RESOLUTION - ACTION REQUESTED 2019-564

MEETING: October 1, 2019

TO: The Board of Supervisors

FROM: Dallin Kimble, County Administrative Officer

RE: Blue Ridge Tree Removal on Native American Land

RECOMMENDATION AND JUSTIFICATION:
Authorize the Board of Supervisors Chair to Sign a Permit Application Allowing for the Removal of Hazard Tree Mortality Trees on Native American Land.

Mariposa County has been working for several years to mitigate hazard tree mortality trees that threaten public infrastructure. Some of the trees identified as hazard tree mortality trees on Colorado Road in Midpines are located on Native American Land. Removal of these trees requires a permit from the Bureau of Indian Affairs. This approval is the final step toward obtaining the required permit.

Staff recommends approval of this item to allow for removal of hazard tree mortality trees from Native American land in Midpines.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board of Supervisors declared a State of Emergency related to tree mortality with Resolution 2015-446 and has regularly renewed this action.

On December 20, 2016, the Board approved the selection of Blue Ridge Services, Inc., to manage tree mortality mitigation operations. Active planning, felling and removal of hazard tree mortality trees has been occurring since the agreement was approved in February 2017.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Do not approve. Blue Ridge Services will be unable to perform the necessary work on Native American lands.

ATTACHMENTS:
Tree Cutting Permit (PDF)
Resolution - Action Requested 2019-564

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Marshall Long, District III Supervisor
SECONDER: Merlin Jones, District II Supervisor
AYES: Smallcombe, Jones, Long, Cann, Menetrey
FREE USE TIMBER CUTTING PERMIT

- Indian Free Use
- Allotted
- Indian Paid
- Tribal
- Non-Indian Paid

Permit Name: Sarah Priest Allotment
Hazardous Tree Cutting

Permission is hereby granted to Mariposa County and Blue Ridge Services, herein called the Permittee, whose address is, 5067 Highway 140, Suite D Mariposa, CA 95338 to cut and remove timber designated by the Approving Officer, on or before June 1, 2020 from the following tract(s) on which authority to grant timber permits has been obtained:

<table>
<thead>
<tr>
<th>Area</th>
<th>Legal Description – Mariposa County,</th>
<th>Acres</th>
<th>Original Allottee</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Please see attached maps for location of allotment and trees are marked with blue paint.</td>
<td></td>
<td>Sara Priest</td>
</tr>
</tbody>
</table>

Designated timber consists of species, product, volume, and rates as follows:

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Species and Product</th>
<th>Estimated Volume</th>
<th>Unit</th>
<th>Rate Per Unit</th>
<th>Total Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ponderosa Pine</td>
<td>3.0</td>
<td>Cords</td>
<td>$5.00</td>
<td>$15.00</td>
</tr>
<tr>
<td></td>
<td>Ponderosa Pine</td>
<td>4.0</td>
<td>Cords</td>
<td>$5.00</td>
<td>$20.00</td>
</tr>
<tr>
<td></td>
<td>Gray Pine</td>
<td>.28</td>
<td>Cords</td>
<td>$5.00</td>
<td>$1.40</td>
</tr>
<tr>
<td></td>
<td>Oak</td>
<td>.70</td>
<td>Cords</td>
<td>$5.00</td>
<td>$3.50</td>
</tr>
<tr>
<td></td>
<td>Oak</td>
<td>1.0</td>
<td>Cords</td>
<td>$5.00</td>
<td>$5.00</td>
</tr>
</tbody>
</table>

TOTAL $ 44.90

The volumes shown above are estimates only and are not guaranteed. This is a free use permit:
The permit is free use for Sara Priest Allotment interest holders. A total of five hazardous trees will be cut, bucked and left in place for firewood use. Trees are considered hazardous due to condition and proximity to Colorado Road.

I accept this permit and agree to comply with the foregoing conditions and with the standard and/or special provisions of this permit.

SIGNED: [Signature]  
[Permittee (Mariposa County)]

AUTHORIZED: [Signature]  
[Permittee (Blue Ridge Services Contractor for County)]

APPROVED: [Signature]  
[Approving Officer]

Troy Burdick, CCA Superintendent

APPROVED AS TO FORM:

STEVEN W. DAHLEM
COUNTY COUNSEL
This permit is issued under the following Standard Provisions:

1.0 DEFINITIONS
1.1 "Approving Officer" means the officer who approves the contract or their authorized representative.
1.2 "Superintendent" means the Superintendent or other Bureau official representing the Agency having jurisdiction over the logging unit or, the authorized representative.
1.3 "Officer in Charge" means the forest officer of highest rank assigned to the supervision of forestry work at the Agency having jurisdiction over the logging unit, or his or her authorized representative.
1.4 "Permittee" means the Permittee, including employees, agents, or subcontractors.
1.5 "Permittee Operations" means all activities and use of equipment by the Permittee in the execution of the permit.

2.0 PERMIT OPERATIONS
2.1 The Permittee shall possess this Permit at all times when operating on, or hauling products from, the permit area.
2.2 Timber not designated for cutting and young growth will be protected from damage. Unnecessary damage by the Permittee shall be assessed by the Approving Officer, and paid for by the Permittee at double the permit stumpage rates.
2.3 Stumps will be cut low as practical so as to avoid waste. The mean height of any stump shall not exceed one-half its diameter, unless authorized by the Officer in Charge.
2.4 The slash resulting from Permittee Operations, including limbs, tops, damaged young growth and other material, will be treated as directed by the Officer in Charge. The slash will be cut into smaller pieces, scattered, or piled compactly away from the residual trees on the permit area, or a combination thereof. Roads and road rights-of-way and landings will be kept clear of slash.

3.0 SCALING AND MOVEMENT OF PRODUCTS
3.1 For sales of estimated volumes, logs or other products shall be decked, stacked, or otherwise held at scaling points designated by the Officer in Charge, and will not be moved therefrom until they have been scaled, stamped, numbered or otherwise released by the Officer in Charge. Products that are moved contrary to the instructions of the Officer in Charge shall be paid for by the Permittee at double the permit stumpage rates.
3.2 For estimated volume sales, waste from high stumps, improper bucking, breakage and partially sound logs, and all trees which are left felled, lodged or badly damaged by the Permittee Operations, will be scaled for their merchantable contents (as if they had not been damaged) and paid for by the Permittee at double the permit stumpage rates.

4.0 FIRE OPERATIONS
4.1 The Permittee will take all reasonable and practicable action to prevent fires resulting from permit activity, as required by a Fire Plan or the Superintendent. When no other fire prevention direction has been provided, the requirements will not be less than that required under the laws of the State in which the permit area is located.
4.2 The Permittee will immediately report any and all wildfires to the Officer in Charge.
4.3 When called upon by the Superintendent, the Permittee will make available any or all qualified personnel and equipment for use in suppressing wildfire on or threatening the sale area.
4.4 The Superintendent may require the Permittee to suspend any or all operations during high fire danger, or when fire is within or threatening the permit area.
4.5 It is understood and agreed that the Permittee shall be liable for all damages and suppression costs of fires caused by negligence on the part of the Permittee, in an amount to be determined by the Superintendent.

5.0 ENVIRONMENTAL
5.1 In the event that human remains or items of historical or archeological significance is discovered, the Permittee will immediately halt operations and inform the Officer in Charge.
5.2 Permittee Operations will be conducted in a manner that will minimize damage to the course, channel and sides of all streams, riparian areas, and wetlands whenever encountered. Streams include both flowing and intermittent watercourses.
5.3 The Permittee will take immediate action to contain any hazardous materials spills that have occurred as a part result of Permittee’s operations. The Permittee must notify the Officer in Charge immediately of such spills. Hazardous materials will be disposed of as directed by the Officer in Charge. Hazardous materials include, but are not limited to, petroleum products such as fuel, oil, and hydraulic fluids, and contaminated soils, rock, and vegetative material. Permittee is responsible for environmental liabilities caused by Permittee Operations.
5.4 The Officer in Charge may suspend Permittee Operations during periods of wet weather when soil damages and road rutting could occur. The Officer in Charge may direct the Permittee to take reasonable soil erosion prevention measures to retain road surfaces and prevent the gullying of roads and skid trails, or to repair damages caused by Permittee Operations.
5.5 All equipment, rubbish, garbage, litter, and other refuse resulting from the Permittee Operations shall be removed and disposed of properly.

6.0 OTHER PROVISIONS
6.1 A performance bond may be required by the Approving Officer.
6.2 The Permittee will comply with all other laws and regulations governing the reservation within which the permit tracts are located.
Instructions for Completion of Timber Cutting Permit

1. General Information. Completed as indicated to aid in reporting and to help monitor timber harvesting in the field.
   a. Check appropriate box to indicate type of permit: Indian Free Use, Indian Paid, or Non-Indian Paid.
   b. Check appropriate box to indicate land ownership type: Allotted or Tribal.
   c. Enter the permit number (10 digit alpha and/or numeric). This identifying number should be included on each page attached to the permit.
   d. Enter the permit name.
   e. Enter the reservation name or “Public Domain”.
   f. Enter the permittee’s name, address, and date by which designated timber must be cut and removed.
   g. Enter the permit tract or tract(s) and legal description. Reference should be made to a permit map if applicable (i.e. See attached “Exhibit A” permit map).
   h. Enter the species, products, units, and rates for designated timber. Add marking guidelines, if applicable.
   i. Indicate free use or requirements for payment for timber (i.e., Single payment, installment payments, advance payments, advance deposits, any waiver of requirements made for permits issued to Indian Forest Enterprises and whether or not payment is to be made directly to a Tribe or to the BIA Agency OST Lockbox).

2. Special Provisions. Each item of the permit may reference additional language to be attached as part of the permit. These special provisions shall be carefully prepared to prevent contradiction with provisions preprinted on the form. Inapplicable preprinted provisions on page 2 of the permit should be described in the Special Provisions section as not applicable. This is especially important for the standard fire suppression provisions since they could establish federal liability for injuries and death resulting from the suppression efforts of unqualified permittees or their employees. Crossing out text is inappropriate.

3. Signatures
   a. Signed. The “Signed” line designated for “Permittee” shall be signed and dated by the person obtaining the permit. If the Permittee is a Tribe, the authorized Tribal Representative signs. This individual or entity is responsible for all activities associated with the harvest under the permit.
   b. Authorized Signature
      (1) Allotment Timber
         • The signature line designated for “Allottee” shall be signed and dated by the Superintendent on behalf of the undivided interest (through signed powers-of-attorney form) or by the individual owner if it is a sole owner allotment.
         • In the absence of powers-of-attorney for multiple owner allotments, the permit with attached signature pages may be signed and witnessed for each undivided interest. Each allottee should receive a copy of the permit prior to their signing. Signature of allottees should be acquired by authorized BIA/tribal personnel and should not be acquired by the permittee.
         • Witnesses. The signature of each allottee must be witnessed by two individuals. Witnesses of each allottee’s signing should sign as indicated and should also provide their address. If a witness signature is illegible, the name should be typed or printed adjacent to the signature.

      (2) Tribal Timber
         The authorizing tribal representative shall be that individual/title specified in the timber use policy or tribal resolution/minutes approving the harvest. In the absence of tribal designated authority, the authorizing signature shall be that of the tribal chair/president or a designated representative.

c. Approved
   The signature line designated for the approving officer shall be signed by the line officer delegated the authority to approve the permit. The signatory’s title will be typed or printed below their signature. The approval date also needs to be indicated adjacent to the signature.
50H Sac-118, Sarah Priest, Public Domain Allotment
Mariposa County

September 17, 2019