

## Part 408 – Records

### Subpart C – Freedom of Information Act and Privacy Act

#### **ID408.45 – Notice of Privacy Act System of Records –Owner, Operator, Producer, or Participant Files – USDA/NRCS – 1**

(f) Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses.

Conservation plans and other information in NRCS case files are official NRCS records and are therefore protected by the Federal Privacy Act of 1974. The NRCS can only give out the following information on individual contracts: participant name, contract dollar amount and the total amount paid. The release of all other contract information such as specific project plans, practices or tract numbers requires a formal Freedom of Information Act (FOIA) request or written consent from an individual that has control of the project and property for the length of the contract (See Idaho Bulletin 120.9.2, General Manual Title 120-408.42 and Section 1619 of the 2008 Farm Bill). In the past, the Idaho NRCS has not obtained written consent to share this protected information when consulting with or obtaining permits from various Federal and State Agencies.

To comply with the Federal Privacy Act of 1974, agency policy and stipulations of the new Farm Bill, the Idaho NRCS has developed a standard one-page worksheet for the Authorization for NRCS Release of Conservation Plan File Information. This worksheet has been posted with the conservation planning forms on the Idaho Technical Services website ([http://www.id.nrcs.usda.gov/technical/cons\\_forms.html](http://www.id.nrcs.usda.gov/technical/cons_forms.html)). By printing their name on the appropriate line and signing this Information Release Worksheet, the individual in control of the project and property can consent to the Idaho NRCS to sharing information with the listed State and Federal Agencies for their given project. Note: This Information Release Worksheet only lists the agencies with whom the NRCS regularly consults; a space is provided to write in other agencies, groups or individuals that may be consulted during the course of an individual project. This consent will only be applicable for the length of the contract. Each new contract or contract modification will require the completion of a new Information Release Worksheet.

The contract holder may choose not to authorize the Idaho NRCS to release their project information. They can indicate this by printing their name on the appropriate line and signing the Information Release Worksheet. In doing this, they also agree to work directly with the listed agencies to obtain permits and to provide all pertinent project information in order for the NRCS

to complete consultation as required by the Endangered Species Act (ESA), the Magnuson-Stevens Act (MSA), the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA) and the Clean Waters Act (CWA). NRCS will not provide any further financial or technical assistance on these projects until permits are obtained and the consultation process is complete. The NRCS can continue to provide this individual with conservation assistance on other unrelated projects and contracts during this process. These projects will require separate Information Release Worksheets.

Employees, consultants, contractors and other working partners of NRCS who disclose unauthorized case file information can be fined up to \$10,000 or imprisonment for up to one year. Anyone working for, or with, the NRCS with access to NRCS case files are liable for protecting the privacy contained in those shared records.

**Authorization for NRCS Release of Conservation Plan File Information**

Persons receiving Federal funding or final designs/specifications through the USDA Natural Resources Conservation Service (NRCS) for the implementation of conservation projects are required to comply with all Federal, State, and local laws as well as obtain any appropriate Federal, State, or local permits prior to project construction. In order to ensure compliance with the Endangered Species Act (ESA), the Magnuson-Stevens Act (MSA), the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), and the Clean Waters Act (CWA), the NRCS is required to consult and share pertinent project information, including information protected under the Federal Privacy Act, with the following agencies:

- US Fish and Wildlife Service (USFWS)
- Bureau of Land Management (BLM)
- US Forest Service (USFS)
- NOAA's National Marine Fisheries service (NMFS)
- US Army Corps of Engineers (USACE)
- Idaho Department of Lands (IDL)
- Idaho Department of Water Resources (IDWR)
- Idaho Department of Environmental Quality (IDEQ)
- Idaho Department of Fish and Game (IDFG)
- Idaho State Historic Preservation Office (SHPO) or Tribal Historic Preservation Office (THPO)
- Advisory Council on Historic Preservation (ACHP)
- Idaho Soil & Water Conservation Commission (SWC)
- Idaho Association of Conservation Districts (IACD)
- Other \_\_\_\_\_

I, \_\_\_\_\_, have control of said project and/or property, and give my consent for NRCS to release pertinent information from my project or construction plan to the above listed agencies for consultation purposes. This does not authorize access to my private property by personnel from non-NRCS agencies, tribes, or other groups and individuals. This consent is only applicable for the length of this contract. You may cancel this consent by written notice.

I, \_\_\_\_\_, have control of said project and/or property and choose **not** to give my consent for NRCS to release private information about my project or construction plan to the USFWS, BLM, NMFS, USACE, IDL, IDWR, IDEQ, IDFG, ACHP, SHPO, THPO, SWC, or IACD.

If you choose to not give your consent, you must provide the NRCS with documentation that you have obtained all the required permits. You will also need to provide pertinent project information directly to all the appropriate agencies in order for the NRCS to complete their consultation requirements. You will be required to provide the NRCS with copies of any correspondence between yourself and these agencies in regards to this project. NRCS will not provide you with any further financial or technical assistance on this project until these permits are obtained and the consultation process has been completed. Implementation of any part of this project prior to completion the permitting and consultation process may be considered a breach of contract.

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| NAME (Signature) | DATE | CONTRACT NUMBER |
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Privacy Act of 1974 Compliance Information: Solicitation of information contained herein is authorized by Executive Order 10450, and/or Section 231 of the Crime Control Act of 1990 (42 U.S.C. 13041), and may be used as a basis for suitability determinations. Disclosure of the information by you is voluntary. Information may be transferred as a routine use to appropriate federal, state or local agencies when relevant to the issuance of a license, grant, or approval for participation in a conservation program. Failure to provide information requested on this form may result in the government's inability to determine your suitability for the program you are applying for.

USDA Nondiscrimination Statement: The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice or TDD.) USDA is an equal opportunity provider and employer.

The Natural Resources Conservation Service provides leadership in a partnership effort to

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help people conserve, maintain, and improve our natural resources and environment  
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