ID: FRE1019
Expiration Date: 12/31/2005
Use Code: 741

FS-2700-25 (02/99)
OMB NO. 0596-0082

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
TEMPORARY SPECIAL - USE PERMIT
(FSH 2709.11, sec. 54.6)
AUTHORITY:
16 USC 1761-1771

North Carolina Department of Transportation, hereinafter called the Holder, is hereby authorized to use, subject to the terms and conditions of this permit, National Forest System land identified within the Appalachian Ranger District, Pisgah National Forest and described as a portion of USA Tract P-31, as shown on the attached Exhibit. This authorization covers approximately five acres.

The holder is authorized to conduct the following activities and/or install the following temporary improvements on the permitted area: Repair of two slide areas on Interstate 40 located in the Pigeon River Gorge in accordance with the construction plans contained in the project file.

TERMS AND CONDITIONS

1. Use under this permit shall begin on May 18, 2005 and end on December 31, 2006. The permit shall not be extended.
2. The fee for this use is waived in accordance with 36 CFR 251.57(b)(1).
3. The holder shall conduct the authorized activities according to the attached approved plans and specifications.
4. The holder shall not install any improvements not specifically identified and approved above.
5. No soil, trees, or other vegetation may be destroyed or removed from National Forest System lands without specific prior written permission from the authorized officer.
6. The holder shall comply with all Federal, State, county, and municipal laws, ordinances, and regulations which are applicable to the area or operations covered by this permit.
7. The holder shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer. The holder shall fully repair and bear the expense for all damage, other than ordinary wear and tear, to National Forest System lands, roads and trails caused by the holder's activities.
8. The holder has the responsibility of inspecting the use area and adjoining areas for dangerous trees, hanging limbs, and other evidence of hazardous conditions which would pose a risk of injury to individuals. After securing permission from the authorized officer, the holder shall remove such hazards.
9. The holder shall be liable for any damage suffered by the United States resulting from or related to use of this permit, including damages to National Forest resources and costs of fire suppression.
10. The holder shall hold harmless the United States from any liability from damage to life or property arising from the holder's occupancy or use of National Forest lands under this permit.
11. The holder agrees to permit the free and unrestricted access to and upon the premises at all times for all lawful and proper purposes not inconsistent with the intent of the permit or with the reasonable exercise and enjoyment by the holder of the privileges thereof.
12. This permit is subject to all valid existing rights and claims outstanding in third parties.
13. This permit may be revoked upon breach of any of the conditions herein or at the discretion of the authorized officer. Upon expiration or revocation of this permit, the holder shall immediately remove all improvements except those owned by the United States, and shall restore the site within thirty day(s), unless otherwise agreed upon in writing. If the holder fails to remove the improvements, they shall become the property of the United States, but that will not relieve the holder of liability for the cost of their removal and restoration of the site.
14. This permit is a license for the use of federally owned land. It does not grant any interest in real property. This permit is not transferable. The holder shall not enter into any agreements with third parties for occupancy of the authorized premises and improvements.

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- 15. Appeal of any provisions of this permit or any requirements thereof shall be subject to the appeal regulations at 36 CFR, Subpart C, or revisions thereof.
- 16. This permit is accepted subject to the conditions set forth herein, condition(s) and Exhibit(s) attached to and made a part of this permit.
- 17. The above clauses shall control if they conflict with additional clauses or provisions.

I have read and understand the terms and conditions and agree to abide by them.

NORTH CAROLINA
Department of Transportation

U. S. DEPARTMENT OF AGRICULTURE
Forest Service

By: *J.B. Setzer*
J.B. SETZER, P.E.
Division Engineer

By: *John F. Ramey*
JOHN F. RAMEY
Forest Supervisor

Date: *May 11, 2005*

Date: *5-18-05*

According to the Paperwork Reduction Act of 1995, no persons are 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 0596-0002.

This information is needed by the Forest Service to evaluate requests to use National Forest System lands and manage those lands to protect natural resources, administer the use, and ensure public health and safety. This information is required to obtain or retain a benefit. The authority for that requirement is provided by the Organic Act of 1897 and the Federal Land Policy and Management Act of 1976, which authorize the Secretary of Agriculture to promulgate rules and regulations for authorizing and managing National Forest System lands. These statutes, along with the Term Permit Act, National Forest Ski Area Permit Act, Granger-Thyva Act, Mineral Leasing Act, Alaska Term Permit Act, Act of September 3, 1954, Wilderness Act, National Forest Roads and Trails Act, Act of November 18, 1973, Archaeological Resources Protection Act, and Alaska National Interest Lands Conservation Act, authorize the Secretary of Agriculture to issue authorizations for the use and occupancy of National Forest System lands. The Secretary of Agriculture's regulations at 36 CFR Part 261, Subpart B, establish procedures for issuing those authorizations.

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.

Public reporting burden for collection of information, if requested, is estimated to average 1 hour per response for annual financial information; average 1 hour per response to prepare or update operation and/or maintenance plan; average 1 hour per response for inspection reports; and an average of 1 hour for each request that may include such things as reports, logs, facility and user information, business information, and other similar miscellaneous information requests. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

**Construction Stipulations
North Carolina Department of Transportation
Interstate 40 Slide Repairs
Haywood County, North Carolina**

Supplementary to the terms and conditions of the temporary construction permit between the United States, and the State, the following construction stipulations shall apply during the construction stage of the project (Construction stage is to begin when construction activities commence on lands administered by the Forest Service and end when the Forest Supervisor and the State mutually agree that any work done thereafter will be considered as maintenance).

The State shall:

Land Monuments:

1. Permanently monument the right-of-way in accordance with State requirements for such right-of-way before completing construction, but in any event, the minimum requirements shall be to place permanent monuments at the intersection of right-of-way with all property lines, section lines, and at intervals of not more than 1,000 feet along the right-of-way limits.
2. Land monuments and property corners or witness markers shall not be damaged, destroyed, or obliterated without the prior permission of the Forest Supervisor and shall be relocated or reestablished in accordance with standards satisfactory to the Forest Supervisor.

Archaeological Resources

If, during construction, archaeological sites are discovered, each will be evaluated by a professional archaeologist using the National Register of Historic Places, criteria of significance, using known data.

1. In the event that archaeological site testing is required to evaluate significance, and the construction project cannot be moved so that no adverse effect will occur to the cultural resource, the public road agency will notify the Forest Supervisor for consultation before construction begins or resumes.
2. All activities requiring modifications to National Register listed or eligible sites will be coordinated by the Forest Service and the Advisory Council on Historic Places and the State Historic Preservation Officer, whether under easement or not.
3. Testing or mitigating National Register sites will require a 1906 Antiquities Act permit, authorized by the Regional Forester and the Smithsonian Institution. The permit shall be sought prior to any investigations of this order.

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4. A report describing the sites found, their significance, and the judgments used to arrive at significant determinations, will be prepared by the public road agency's professional archaeologist and submitted to the Forest Supervisor for review.

5. A "site" is defined as more than two artifacts in close proximity and older than 50 years.

LANDSCAPE AND EROSION CONTROL

The State or their Contractor shall take necessary measures to prevent and control soil erosion within the right-of-way and on adjacent lands that might be affected by construction, operation, or maintenance of the highway; and shall revegetate, and keep revegetated, all areas of soil made bare by these activities, and shall constrain eroded material within the construction limits.