

MEMORANDUM OF UNDERSTANDING
Between the
STATE OF IDAHO COUNTIES
of
CUSTER, IDAHO, LEMHI, and VALLEY
And the
IDAHO DEPARTMENTS
of
LANDS, FISH & GAME, and TRANSPORTATION (Division of Aeronautics)
And the
UNIVERSITY OF IDAHO
And the
NEZ PERCE TRIBE
And the
SHOSHONE-BANNOCK TRIBES
And the
USDA FOREST SERVICE,
SALMON-CHALLIS, PAYETTE, NEZ PERCE, and BITTERROOT
NATIONAL FORESTS

This Memorandum of Understanding (MOU) is made and entered into by and between the State of Idaho Counties of Custer, Idaho, Lemhi, and Valley, hereinafter collectively referred to as the Counties, and the Idaho Department of Lands, hereinafter referred to as the IDL, the Idaho Department of Fish & Game, hereinafter referred to as the F&G, the Idaho Transportation Department, Division of Aeronautics hereinafter referred to as the ITD, and the University of Idaho hereinafter referred to as U of I, and the Nez Perce Tribe, and the Shoshone-Bannock Tribes, and the USDA Forest Service, Salmon-Challis, Payette, Nez Perce, and the Bitterroot National Forests hereinafter referred to as the Forest Service. The entities listed above may collectively be referred to as the parties to this MOU.

Background: The Frank Church River of No Return Wilderness (FC-RONRW), managed by the Forest Service, was created under the authority of the Wilderness Act of 1964 and established by the 1980 Central Idaho Wilderness Act in order to, among other things, preserve the areas' natural conditions.

I. PURPOSE:

The purpose of this MOU is to document a framework of cooperation to address the effects of noxious/invasive weeds across jurisdictional boundaries within the FC-RONRW by establishing the FC-RONRW Cooperative Weed Management Area (CWMA) in accordance with this MOU and the hereby incorporated Exhibits:

<u>Exhibit</u>	<u>Contents</u>
A	CWMA Map
B	Steering Committee Representatives, Organization and Responsibilities
C	Statutory Authorities and Agreement Types

Exhibits to this MOU may be revised or deleted by Steering Committee consensus. The latest revision of any Exhibit will automatically be incorporated into this MOU without necessitating a formal modification as defined in Provision IV-E. *See exception as noted in Exhibit B Steering Committee Responsibilities item J.*

II. STATEMENT OF MUTUAL BENEFIT AND INTEREST:

The parties to this MOU have individual noxious weed control responsibilities on lands within the CWMA. These responsibilities include but are not limited to:

- Maintaining equipment and personnel for the purpose of controlling noxious/invasive weeds within their jurisdiction;
- Administering programs involving noxious/invasive weed control; and
- Making recommendations for treatment.

The parties agree that it is to their mutual benefit and interest to work cooperatively to inventory, monitor, control, and prevent the spread of noxious/invasive weeds across jurisdictional boundaries within the CWMA. This cooperative effort will achieve better management of noxious/invasive weeds while improving working relationships between the parties and the public.

III. EACH PARTY SHALL:

- A. Agree to establish the CWMA as depicted on the CWMA map. *See Exhibit A for the CWMA map.*
- B. Agree to the formation of a CWMA Steering Committee (Steering Committee) to provide expertise and oversight to weed management activities within the CWMA. *See Exhibit B for a list of Steering Committee Representatives, Organization and Responsibilities.*
- C. Designate a key contact or a representative to serve on the Steering Committee.
- D. Work through their Steering Committee representative to provide necessary information to:
 - Revise or delete the Exhibits to this MOU;
 - Establish an Integrated Noxious Weed Management Plan (Plan); and
 - Develop and implement Annual Operating Plans (AOPs).
- E. Agree that the Plan and AOP will have goals, objectives and actions that are aligned with, "Idaho's Strategic Plan for Managing Noxious Weeds". Such plan will describe the goals and objectives for the CWMA and will be a guiding document for the management of noxious/invasive weeds within the CWMA. AOPs will describe the responsibilities associated with the implementation of these management strategies.
- F. Recognize that each party to this MOU retains primary responsibility and management discretion for lands under their jurisdiction.

- G. Agree to coordinate priorities, actions, and resources for preventing, eradicating, containing, and controlling noxious/invasive weeds within the CWMA.
- H. Consider entering into separate arrangement(s) to implement management activities associated with the Plan and AOPs. Such arrangement(s) shall be independently authorized by appropriate statutory authority, and may include, but are not limited to: Collection Agreements, Challenge Cost Share Agreements, Participating Agreements, Volunteer Agreements, Grants, Cooperative Agreements and Procurement. *See Exhibit C for Agreement Types and Statutory Authorities.*
- I. Recognize that the Clearwater and High Country Resource Conservation & Development Councils, local Soil and Water Conservation Districts, and other entities may assist in endeavors critical to the purposes of this MOU under separate formal arrangements. Such assistance may include but not be limited to: managing funds, writing grant applications, providing consultation, education, and facilitation. *See provisions III-H, IV-D and Exhibit C.*

IV. IT IS MUTUALLY AGREED AND UNDERSTOOD BY AND BETWEEN THE PARTIES THAT:

- A. PRINCIPAL CONTACTS. The principal contacts for this MOU are the Steering Committee Representatives and/or key contacts for the parties to this MOU as defined in Exhibit B.
- B. FREEDOM OF INFORMATION ACT (FOIA). Any information furnished to the Forest Service under this MOU is subject to the Freedom of Information Act (5 U.S.C. 552).
- C. PARTICIPATION IN SIMILAR ACTIVITIES. This MOU in no way restricts the parties from participating in similar activities with other public or private agencies, organizations, and individuals.
- D. NON-FUND OBLIGATING DOCUMENT. This MOU is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Specifically, this MOU does not establish authority for noncompetitive award to the parties of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition. *See Provision III-H.*
- E. MODIFICATION. Modifications within the scope of this MOU shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed.
- F. TERMINATION. Any party, in writing, may terminate their participation in this MOU in whole, or in part, at any time before the date of expiration.

G. In the interest of efficiency, this MOU will be distributed electronically for signature. Signatory officials should initially respond with their electronic signature to the email address listed below, followed by mailing their original hard copy signature to:

Howard Lyman
FC-RONRW CWMA Coordinator
Nez Perce National Forest
Route 2, Box 475
Grangeville, ID 83530
Email: hlyman@fs.fed.us

Once fully executed, an electronic copy of this MOU will be distributed to all signatory officials.

H. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature and is effective through **December 31, 2007** at which time it will expire.

The authority and format of this MOU has been reviewed and approved for signature.

/s/ Robert A. Ennis
Forest Service Grants and Agreements Specialist

February 25, 2003
Date

In witness whereof, the parties hereto have executed this MOU as of the last date written below:

LIN HINTZE, County Commissioner
Custer County

DATE

PAT HOLMBERG, County Commissioner
Idaho County

DATE

ROBERT COPE, County Commissioner
Lemhi County

DATE

TERRY F. GESTRIN, County Commissioner
Valley County

DATE

SHELDON KEAFER, Area Supervisor
Idaho Department of Lands

DATE

STEVEN M. HUFFAKER, Director
Idaho Department of Fish and Game

DATE

ROBERT MARTIN, Aeronautics Administrator
Idaho Transportation Dept, Division of Aeronautics

DATE

STEVEN B. DALEY LAURSEN, Dean
College of Natural Resources
University of Idaho

DATE

SAMUEL N. PENNEY, Chairman
Nez Perce Tribal Executive Committee
Nez Perce Tribe

DATE

FREDRICK AUCK, Chairman
Fort Hall Business Tribal Council
Shoshone-Bannock Tribes

DATE

GEORGE MATEJKO, Forest Supervisor
USDA Forest Service, Salmon-Challis National Forest

DATE

MARK MADRID, Forest Supervisor
USDA Forest Service, Payette National Forest

DATE

BRUCE E. BERNHARDT, Forest Supervisor
USDA Forest Service, Nez Perce National Forest

DATE

DAVID T. BULL, Forest Supervisor
USDA Forest Service, Bitterroot National Forest

DATE

EXHIBIT A
Replace this page with a map of the CWMA

EXHIBIT B

STEERING COMMITTEE REPRESENTATIVES

Parties to the MOU

February 2003

Jim Hawkins
U of I Extension (Custer County)
Phone 879-2344
Email: custer@uidaho.edu

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Salmon-Challis National Forest
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Leonard Lake
Noxious Weed Program Manager
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Howard Lyman
FC-RONRW Noxious Weed Coordinator
Nez Perce National Forest
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Whitebird, ID 83554
Phone: (208) 839-2211
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Gil Gale
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Bitterroot National Forest
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Ken Wotring
FC-RONR Wilderness Coordinator
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Email: kwotring@fs.fed.us

STEERING COMMITTEE REPRESENTATIVES

**From
Interested Organizations and Individuals**

Bob Spencer
Western Whitewater Association
Phone 332-8613
Email: bspencer@agri.state.id.us

Jim Mozingo
Allison Ranch caretaker on Main Salmon
River
Phone 382-4336
Email: allisonr@starband.net

Don Hunger
Student Conservation Assoc.
Phone (360) 752-2479
Email: don@sca-inc.org

Scott Farr
Private landowner on Middle Fork Salmon
River
Phone 879-2203
Email: farr@idahowilderness.com

Grant Simonds
Idaho Outfitters Association
Phone 336-3014
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OTHER KEY CONTACTS

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Division of Aeronautics
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Conservation District
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John Helsel
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Aaron Miles / Jack Bell
Nez Perce Tribe
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Email: 2moon@nezperce.org
jbelle@nezperce.org

EXHIBIT B

**STEERING COMMITTEE
ORGANIZATION**

The Steering Committee will:

- A. Be comprised of a chairperson, vice-chairperson, and general Steering Committee representatives (representatives).
- B. Initially be chaired by the FC-RONRW Noxious Weed Coordinator for the Forest Service.
- C. Appoint subsequent Steering Committee chairperson and initial vice-chairperson from the representatives. Intervals of such appointments shall be at the discretion of the Steering Committee.
- D. Initially be comprised of a general representative from each of the Counties, F&G, the four National Forests, wilderness user groups, commercial wilderness user groups, environmental conservation groups, western wilderness private in holders, and eastern wilderness private in holders.
- E. Make themselves available at mutually agreeable times for continuing consultation to discuss the conditions covered by this MOU. Representatives will participate in at least one meeting annually. Such meetings shall generally be held by February 15 to coordinate noxious weed management activities.
- F. Share pertinent information, encourage and promote cooperation, and keep communication open and frequent so all representatives are informed on the status of the issues that may affect working relationships.
- G. Operate by consensus with a commitment to cooperation across jurisdictional boundaries.

EXHIBIT B

**STEERING COMMITTEE
RESPONSIBILITIES**

The Steering Committee will conduct activities including but not limited to:

- A. Establish and define the CWMA area boundary.
- B. Convene meetings as necessary.
- C. Develop an Integrated Noxious Weed Management Plan (Plan) within the context of the Noxious Weed Treatments Environmental Impact Statement and provide recommendations to the parties of this MOU for potential modifications to this strategy.
- D. Develop, prioritize, and approve cooperative noxious weed projects to be completed. Such projects shall be documented in AOPs. Such AOPs shall generally be completed by April 1 of each year.
- E. Maintain records of accomplishments.
- F. Develop public relations, education, and training initiatives.
- G. Actively seek cooperators, volunteers and alternate funding sources critical to the management success of the CWMA.
- H. Provide to the parties of this MOU an annual written report by December 31 of project accomplishments.
- I. Encourage cooperative relationships and active participation by private landowners, wilderness user groups and others within the CWMA, including Western Whitewater Association, Idaho Aviation Association, Student Conservation Association, Foundation for North American Wild Sheep, Idaho Outfitters and Guides Association, National Outdoor Leadership School and Rocky Mountain Elk Foundation and other parties interested in CWMA activities including the Idaho Department of Agriculture.
- J. Review and update Exhibits to this MOU. The Idaho Counties of Custer, Idaho, Lemhi and Valley will retain Exhibit modification approval at the County Commissioner level.
- K. Further define specific Steering Committee Responsibilities in the approved Plan and AOPs, as appropriate.

EXHIBIT C AGREEMENT TYPES & STATUTORY AUTHORITIES

FOREST SERVICE

The following is a very brief overview of Forest Service Agreement Types and Authorities available and most likely to be used in conjunction with this MOU. The general requirements of these authorities can be found in the Forest Service Manual (FSM) if referenced below. Templates of the various agreement types can be found at the Forest Service Northern Region internal website at http://fsweb.r1.fs.fed.us/property/grants/index/index_page.htm. Be sure to consult with your Forest Service Grants and Agreements Specialist if you have any questions. *See MOU Provisions III-H and IV-D.*

Collection Agreement

A Collection Agreement is normally used to document the acceptance of funds by the Forest Service from a non-federal party. Funds are usually accepted under the authority of the Cooperative Funds Act or the Granger Thye Act depending upon who is responsible for the work to be completed.

Cooperative Funds Act of June 30, 1914 (16 U.S.C. 498 as amended by Pub. L. 104-127). This Act authorizes the Forest Service to accept funds as contributions toward cooperative work in forest investigations or protection, management and improvement of the National Forest System (FSM 1584.11).

Granger-Thye Act of April 24, 1950 (16 U.S.C. 572). Section 5 of this Act authorizes the Forest Service to perform work to be completed for the benefit of the depositor, for administration, protection, improvement, reforestation, and such other kinds of work as the Forest Service is authorized to complete on National Forest System lands: (a) on State, county, municipal, or private land within or near National Forest land, or (b) for others who occupy or use National Forests or other lands administered by the Forest Service (FSM 1584.12).

Challenge Cost Share Agreement

A Challenge Cost Share Agreement is used to document the relationship when a cooperator and the Forest Service will jointly perform work on or affecting National Forest System lands, or in the furtherance of Forest Service functions. Subject to conditions, the Forest Service may reimburse the cooperator for expenses incurred toward completion of the project.

The Interior and Related Agencies Appropriations Act of 1992. This Act authorizes the Forest Service to cooperate with other parties to develop, plan, and implement projects that are of mutual interest and mutually beneficial to the parties that enhance Forest Service activities. Projects are financed with matching funds from cooperators. Cooperators may be public or private agencies, organizations, institutions, and individuals (FSM 1587.12).

Participating Agreement

A Participating Agreement is used to document the relationship when the Forest Service and a cooperator wish to perform work for which they will accrue mutual benefit (non-monetary). These

arrangements are usually accepted under the authority of the Cooperative Funds and Deposits Act or the (Wyden Amendment) depending upon a variety of requirements.

Cooperative Funds and Deposits Act of December 12, 1975 (16 U.S.C. 565a1-a3, Pub. L. 94-148). This Act authorizes the Forest Service to enter into cooperatively performed, mutually beneficial National Forest projects with non-Federal parties in four specific areas including Forestry Protection. The Forestry Protection section of the Act authorizes the Forest Service to cooperate with other parties to accomplish noxious weed control (FSM 1587.11a).

Section 334 of the 1998 Department of Interior and Related Agencies Appropriations Act (Wyden Amendment). This Act provides the Forest Service with authority to expend NFS funds off NFS lands, provided that certain conditions are met. This authority, commonly referred to as the Wyden amendment, was originally limited to fiscal year 1998. Subsequent revisions and extensions of this authority were provided for in Sections 323 and 330 of the FY 1999 and FY2002 (respectively) of the Department of Interior and Related Agencies Appropriations Acts. These modifications allow for an extension of the use of this authority through FY 2005 (FSM 1587.15).

Grant

A Grant is a federal financial assistance document used for transferring federal funds to a recipient in order to accomplish a public purpose where the Forest Service is not substantially involved. Authorities for grants are numerous but the Wyden Amendment described immediately above is perhaps the most likely authority to be used under this MOU.

Volunteer Agreement

Individual or Sponsored Volunteer Agreements are used to document the relationship when an individual or a sponsored volunteer wishes to give time and talent to advance the mission of the Forest Service and receive no salary or wages from the Forest Service (FSM 1830.1).

Volunteers in the National Forests Act of 1972, as amended , 16 U.S.C. 558a-558d. This Act authorizes the Forest Service to make agreements with individuals or institutions, organizations, or units of State or local government, who recruit and supervise their own people as volunteers on Forest Service Projects.

Cooperative Agreement

A Cooperative Agreement is a federal financial assistance document used by the Forest Service for the purpose of transferring funds to a recipient when the Forest Service is substantially involved. Substantially involved means both the Forest Service and the recipient must both be actively involved in the activity to be performed.

Federal Noxious Weed Act of 1974 (Pub. L. 93-629, 7 U.S.C. 2801 et seq., Pub. L. 101-624). This Act authorizes the Forest Service to issue cooperative agreements only to State agencies (or political subdivisions thereof responsible for the administration or implementation of undesirable plant laws of a State) for establishment of an undesirable plant management program and integrated management systems to control or contain undesirable plant species, and to issue specific cost-sharing cooperative agreements with State and local agencies to manage noxious weeds in an area if a majority of landowners in that area agree to participate in a noxious weed program (FSM 1581.23).

Additional Forest Service Authorities

Carlson-Foley Act of October 17, 1968 (Public Law 90-583). Subject to Congressional appropriations and other requirements, the Forest Service is authorized to permit and reimburse the commissioner of agriculture or other proper agency head of any State in which there is in effect a program for the control of noxious plants to enter upon any lands under their control or jurisdiction and destroy noxious plants growing on such land.

The Agriculture Risk Protection Act of 2000, Title IV, the Plant Protection Act. This authority supersedes the Federal Noxious Weed Act, however sections 1 and 15 of the Federal Noxious Weed Act are retained verbatim in the Plant Protection Act (PPA). The intent of the PPA was to absorb and incorporate other weed authorities under this authority. However, the Carlson-Foley Act was not repealed or amended.

Procurement

In addition to these methods, the Forest Service may procure services or goods from private or other non-government sources in accordance with the Federal Acquisition Regulations.

STATE OF IDAHO

Grant

A source of funding that is likely to be sought in conjunction with this MOU is available through the Idaho State Department of Agriculture (ISDA) Cost Share Program. The Application, Guidelines and additional information can be found at the ISDA website <http://weeds@agri.state.id.us/animal/costshare.htm>.

ISDA Cost Share grants are not intended to be a substitute or replacement for county or agency funds nor for costs that should legitimately be borne by landowners consistent with the Idaho Weed Law. Rather, they are to be used as a supplement to the resources of landowners, and county, state, and federal partners, particularly where a true resource crisis exists and for which delaying action for lack of resources would lead to accelerated resource deterioration and economic loss. CWMA's are the work unit recognized by the ISDA and thus all ISDA grant funding goes directly to CWMA's rather than to any of the individual parties that make up the CWMA.