

STATE OF WASHINGTON, PARKS AND RECREATION COMMISSION
Don Hoch, Director

WILLAPA HILLS TRAIL STATE PARK
RIGHT OF ENTRY PERMIT # P946004LEW1

THIS PERMIT is made this 19th day of November, 2012, between the STATE OF WASHINGTON, WASHINGTON STATE PARKS AND RECREATION COMMISSION (Grantor, "State" herein), and LEWIS COUNTY PUBLIC WORKS ("Grantee" herein).

In consideration of mutual benefits and in consideration of the performance by Grantee of the covenants, terms and conditions hereinafter set forth, State hereby conveys to Grantee a nonexclusive, non-divisible permit. This permit authorizes the use of parkland for the purpose of:

Culvert maintenance and vegetation removal, with all connections and appurtenances thereto (herein "Facilities"), across, along, in, upon and under State's property described and shown in Exhibits "A" and "B" attached hereto and by this reference made a part hereof. The terms "area" and "use area" in this instrument refer to State's property as described and shown in Exhibits "A" and "B".

Following review, staff has determined that the granting of this permit is exempt from the State Environmental Policy Act of 1971 under WAC 197-11-800(23)[h]. Consequently, no SEPA document is required prior to execution of this permit.

This permit is granted under authority of RCW 79A.05.070(5) and Commission authority of September 27, 2007. It is granted subject to and conditioned upon the following terms, conditions and covenants which Grantee hereby promises to faithfully and fully observe and perform.

1. **Term of Permit.** This permit is valid for a period of one (1) year or portions thereof from the date of signature and may be renewed upon mutual written consent.
2. **Cost of Construction.** Grantee shall bear and promptly pay all costs and expenses of construction of the facility.
3. **Prevailing Wage.** Grantee hereby agrees to abide by all applicable prevailing wage laws.

4. **Coordination of Activities.** Grantee shall coordinate the dates of its construction and other major activities on State's property with the Willapa Hills Trail State Park Manager, or such other employee of State as State may from time to time designate, and Grantee shall provide said employee with at least three (3) days' prior notice of its intent to enter upon State's property to commence such activity; PROVIDED, HOWEVER, that in the event of an emergency requiring immediate action by Grantee for the protection of its facilities or other persons or property, Grantee may take such action upon such notice to State as is reasonable under the circumstances.
5. **Work Standards.** All work to be performed by Grantee on State's property shall be in accordance with the plans submitted to and approved by State and shall be completed in a careful and workmanlike manner to State's satisfaction, free of claims or liens. Upon completion of construction on State's property, and upon completion of any subsequent work performed by Grantee on State's property, Grantee shall remove all debris and restore the surface of the property as nearly as possible to the condition in which it was at the commencement of such work, and shall replace any property corner monuments, survey references or hubs which were disturbed or destroyed during construction.
6. **Access by State during Construction.** Grantee shall make provisions satisfactory to State for continued access by State along, over and across the use area during periods in which Grantee is conducting construction or other activities.
7. **Archaeology.** In the event archaeological resources are found or unearthed during the work allowed by this permit, the Grantee shall comply with provisions of Chapter 27.44 RCW, Chapter 27.53 RCW and the rules and regulations of the Office of Archaeology and Historic Preservation, including compliance with all archaeological excavation permit requirements. If cultural resources are discovered, Grantee shall cease work immediately and contact State Parks' Archaeologist at (360) 902-8500.
8. **Compliance with Laws and Rules.** Grantee shall at all times exercise its rights herein in accordance with the requirements (as from time to time amended) and all applicable statutes, orders, rules and regulations of any public authority having jurisdiction.
9. **Tree Removal.** No trees are to be cut or removed from State's property without prior approval of the State according to the policies of the Washington State Parks and Recreation Commission or as described in Grantee's plans.
10. **Control of Park Gates, Roads and Lands.** Control of park gates, roads and lands shall remain with State at all times.
11. **Grantee's Use and Activities.** Grantee shall exercise its rights under this permit so as to minimize, and avoid if reasonably possible, interference with State's use of the property for park purposes. Grantee shall at all times conduct its activities on State's property so as not to interfere with, obstruct or endanger State's operations or facilities.

- 12. Termination for Breach.** In the event Grantee breaches or fails to perform or observe any of the terms and conditions herein, and fails to cure such breach or default within thirty (30) days of State's giving Grantee written notice thereof, or, if not reasonably capable of being cured within such thirty (30) days, within such other period of time as may be reasonable in the circumstances and agreed to in writing, State may terminate Grantee's rights under this permit in addition to and not in limitation of any other remedy of State at law or in equity, and the failure of State to exercise such right at any time shall not waive State's rights to terminate for any future breach or default.
- 13. Release of Obligation on Termination.** No termination of this permit shall release Grantee from any liability or obligation with respect to any matter occurring prior to such termination, nor shall such termination release Grantee from its obligation and liability to remove the facilities authorized by this permit from State's property and restore the premises.
- 14. Third-Party Rights.** State reserves all rights with respect to its property, including, without limitation, the right to grant permits, licenses and permits to others subject to the rights granted in the permit.
- 15. Release and Indemnity.** Grantee does hereby release and indemnify State from and against any and all liability, loss and damage incurred by State arising directly on account of Grantee and Grantee's agents in the exercise of the rights granted herein; PROVIDED, HOWEVER, this paragraph does not purport to indemnify State against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of State or State's agents or employees.
- 16. Insurance.** Lewis City's/County's liability coverage is provided through its membership in the Washington Cities/Counties Risk Pool. The City's/County's policy number is 1213-RISKPOOL-LWCO. The current policy period is 10/01/12 to 10/01/13. The Pool provides a \$10,000,000 per occurrence limit of insurance, with the City/County carrying a deductible of \$250,000, per occurrence. Coverage includes bodily injury, personal injury, property damage, errors and omissions and advertising injury.
- 17. Property Title.** The rights granted herein are subject to permits, leases, licenses and easements, if any, heretofore granted by State affecting the property subject to this permit. State does not warrant title to its property and shall not be liable for defects thereto or failure thereof.

18. **Notices.** Notices required to be in writing under this permit shall be given as follows:

If to State:

Washington State Parks & Recreation Commission
Lands Program
P.O. Box 42650
Olympia, WA 98504-2650
(360) 902-8500

If to Grantee:

Lewis County Public Works
ATTN: Ann Weckback
2025 NE Kresky Avenue
Chehalis, WA 98532
360-740-1440

With Copy to:

Millersylvania State Park, Manager
12245 Tilley Road South
Olympia, WA 98512
360-753-1519

19. **Assignment.** Grantee shall not assign its rights hereunder, and no such assignment shall be valid, without the prior written consent of State.

20. **Successors.** Subject to the preceding paragraph, the rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successors and heirs.

EXECUTED as of the date hereinabove set forth.

GRANTEE

By



Title

DIRECTOR

STATE

By



Larry Fairleigh, Assistant Director
September 27, 2007

APPROVED AS TO FORM ONLY:

ROB MCKENNA
Attorney General

Matthew R. Kernutt, WSBA #35702
Assistant Attorney General
November 27, 2007

EXHIBIT A -- Legal Description

A portion of Willapa Hills Trail State Park in Sections 3, 4, 9, and 10, Township 13 N, Range 3W, W.M., Lewis County, WA,

