

Authorization ID: PRD991001  
(03/06)  
Contact ID: PRD9910  
0082  
Expiration Date: 03/31/2012  
Use Code: 711

FS-2700-4  
OMB 0596-

**U.S. DEPARTMENT OF AGRICULTURE**  
**Forest Service**  
**SPECIAL USE PERMIT**  
**AUTHORITY:**  
**FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976**

San Diego Hang Gliding And Paragliding Association of San Diego Hang Gliding and Paragliding Association, P.O. Box 420973, , SAN DIEGO, CA USA 92142 (hereinafter called the Holder) is hereby authorized to use or occupy National Forest System lands, to use subject to the conditions set out below, on the Cleveland National Forest.

This permit covers 2 acres, and/or 0 miles and is described as: STR shown on the location map attached to and made a part of this permit, and is issued for the purpose of:

The holder is authorized to conduct hang-gliding and paragliding activities at the Black Mountain launch-site and landing-zone, as further set forth in Exhibits A and B hereto.

The above described or defined area shall be referred to herein as the "permit area".

**TERMS AND CONDITIONS**

**I. AUTHORITY AND GENERAL TERMS OF THE PERMIT**

A. Authority. This permit is issued pursuant to the authorities enumerated at Title 36, Code of Federal Regulations, Section 251 Subpart B, as amended. This permit, and the activities or use authorized, shall be subject to the terms and conditions of the Secretary's regulations and any subsequent amendment to them.

B. Authorized Officer. The authorized officer is the Forest Supervisor or a delegated subordinate officer.

C. License. This permit is a license for the use of federally owned land and does not grant any permanent, possessory interest in real property, nor shall this permit constitute a contract for purposes of the Contract Disputes Act of 1978 (41 U.S.C. 611). Loss of the privileges granted by this permit by revocation, termination, or suspension is not compensable to the holder.

D. 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, conditions, and stipulations as may be required by law, regulation, land management plans, or other management decisions.

E. Existing Rights. This permit is subject to all valid rights and claims of third parties. The United States is not liable to the holder for the exercise of any such right or claim.

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

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

H. Assignability. This permit is not assignable or transferable. If the holder through death, voluntary sale or transfer, enforcement of contract, foreclosure, or other valid legal proceeding ceases to be the owner of the improvements, this permit shall terminate.

I. Permit Limitations. Nothing in this permit allows or implies permission to build or maintain any structure or facility, or to conduct any activity unless specifically provided for in this permit. Any use not specifically identified in this permit must be approved by the authorized officer in the form of a new permit or permit amendment.

## II. TENURE AND ISSUANCE OF A NEW PERMIT

A. Expiration at the End of the Authorized Period. This permit will expire at midnight on 03/31/2012. Expiration shall occur by operation of law and shall not require notice, any decision document, or any environmental analysis or other documentation.

B. Minimum Use or Occupancy of the Permit Area. Use or occupancy of the permit area shall be exercised at least N/A day each year, unless otherwise authorized in writing under additional terms of this permit.

C. Notification to Authorized Officer. If the holder desires issuance of a new permit after expiration, the holder shall notify the authorized officer in writing not less than six (6) months prior to the expiration date of this permit.

D. Conditions for Issuance of a New Permit. At the expiration or termination of an existing permit, a new permit may be issued to the holder of the previous permit or to a new holder subject to the following conditions:

1. The authorized use is compatible with the land use allocation in the Forest Land and Resource Management Plan.
2. The permit area is being used for the purposes previously authorized.
3. The permit area is being operated and maintained in accordance with the provisions of the permit.
4. The holder has shown previous good faith compliance with the terms and conditions of all prior or other existing permits, and has not engaged in any activity or transaction contrary to Federal contracts, permits laws, or regulations.

E. Discretion of Forest Service. Notwithstanding any provisions of any prior or other permit, the authorized officer may prescribe new terms, conditions, and stipulations when a new permit is issued. The decision whether to issue a new permit to a holder or successor in interest is at the absolute discretion of the Forest Service.

F. Construction. Any construction authorized by this permit may commence by N/A and shall be completed by N/A. If construction is not completed within the prescribed time, this permit may be revoked or suspended.

## III. RESPONSIBILITIES OF THE HOLDER

A. Compliance with Laws, Regulations, and other Legal Requirements. The holder shall comply with all applicable Federal, State, and local laws, regulations, and standards, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S. C. 9601 et seq., and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation, and maintenance of any facility, improvement, or equipment on the property.

B. Plans. Plans for development, layout, construction, reconstruction, or alteration of improvements on the permit area, as well as revisions of such plans, must be prepared by a qualified individual acceptable to the authorized officer and shall be approved in writing prior to commencement of work. The holder may be required to furnish as-built plans, maps, or surveys, or other similar information, upon completion of construction.

C. Maintenance. The holder shall maintain the 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 authorization. If requested, the holder shall comply with inspection requirements deemed appropriate by the authorized officer.

D. Hazard Analysis. The holder has a continuing responsibility to identify all hazardous conditions on the permit area which would affect the improvements, resources, or pose a risk of injury to individuals. Any non-emergency actions to abate such hazards shall be performed after consultation with the authorized officer. In emergency situations, the holder shall notify the authorized officer of its actions as soon as possible, but not more than 48 hours, after such actions have been taken.

E. Change of Address. The holder shall immediately notify the authorized officer of a change in address.

F. Change in Ownership. This permit is not assignable and terminates upon change of ownership of the improvements or control of the business entity. The holder shall immediately notify the authorized officer when a change in ownership or control of business entity is pending. Notification by the present holder and potential owner shall be executed using Form SF-299 Application for Transportation and Utility Systems and Facilities of Federal Lands, or Form FS-2700-3a, Holder Initiated Revocation of Existing Authorization, Request for a Special Use Permit. Upon receipt of the proper documentation, the authorized officer may issue a permit to the party who acquires ownership of, or a controlling interest in, the improvements or business entity.

#### **IV. LIABILITY**

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

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

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

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

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

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

F. The Forest Service has no duty to inspect the permit area or to warn of hazards and, if the Forest Service does inspect the permit area, it shall incur no additional duty nor liability for identified or non-identified hazards. This covenant may be enforced by the United States in a court of competent jurisdiction.

#### **V. TERMINATION, REVOCATION, AND SUSPENSION**

A. General. For purposes of this permit, "termination", "revocation", and "suspension" refer to the cessation of uses and privileges under the permit.

"Termination" refers to the cessation of the permit under its own terms without the necessity for any decision or action by the authorized officer. Termination occurs automatically when, by the terms of the permit, a fixed or agreed upon condition, event, or time occurs. For example, the permit terminates at expiration. Terminations are not appealable.

"Revocation" refers to an action by the authorized officer to end the permit because of noncompliance with any of the prescribed terms, or for reasons in the public interest. Revocations are appealable.

"Suspension" refers to a revocation which is temporary and the privileges may be restored upon the occurrence of prescribed actions or conditions. Suspensions are appealable.

B. Revocation or Suspension. The Forest Service may suspend or revoke this permit in whole or part for:

1. Noncompliance with Federal, State, or local laws and regulations.
2. Noncompliance with the terms and conditions of this permit.
3. Reasons in the public interest.
4. Abandonment or other failure of the holder to otherwise exercise the privileges granted.

C. Opportunity to Take Corrective Action. Prior to revocation or suspension for cause pursuant to Section V (B), the authorized officer shall give the holder written notice of the grounds for each action and a reasonable time, not to exceed 90 days, to complete the corrective action prescribed by the authorized officer.

D. Removal of Improvements. Prior to abandonment of the improvements or within a reasonable time following revocation or termination of this authorization, the holder shall prepare, for approval by the authorized officer, an abandonment plan for the permit area. The abandonment plan shall address removal of improvements and restoration of the permit area and prescribed time frames for these actions. If the holder fails to remove the improvements or restore the site within the prescribed time period, they 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 cost associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

## **VI. FEES**

A. Termination for Nonpayment. This permit shall automatically terminate without the necessity of prior notice when land use rental fees are 90 calendar days from the due date in arrears.

B. The holder shall pay an annual fee of Thirty Dollars \$30.00 for the period from May 01 to December 31 and thereafter annually on January 01, Thirty Dollars \$30.00: Provided, charges for this use shall be made or readjusted whenever necessary to place the charges on a basis commensurate with the fair market value of the authorized use.

C. Payment Due Date. The payment due date shall be the close of business on January 01 of each calendar year payment is due. Payments in the form of a check, draft, or money order are payable to USDA, Forest Service. Payments shall be credited on the date received by the designated Forest Service collection officer or deposit location. If the due date for the fee or fee calculation statement falls on a non-workday, the charges shall not apply until the close of business on the next workday.

D. Late Payment Interest, Administrative Costs and Penalties Pursuant to 31 U.S.C. 3717, et seq., interest shall be charged on any fee amount not paid within 30 days from the date the fee or fee calculation financial statement specified in this authorization becomes due. The rate of interest assessed shall be the higher of the rate of the current value of funds to the U.S. Treasury (i.e., Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly or at the Prompt Payment Act rate. Interest on the principal shall accrue from the date the fee or fee calculation financial statement is due.

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

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

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

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

If the fees become delinquent, the Forest Service will:

Liquidate any security or collateral provided by the authorization.

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

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

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

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

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

## VII. OTHER 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 when the authorized use provides a general benefit to a corporation.

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

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

D. Nondiscrimination (B-1).

1. The holder and its employees shall not discriminate against any person on the basis of race, color, sex (in educational activities), national origin, age, or disability or by curtailing or refusing to furnish accommodations, facilities, services, or use privileges offered to the public generally. In addition, the holder and its employees shall comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments of 1972, as amended, and the Age Discrimination Act of 1975, as amended.

2. The holder shall include and require compliance with the above nondiscrimination provisions in any third-party agreement made with respect to the operations authorized under this permit.

3. The Forest Service shall furnish signs setting forth this policy of nondiscrimination. These signs shall be conspicuously displayed at the public entrance to the premises and at other exterior or interior locations, as directed by the Forest Service.

4. The Forest Service shall have the right to enforce the foregoing nondiscrimination provisions by suit for specific performance or by any other available remedy under the laws of the United States or the State in which the violation occurs.

E. Equal Access to Federal Programs (B-2).

In addition to the above nondiscrimination policy, the holder agrees to insure that its programs and activities are open to the general public on an equal basis and without regard to any non-merit factor.

F. Removal and Planting of Vegetation and Other Resources (D5). The holder shall obtain prior written approval from the authorized officer before removing or altering vegetation or other resources. The holder shall obtain prior written approval from the authorized officer before planting trees, shrubs, or other vegetation within the authorized area.

G. Protection of Habitat of Endangered, Threatened, and Sensitive Species (X8). Location of areas needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act of 1973, as amended, or as sensitive by the Regional Forester under authority of FSM 2670, derived from ESA Section 7 consultation, may be shown on a separate map, hereby made a part of this authorization, or identified on the ground. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the authorization holder.

If protection measures prove inadequate, if other such areas are discovered, or if new species are listed as Federally threatened or endangered or as sensitive by the Regional Forester, the authorized officer may specify additional protection regardless of when such facts become known. Discovery of such areas by either party shall be promptly reported to the other party.

H. Airport Authorization Area, Government Use (X35). All departments and agencies of the United States Government operating aircraft shall have free and unrestricted use of the airport.

I. Airport Authorization Area, Public Use (X36). It is understood and agreed that if, in the opinion of the Forest Service, an increase in the private use of aircraft necessitates or justifies use of this field by the public, the Forest Service reserves the right to declare this field open to public use -- commercial or noncommercial. The Forest Service also reserves the right, upon such declaration, to decide whether a fee may be charged by the holder, and if the latter, to determine the rates which may be charged for landing and other services. The rights reserved by the Forest Service in this clause will not be exercised, except after giving the holder one (1) year's written notice.

J. Airport Capacity (X38). The holder shall permit all qualified operators, on reasonable terms and without discrimination, to use the airport for any aeronautical business or operation up to capacity of the airport; however, compliance with this clause shall not be required if the Administrator of the Federal Aviation Administration, in the interest of safety, makes written waiver of the requirements herein stipulated. Proof of such waiver will be required.

K. Federal Airport Act, Forest Service Use (X39). All facilities of the airport developed with Federal aid and all those usable for the landings and takeoffs of aircraft shall be available without charge to the United States for use by the Forest Service at all times in the conduct of its official business, in common with other aircraft.

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 1 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, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (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 (800) 975-3272 (voice) or (202) 720-6382 (TDD). 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.

This permit is accepted subject to the conditions set out above.

HOLDER NAME: San Diego Hang Gliding And Paragliding Association      U.S. DEPARTMENT OF AGRICULTURE

Exhibit A

**OPERATIONS PLAN**

San Diego Hang Gliding and Paragliding Association  
Black Mountain Site  
Palomar Ranger District  
Cleveland National Forest

The following stipulations must be met for this authorization to remain in effect:

**PURPOSE:** To identify procedures and actions associated with the permitted recreation use that are related to health and safety, operational guidelines, and resource protection.

**I. GENERAL PERMIT PROVISIONS**

- A. The holder shall designate an authorized representative who will serve as the contact person and representative between the permit holder and the U.S. Forest Service. The designated individual is: **Bill Helliwell (Flight Director- Black Mountain SDHGPA)**.
- B. The holder shall advise all event participants of the provisions of this plan.
- C. The holder shall provide certified insurance policy and certificate to the Palomar Ranger District which meets the minimum insurance coverage for Recreation Events. General liability insurance coverage of \$1,000,000.00. Waivers of Liability are generally NOT an acceptable substitute for adequate insurance. "Occurrence" policies are preferred over "claims made" policies. The insurance policy and certificate of insurance must name the U.S. Government as "additional insured" to read as follows:

**CERTIFICATE HOLDER:**

*Cleveland National Forest  
10845 Rancho Bernardo Road, Suite 200  
San Diego, CA 92127-2107*

It is understood and agreed that the coverage provided under this policy will not be cancelled or its provisions changed or deleted before thirty (30) days written notice to the United States Government, in case of Cleveland National Forest, 10845 Rancho Bernardo Rd., San Diego, CA 92127-2107. It is also agreed that no flying will occur until after a copy of the insurance and bond information have been received.

- D. Use of the site will be reported to the Palomar Ranger District on a quarterly basis. The information reported should include the number of all hang gliders and paragliders using the site, number of accidental landings in Pamo Valley, as well as information about resource damage or risks to public safety that occur in the area. Submit reports to the Palomar Ranger District on the first week of the 3<sup>rd</sup>, 6<sup>th</sup>, 9<sup>th</sup>, and 12<sup>th</sup> month from the permit issuance date.
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- E. In the event of an injury/fatality accident or other serious incident, the holder will notify the Forest Service Communications Center (Dispatch) at **(619) 557-5262**. The holder will also provide the Name(s) and Address(es) of the victim(s) and witness(es) of any injury/fatality accident in a written post-event report to the Forest Service.
- F. Use of site may be suspended and/or restricted at any time by the USFS for safety, fire, or resource protection issues. Permittee is responsible for checking fire danger levels and associated activity restrictions by calling **(619) 593-2183**.
- G. All users must remain on designated trails and roads. No open fires are permitted. Permittee is responsible for the removal and clean-up of all user related flagging, signs, trash, etc.

#### **SPECIFIC PERMIT PROVISIONS AND CONDITIONS**

- 1) Access to the launch site will be managed by the permittees through the use of a combination lock. The permittee will provide the combination to the Palomar District and immediately notify the district upon changing the combination code.
- 2) No more than 12 people authorized under this permit will be allowed within the launch area (past upper gate) per/day.
- 3) No more than four (4) vehicles will be allowed beyond the upper gate at any one time.
- 4) For 12 or more people or organized events, the permittee must notify and request permission in writing to the Palomar Ranger District at least 30 days in advance. Permittee will also be required to provide toilet facilities (portable toilets) at the designated landing site.
- 5) The Palomar Ranger District's recreation officer will establish a monitoring program for the permit area to document potential impacts to sensitive plants from both authorized and unauthorized use. This monitoring program will be implemented and coordinated with the Palomar resource officer.
- 6) Permittee is authorized to maintain an approximate 1.5 acre landing area west of the intersection of Black Mountain Road and Santa Ysabel Road. Clearing may be performed manually or mechanically (mowed). Grasses, smaller plants and/or sage (soft) scrub vegetation such as *Artemisia californica* and *Lotus scoparius* will be left in place. A screening of larger vegetation around the perimeter will be left in place. Launch site maintenance includes the clearing of all woody chaparral vegetation with a stem diameter of 1/4 inch or greater and 12 inches or more in height from a rectangular area measuring approximately 25 ft. by 50 ft. The purpose of this vegetation clearing is to minimize snagging and/or fouling of equipment. Within the center of the 20 ft x 50 ft area, a 3-foot wide by 40 foot length dirt path will be maintained for launching. ***Launch site vegetation removal and/or trimming is prohibited from February 1<sup>st</sup> through May 31<sup>st</sup>.***



