

# **PROSPECTUS**

**AN OPPORTUNITY FOR  
OPEN LAND MANAGEMENT/HAY-CUTTING  
ELK BISON PRARIE  
TRIGG COUNTY  
KENTUCKY  
LAND BETWEEN THE LAKES  
NATIONAL RECREATION AREA**

**OFFERED BY:**

**USDA FOREST SERVICE  
LAND BETWEEN THE LAKES NRA  
100 VAN MORGAN DRIVE  
GOLDEN POND, KENTUCKY 42211**

**For Further Information Contact**

**Curtis Fowler at 270-924-2061**

**December 14, 2011**

## **I. Introduction**

The USDA Forest Service, Land Between The Lakes National Recreation Area (LBL) is soliciting proposals from interested parties to provide open land management/hay-cutting in the Elk Bison Prairie located in the Trigg County Kentucky portion of LBL. LBL intends to authorize one new special use permit for a term of 3 years as a result of this offering (this term may be extended - - see second paragraph under: III. Offering).

This offering will allow an individual to conduct open land management/hay-cutting on National Forest land within the area described in this prospectus. Permit holders are an agent of the Forest Service that will provide services to the public to protect health and safety and attain management objectives.

The area of opportunity is the Elk Bison Prairie. No improvements or developments to this area will be allowed. The base of operations must be located off the Forest on private land.

Potential applicants have contacted the Forest Service expressing interest in open land management/hay-cutting on the LBL. This is a demonstration of competitive interest and requires the issuance of a prospectus and evaluation of offers to determine who the permit will be allocated to among the competing applicants.

This prospectus is intended to solicit proposals from interested parties who intend to provide open land management/hay-cutting. The objective in permitting this activity on National Forest Land is to answer a public need and managing open land resources for wildlife and recreation benefits.

If an appeal is filed concerning the selection of the permit holder, a permit will **NOT** be issued until the appeal has been resolved.

All prospective applicants are advised to read this **Prospectus** and **sample Special Use Permit** carefully (Appendix A). There are a number of requirements for operations, and maintenance with which an applicant must comply. Permits will not be issued if, in the judgment of the Forest Service, a highly qualified pool of applicants is not available. The Forest Service reserves the right to reject any or all applications if their proposals would not best serve the needs of the public.

All applicants must submit, in writing, a proposal that includes the information listed under **SUBMITTING THE PROPOSAL**.

Any oral statement by any representative of the USDA Forest Service, which modifies the conditions of this prospectus, is an expression of opinion only, and confers no special rights upon any applicant. In the event that a contradiction exists between this prospectus and the Special Use Permit, the Special Use Permit governs.

## **When Is a Permit Required?**

A permit is required when individuals or organizations are conducting open land management/hay-cutting for personal use on National Forest.

Regulation: CFR 261.10(c) – The following is prohibited; selling or offering for sale any merchandise or conducting any kind of work activity or service unless authorized by Federal law, regulation or special use authorization.

## **II. General Description of Area**

The Elk Bison Prairie contains 144 acres of hay field. This area is located approximately one mile north of the LBL Administration building off the Trace Highway. There will be free ranging elk and bison as well as the general public who visit the prairie to contend with during hay operations.

## **III. Offering**

### **Authorized Use**

This offering provides the successful applicant the opportunity to use National Forest land for open lands management/hay-cutting within the Elk and Bison Prairie facility. The purpose of this offering is to maintain the open lands in the facility for wildlife benefits; enhance wildlife viewing opportunities; and provide hay to the permit holder and Forest Service as a byproduct of management.

The initial permit will be issued for up to a three year period. The decision to extend the term will depend, in part, on sustained satisfactory performance of the permit holder and administrative need. Once the permit expires, continuation of the permitted activity is at the sole discretion of the Authorized Officer. Expiration of this permit shall not require notice, a decision document, or any environmental analysis or other documentation. Should the permit holder go out of business, the permit will terminate and be competitively advertised for the remainder of the initial term. Upon the sale of a business, the permit can be transferred to a new owner for the remainder of the initial term provided they meet the minimal qualifications for a permit as defined under 26 CFR 251.

Upon selection of the successful applicant, a meeting will be held to discuss operational protocol and final permitting requirements such as permit compliance, safety, etc. The hay management practices that have been identified under Section V will become part of the terms and conditions of the permit.

## **IV. Special Considerations**

1. The Forest Service cannot ensure a profitable operation to the successful applicant. Each applicant is encouraged to appraise the economic potential of the opportunity offered by the prospectus.
2. Only those activities identified on the first page of the Special Use Permit will be authorized.
3. The Forest Service is not obligated to accept the proposal with the highest return to the government. The objective is to select a proposal which will best serve the public need.
4. An individual must sign his/her name, and furnish the address of his/her place of residence or business.

## **V. Submitting the Proposal**

Proposals (bids) for a special use permit to provide Open lands management/hay-cutting within the Elk and Bison Prairie will be accepted by mailing completed proposals to:

**Curtis Fowler  
USDA FS, Land Between The Lakes NRA  
100 Van Morgan Drive  
Golden Pond, KY 42211**

Proposals (bids) will be accepted until 4:30 P.M., on January 31, 2012. Material submitted with proposals will not be returned unless specifically requested.

Incomplete proposals (bids) could adversely affect your chances for selection. Proposals (bids) submitted after 4:30 P.M., January 31, 2012 will not be considered.

### **Whom to Contact for Information**

Prospective applicants are urged to consult with Curtis Fowler at LBL, (270) 924-2061 regarding questions related to the offering in this prospectus, permit conditions, and other related submittal requirements. A site visit of the area will be conducted on Saturday, January 14, 2012 beginning at the entrance of the Elk Bison Prairie at 9:00 am CST.

### **Proposal Required Information**

**To be considered, each applicant must submit the information requested below:**

1. A completed Special Use Application Form, SF 299. Use the form in the enclosed application package.
2. A completed Open Land Management/hay-cutting Operating Plan with detailed information for each item, including safety and emergency precautions. Use the form in the enclosed application package. This section will detail the type of service you are proposing. The following conditions will be included in the Operating Plan:

### **Administration and Communications**

This area will be administered by the Forest Service in cooperation with the National Wild Turkey Federation. The National Wild Turkey Federation will inspect and make recommendations to the Forest Service for the administration of the permit. The Forest Service will make all final determinations.

### **Hayfield Management Practices**

Before entering LBL, all equipment that will be used off road in cutting hay from pastures within EBP shall be cleaned and free of vegetation and seeds to control the spread of non-native invasive plant species.

Hay will be cut before the end of May each year at a minimum height of 4 inches. If the hay is cut after June 1, the minimum heights are 5 inches and after June 15, the minimum heights are six inches.

A minimum of 85 hay acres identified in the permit area (attached map highlighted in red) will be cut, baled and removed from LBL. All areas within the 85 acres must be cut to the specified height, including edges and ditches. Permit Holder may use bush hog to cut areas they do not want to use their hay equipment on. Any areas not cut will require the permit holder to be charged an additional \$37 per acre (cost to the Forest Service for a contractor to cut these areas subject to an annual fee change). These areas have historically been treated with a spring fertilization and a fall weed management/lime treatment. There is no guarantee these areas will receive these treatments each permit year.

Another 59 acres identified as optional area acres in the attached map and highlighted in orange stripes are available to be cut for hay within the permitted area. These acres will not require a fee for not being cut, but will not be managed, protected, or preserved for the permit holder during subsequent years. These areas are **not** subject to the spring fertilization treatment and fall weed management and lime treatment.

Hay-cutting shall follow contours or be across the predominant slope to reduce erosion and transport of sediment. Work shall not be done when conditions are such that an unacceptable

degree of rutting or damage would result (LBL BMP, Revised Continued Maintenance of Open Lands EA). Damaged areas will be evaluated and the Holder shall be responsible for the repair.

The Forest Service shall receive 50 rolls of hay for winter feeding of the bison herd. Hay shall be from EBP only and properly stacked and covered on LBL at a designated site near EBP corral. The rolls must be uniform in size to allow for proper stacking and covering, and they must be a minimum size of 5' x 5'. Delivery of larger rolls and rolls wrapped in solid sleeves or net wrap will be given preferential selection. Rolls reaching 6' x 6' in size will only require delivery of 40 rolls. These rolls will not be counted towards the "Price per Roll/Bale" calculation.

A Forest Service representative shall be notified when roll bales are completed and hay shall not be removed from EBP until the representative has an accurate count of all bales. All hay must be removed to a FS approved location outside of EBP fence lines within 10 days of rolling. All hay to be kept by the Holder that is outside of the fence lines is to be removed from LBL within 90 days.

All farm equipment parked on LBL during their period of use in the management of open lands in LBL will be in Forest Service approved locations (EBP Corral and within hayfields). The Forest Service will not be responsible for equipment or hay damaged by animals or vandalism. Fenced areas are usually available at the location for temporary equipment storage if needed. Quick removal of hay from pastures will prevent unnecessary damage caused by animals playing around rolls.

The Holder must keep gates locked at all times, not just closed and latched

All fertilizer, lime and herbicide applications for EBP will be coordinated and contracted solely by the FS/NWTF. Rates will be based on soil test results and FS/NWTF recommendations.

Any serious injury or property accident will be reported verbally within 24 hours and followed by a written report within seven days to the Land Between The Lakes NRA.

Proposals are confidential and will not be released without the permission of the applicant. Financial information is to be treated as confidential to the extent allowed and the Freedom of Information Act (5USC 552 and 552a respectively).

## **VI. AWARD**

The objective is to select the applicant whose proposal best meets the government's need. The applicant selected will be the best qualified to operate and maintain the fields per the government's needs based on, but not limited to, the written materials submitted in the application package.

A review panel with experience in open land management and special use permits will evaluate each proposal. The panel will review, evaluate, and compare proposals using the weighted selection criteria and professional judgment, but will not use a strictly mathematical scoring system. The successful applicant will be notified no later than February 24, 2012.

After all proposals have been rated, the panel will recommend to the Authorizing Officer those proposals that the panel feels are qualified to be awarded a permit. The Authorized Officer has final selection authority to accept or deny the recommendations of the panel.

The selection of the successful applicant(s) is an appealable decision under 36 CFR 251.82. An appellant must file a notice of appeal within 45 days of the date on the notice of written decision of selection.

**Selection Criteria and Weighted Value Percentage**

The following evaluation criteria are listed in order of importance:

- Proposed Operating Plan Provisions
- Permit Fees Paid to the Government

The Evaluation Criteria Summary below lists the evaluation criteria:

	Criteria
70%	<b>Operating Plan Provisions:</b> Plan realistically addresses all required minimum standards in detail and meets or exceeds required minimums. It also demonstrates an ability to operate an agricultural operation such as hayfields is demonstrated
30%	<b>Permit Fee Paid to Government:</b> Proposed return to the Government meets or exceeds the minimum.

**VII. PERMIT AND OPERATIONS**

If your proposal is selected and you are awarded open land management/hay-cutting within the Elk and Bison Prairie, LBL, you will be issued a special use permit by the Forest Service. An example of a special use permit is included in Appendix B.

The selected applicant will be responsible for the following:

**Final Operating Plan** – The Plan and accompanying itinerary will become part of the special use permit upon approval by the Forest Service.

**Fees** – **Minimum bid is \$3 per roll for each roll removed, in addition to the 50 rolls to be left for feeding the bison and elk. .**

**Operation Plan**  
**OPEN LAND MANAGEMENT/HAY-CUTTING**  
**LAND BETWEEN THE LAKES NRA**  
**ELK BISON PRARIE**

This operating plan is what the Forest Service uses in determining whether to issue you a special use permit. Once the permit is issued, this plan will become part of your permit requirements and will be evaluated at the end of your operating season.

COMPANY NAME \_\_\_\_\_

Owner/Partner(s)  
Names \_\_\_\_\_

Address \_\_\_\_\_

Phone: Business  
(\_\_\_\_\_) \_\_\_\_\_ Home(\_\_\_\_\_) \_\_\_\_\_

Designated Agent \_\_\_\_\_

**A. HISTORY OF OPERATION**

1. Year that company was established \_\_\_\_\_ Years with current ownership \_\_\_\_\_

2. Previous or current Special Use Permits held with the Forest Service or BLM.

<u>Type of Activity</u>	<u>Forest/Resource Area</u>	<u>Year</u>
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3. Previous work/business experience applicable to proposed operations:

## **B. DESCRIPTION OF THE OPERATION**

1. Briefly describe the type of operation that you are proposing and how your business will be conducted.

2. Equipment – Describe the number, type and condition of equipment that will be used for the proposed operation.

4. Emergency Preparedness – Describe communications, first aid equipment, and other safety precautions that you will employ for the proposed operation.

## **C. RETURN TO THE GOVERNMENT**

1. The minimum bid for the annual fee for this use is **\$3 PER ROLL plus the 50 rolls to be left.**

I wish to bid an additional \_\_\_\_\_ for a total of \_\_\_\_\_.

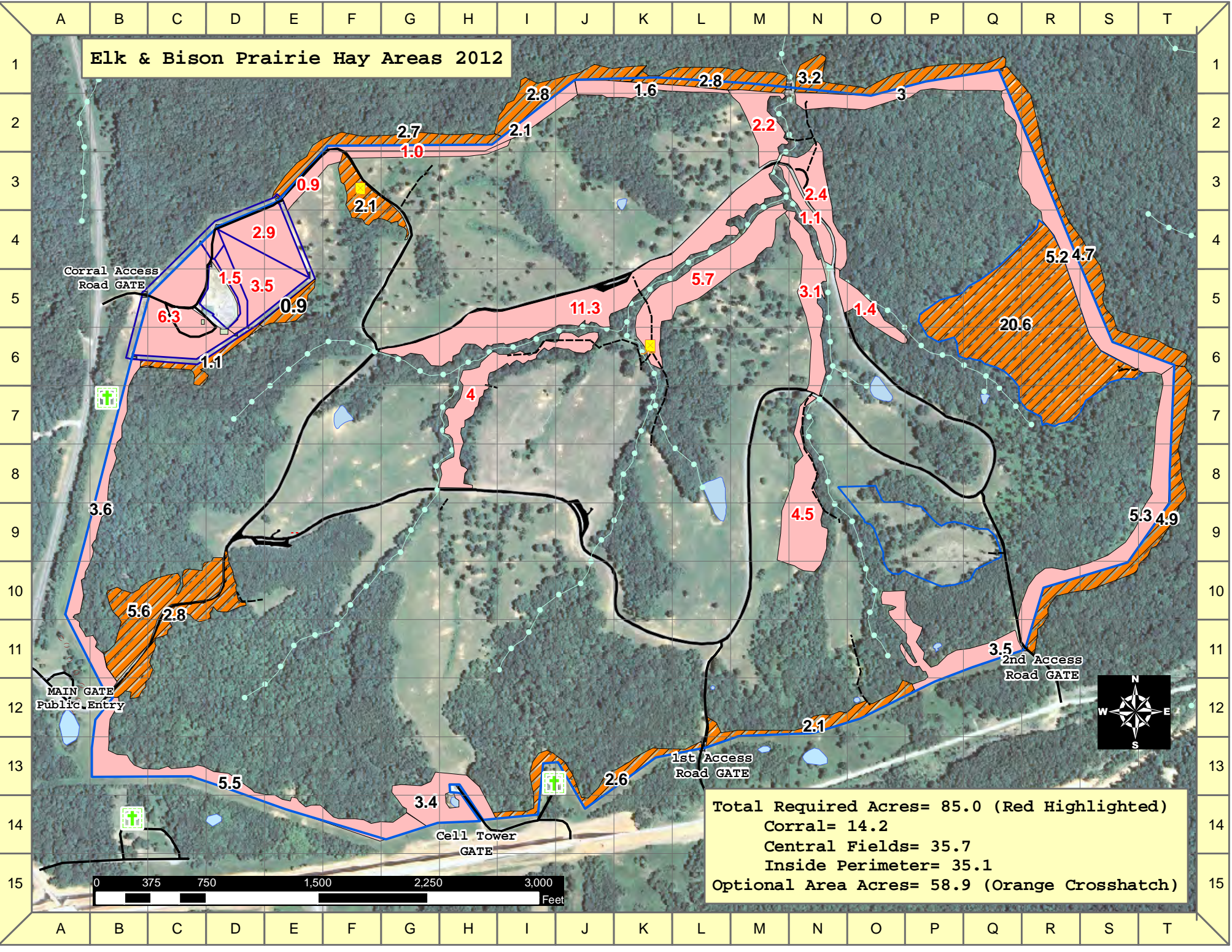
2. Describe any additional services, equipment or facilities that you will provide on National Forest lands to improve or maintain the resources and infrastructure to benefit the operations that you are proposing.

## **D. Other Required Submissions**

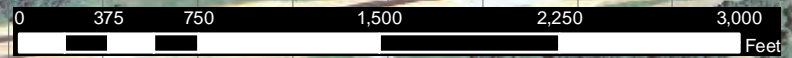
### **Application Fee/Cost Recovery**

No processing, application, or cost recovery fees will be required under this offering.

# Elk & Bison Prairie Hay Areas 2012



**Total Required Acres= 85.0 (Red Highlighted)**  
**Corral= 14.2**  
**Central Fields= 35.7**  
**Inside Perimeter= 35.1**  
**Optional Area Acres= 58.9 (Orange Crosshatch)**



Authorization ID:  
Contact ID:  
Expiration Date: 12/31/2014  
Use Code: 211

FS-2700-4 (03/06)  
OMB 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE**  
**Forest Service**  
**SPECIAL USE PERMIT**  
**AUTHORITY:**  
**LAND BETWEEN THE LAKES PROTECTION ACT**  
**16 US CODE SECTION 460(III)**

(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 Land Between The Lakes National Recreation Area.

This permit is issued for the purpose of: Harvesting hay on the fields located on Land Between The Lakes NRA in cooperation with the National Wild Turkey Federation and will be administered in accordance with the Forest Service stipulations as outlined in Appendix B. A maximum of 144 acres will be available for harvesting hay with a rate per roll of hay charged for hay cut and kept by the Holder from acres managed in pasture at EBP. Holder will provide the Forest Service with up to 50 rolls of hay cut from EBP in accordance with stipulations outlined in Appendix B. All farm equipment parked on LBL during their period of use in. Holder will include a spill prevention plan in the annual operating plan for oil, and fuels.

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 Area 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 12/31/2014. 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     days 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 twelve (12) 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 and shall be completed by an agreed upon date between the Authorized Officer and the Holder. 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 \$ 3 per roll for each roll removed, in addition to the 50 rolls to be left for feeding the bison and elk: 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. The price per roll may be adjusted accordingly upon mutual agreement between the Holder and the Forest Service after a financial review of the Holder's hayfield management costs for LBL.

C. Payment Due Date. The payment due date shall be the close of business thirty days after the hay was rolled and prior to the hay rolls being removed from LBL. 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

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 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. Operating Plan The holder shall provide an Operating Plan and revise the plan annually. The plan shall be prepared in consultation with the authorized officer or designated representative and cover operation and maintenance of facilities, dates or season of operations, and other information required by the authorized officer to manage and evaluate the occupation and/or use of National Forest System lands. The provisions of the Operating Plan and the annual revisions shall become a part of this authorization and shall be submitted by the holder and approved by the authorized officer or their designated representative(s). This Operating Plan is hereby made a part of the authorization.

F. Pesticide Use Pesticides may not be used to control undesirable woody and herbaceous vegetation, aquatic plants, insects, rodents, trash fish, etc., without the prior written approval of the Forest Service. A request for approval of planned uses of pesticides will be submitted annually by the holder on the due date established by the authorized officer. The report will cover a 12-month period of planned use beginning 3 months after the reporting date. Information essential for review will be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests require control measures which were not anticipated at the time an annual report was submitted.

Only those materials registered by the U.S. Environmental Protection Agency for the specific purpose planned will be considered for use on National Forest System lands. Label instructions will be strictly followed in the application of pesticides and disposal of excess materials and containers.

G. Archaeological-Paleontological Discoveries The holder shall immediately notify the authorized officer of any and all antiquities or other objects of historic or scientific interest. These include, but are not limited to, historic or prehistoric ruins, fossils, or artifacts discovered as the result of operations under this authorization, and shall leave such discoveries intact until authorized to proceed by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the holder.

H. RESPONSIBILITY FOR DAY-TO-DAY ACTIVITIES. Except as authorized under this clause, the holder shall conduct the day-to-day activities authorized under this permit. Some, but not all of these activities, may be conducted by a party other than the holder, but only with the prior written approval of the authorized officer. Although the holder may use third parties to conduct some of the authorized activities, the holder shall remain liable for conducting all of the authorized day-to-day activities in compliance with all the terms and conditions of this permit. If the holder elects to use a third party to carry out any of the authorized day-to-day activities, the holder shall enter into a written agreement with the third party after the agreement has been approved in writing by the authorized officer. At a minimum, the agreement shall (1) specify that the Forest Service is a third party beneficiary of the agreement; (2) bind the third party to all the terms and conditions of this permit that apply to the activities covered by the agreement; and (3) specify that any amendment of the agreement must be in writing and must have prior written approval from the authorized officer.

I. Removal and Planting of Vegetation and other Resources: 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.

J. Revegetation of groundcover and Surface Restoration: The holder shall be responsible for prevention and control of soil erosion and gullyng on lands covered by this authorization and adjacent thereto, resulting from construction, operation, maintenance, and termination of the authorized use. The holder shall so construct permitted improvements to avoid the accumulation of excessive heads of water and to avoid encroachment on streams. The holder shall revegetate or otherwise stabilize all ground where the soil has been exposed as a result of the holder's construction, maintenance, operation, or termination of the authorized use and shall construct and maintain necessary preventive measures to supplement the vegetation.

K. Protection of Habitat of Endangered, Threatened, Sensitive Species: 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.

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

HOLDER NAME:

U.S. DEPARTMENT OF AGRICULTURE  
Forest Service

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: Area Supervisor

Date: \_\_\_\_\_

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 USDAs 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 toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). 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.

## **Administration and Communications**

This area will be administered by the Forest Service in cooperation with the National Wild Turkey Federation. The National Wild Turkey Federation will inspect and make recommendations to the Forest Service for the administration of the permit. The Forest Service will make all final determinations.

## **Hayfield Management Practices**

Before entering LBL, all equipment that will be used off road in cutting hay from pastures within EBP shall be cleaned and free of vegetation and seeds to control the spread of non-native invasive plant species.

Hay will be cut before the end of May each year at a minimum height of 4 inches. If the hay is cut after June 1, the minimum heights are 5 inches and after June 15, the minimum heights are six inches.

A minimum of 83 hay acres identified in the permit area (Appendix A and highlighted in red) will be cut, baled and removed from LBL. All areas within the 85 acres must be cut to the specified height, including edges and ditches. Permit Holder may use bush hog to cut areas they do not want to use their hay equipment on. Any areas not cut will require the permit holder to be charged an additional \$37 per acre (cost to the Forest Service for a contractor to cut these areas subject to an annual fee change). These areas have historically been treated with a spring fertilization and a fall weed management/lime treatment. There is no guarantee these areas will receive these treatments each permit year.

Another 59 acres identified as optional area acres in Appendix A and highlighted in orange stripe are available to be cut for hay within the permitted area. These acres will not require a fee for not being cut, but will not be managed, protected, or preserved for the permit holder during subsequent years. These areas are **not** subject to the spring fertilization treatment and fall weed management and lime treatment.

Hay-cutting shall follow contours or be across the predominant slope to reduce erosion and transport of sediment. Work shall not be done when conditions are such that an unacceptable degree of rutting or damage would result (LBL BMP, Revised Continued Maintenance of Open Lands EA). Damaged areas will be evaluated and the Holder shall be responsible for the repair.

The Forest Service shall receive 50 rolls of hay for winter feeding of the bison herd. Hay shall be from EBP only and properly stacked and covered on LBL at a designated site near EBP corral. The rolls must be uniform in size to allow for proper stacking and covering, and they must be a minimum size of 5' x 5'. Delivery of larger rolls and rolls wrapped in solid

sleeves or net wrap will be given preferential selection. Rolls reaching 6' x 6' in size will only require delivery of 40 rolls. These rolls will not be counted towards the "Price per Roll/Bale" calculation.

A Forest Service or NWTF representative shall be notified when roll bales are completed and hay shall not be removed from EBP until the representative has an accurate count of all bales. All hay must be removed to a FS approved location outside of EBP fence lines within 10 days of rolling. All hay to be kept by the Holder that is outside of the fence lines is to be removed from LBL within 90 days.

All farm equipment parked on LBL during their period of use in the management of open lands in LBL will be in Forest Service approved locations (EBP Corral and within hayfields).

The Forest Service will not be responsible for equipment or hay damaged by animals or vandalism. Fenced areas are usually available at the location for temporary equipment storage if needed. Quick removal of hay from pastures will prevent unnecessary damage caused by animals playing around rolls.

The Holder must keep gates locked at all times, not just closed and latched

All fertilizer, lime and herbicide applications for EBP will be coordinated and contracted solely by the FS/NWTF. Rates will be based on soil test results and FS/NWTF recommendations.

Any serious injury or property accident will be reported verbally within 24 hours and followed by a written report within seven days to the Land Between The Lakes NRA.