

Debris Removal Program

Private Property Debris Removal Right of Entry Permit

Background

The State of New Mexico is providing private property debris removal services in areas impacted by the 2025 flood event in Lincoln County.

Instructions

1. **Complete** the Right of Entry Permit form. Be sure to fill the form out completely, including the insurance information if you have insurance.
2. **Sign** the Right of Entry Permit. The Permit must be signed by the landowner or authorized agent.
3. **Submit** the Right of Entry Permit, as described below.

Where to Submit

- ✓ **Submit electronically** via dhsem-dcm@dhsem.nm.gov.
- ✓ **Submit in person** at the ENMU-Ruidoso Annex, 709 Mechem Drive, Ruidoso, NM 88345.

E-Signature is now available! When submitting electronically, you must include a scan or picture of a government-issued photo ID for the property owner.

Right-of-Entry Permit for Household Hazardous Waste, Disaster Debris, and Hazard Tree Removal on Private Property

Name of Owner(s)/Agent: _____

Phone Number of Owner(s)/Agent: _____

Email of Owner(s)/Agent: _____

Property Address: _____

Assessor's Parcel No. (APN): _____

I / we, _____, certify that I am / we are the owner(s), or authorized agent of the owner(s), of the real property located at the above address (hereinafter "Owner"). I hereby certify that I/we have full power and authority to execute this Right of Entry Permit (ROE) without the need for any further action, including, but not limited to, notice to or approval from any other party.

I / we hereby grant Lincoln County ("County"), as well as the State of New Mexico ("State"), and the United States Government, including their officers, employees, agencies, and independent contractors (collectively, the "Government"), a right to enter upon the real property specified above by address and Assessor's Parcel Number (hereafter the "Property") and will guarantee access to the property for the activities selected below and described herein. The provisions below are applicable.

- 1. Purpose:** The Government is granted this Right of Entry (ROE) to inspect, cut, test, remove, clear and monitor flood-generated debris of whatever nature, including but not limited to, household hazardous waste, flooded or partially flooded structures, material from post-fire burn scar flooding (e.g., ash, contaminated soil), concrete foundations which have been dislodged by floodwaters, vehicles, trailers, waste or debris, and hazard trees from the Property.
- 2. Time Period:** This ROE shall expire twelve (12) months after the date of the Owner's signature(s), below; when the Debris Removal Program is closed, as determined in the sole discretion of the Government; or when the owner submits an executed *Withdrawal Form* (see below) to the Disaster Recovery Center at ENMU-Ruidoso Annex, 709 Mechem Drive, Ruidoso, NM 88345, or DHSEM-DCM@dhsem.nm.gov.

Property Address: _____
APN: _____

- 3. Hazard Trees:** Hazard Trees are flood-damaged trees that are so damaged by the flooding that their structural integrity is compromised and that pose an immediate threat of falling onto work crews or obstructing their access to the debris clearance site or falling onto a public right of way or public improved property. The Government has sole discretion to determine whether a tree is hazardous. The Private Property Debris Removal Program does not include the removal of tree stumps. The Government, at its sole discretion, may deem it necessary to remove non-flood-damaged trees to access and fell hazard trees, and to remove trees that pose a danger to or threaten work crews.
- 4. Authorized Activities:** Owner hereby grants to the Government, the right to determine, in the Government's sole discretion, which hazard trees, materials and items on the Property are eligible and will be removed as part of its Private Property Debris Removal Program. Submission of this ROE authorizes the Government to remove flood-generated debris of whatever nature including, but not limited to, flooded or partially flooded structures, material from post-fire burn scar flooding (e.g., ash, contaminated soil), concrete foundations which have been dislodged by floodwaters, vehicles, trailers, waste, hazard trees or other debris from the Property. As part of the Private Property Debris Removal Program, Owner may not opt out of the removal of any particular type of flood-generated debris, such as foundations which have been dislodged by floodwaters and hazard trees, that the Government determines must be removed. Owner's failure to remove items not eligible for Private Property Debris Removal Program may later be deemed a public nuisance by local officials. Owner is responsible for removing, at Owner's expense, any items not removed under the Private Property Debris Removal Program which the owner wishes to be removed. Owner may withdraw from the entirety of the Private Property Debris Program by cancelling this ROE pursuant to Section 14. If Owner withdraws after work commences under the Private Property Debris Removal Program, the Government may seek reimbursement for expenses incurred up to the point of withdrawal, consistent with Section 5 herein.
- 5. Reimbursement:** Flood-generated debris and hazard tree removal under the Private Property Debris Removal Program is provided at no direct cost to the Owner. However, the Owner agrees to file an insurance claim if Owner possesses homeowner's, automobile, or property insurance. Most homeowner's, property and dwelling insurance policies include coverage for disaster debris and hazard tree removal. State and federal law require Owner to assign any disaster debris and hazard tree removal insurance proceeds to the Government to avoid a duplication of benefits. Please see 42 U.S.C. § 5155; 44 CFR § 204.62. In consideration of the Government's agreement to remove flood-related debris and hazard trees under the Private Property Debris Removal Program, Owner agrees to inform the insurance company listed below of this assignment and agrees to release their insurance information to the Government.
- **Specified Debris and/or Hazard Tree Removal Insurance Coverage:** If Owner's insurance in effect at the time of the flooding provides specific coverage for flood-generated

debris and hazard tree removal, then Owner hereby assigns any and all rights, benefits, and proceeds with respect to these particular specific coverages to the County and hereby authorizes that any benefits or proceeds be paid directly and solely to County, in an amount not to exceed the actual cost of the flood-generated debris and hazard tree removal. Owner shall not be liable for any further flood-generated debris and hazard tree removal costs to County.

- **No Specified Debris and/or Hazard Tree Removal Insurance Coverage:** If Owner's insurance in effect at the time of the flooding does not provide specific and separate coverage for flood-generated debris and hazard tree removal, but such coverage is included within another larger coverage category, then payment to County shall be limited to the unused benefit amount, after the residence is rebuilt. Owner hereby assigns any and all rights, benefits, and proceeds of any unused benefit amount that is eligible for debris and hazard tree removal remaining in a larger coverage category to County, in an amount not to exceed the actual cost of the flood-generated debris and hazard tree removal.
- **Specified Automobile Insurance Coverage:** If Owner's automobile insurance in effect at the time of the flooding provides specific coverage for vehicle removal, then Owner hereby assigns any and all rights, benefits, and proceeds with respect to these particular specific coverages to the County and hereby authorizes that any benefits or proceeds to be paid directly to County, in an amount not to exceed the actual cost of the vehicle removal. Owner shall not be liable for any further vehicle removal costs to County.
- **No Specified Automobile Insurance Coverage:** If Owner's automobile insurance in effect at the time of the flooding does not provide specific and separate coverage for vehicle removal, but vehicle removal coverage is included within another larger coverage category, then payment to County shall be limited to the unused benefit amount. Owner hereby assigns any and all rights, benefits, and proceeds of any unused benefit amount that is eligible for vehicle removal remaining in a larger coverage category to County, in an amount not to exceed the actual cost of the vehicle removal.

Please list applicable insurance information below. In the event the insurance company or companies listed below issue insurance proceeds for flood-generated debris and hazard tree removal or vehicle removal directly to Owner, then Owner shall promptly inform the County of the amount of such proceeds and remit such insurance proceeds to County, not to exceed the actual cost of the applicable flood-generated debris and hazard tree removal.

Homeowner's Insurance:

Insurance Company: _____

Policy Number: _____

Claim Number: _____

Agent's Name: _____

Agent's Phone / e-mail: _____

Secondary Insurance, or personal property insurance for other damaged items on the Property:

Insurance Company: _____

Policy Number: _____

Claim Number: _____

Agent's Name: _____

Agent's Phone / Email: _____

Automobile Insurance for car, boat, trailer or other vehicles on the Property:

Insurance Company: _____

Policy Number: _____

Claim Number: _____

Agent's Name: _____

Agent's Phone / Email: _____

If Owner does not have homeowner's or automobile insurance, or other similar insurance, then Owner certifies under penalty of perjury by his/her signature below that no insurance coverage for the costs associated with flood-generated debris and hazard tree removal at the Property was in effect at the time of the flood:

_____	_____
Owner's signature	Date

Property Address: _____
APN: _____

Owner's signature

Date

Owner's signature

Date

- 6. Property Sold Prior to Cleanup Certification:** Any property that is sold prior to issuance of the cleanup certification will be withdrawn from the program, unless both new and previous Owners sign a property transfer affidavit, and the new Owner fills out an ROE. Costs for work completed will be billed to the insurance company listed above, if applicable.
- 7. Release and Waiver of Liability:** Owner acknowledges that the Government's decisions about when, where, and how to provide flood-generated debris removal on Owner's property are discretionary functions. Owner hereby acknowledges that the Government is not liable for any claim based on the exercise or performance, or failure to exercise or perform, a discretionary function, and promises not to make such a claim. **Owner further releases the Government from all liability for any damage to property or bodily injury or death to persons on the property that may occur during or after the Debris Removal Program. Please also see Sections 8 and 9, below.** Owner therefore waives any claims or legal action against the Government, in accordance with state and federal law, including the New Mexico All Hazard Emergency Management Act, and the Stafford Act, 42 U.S.C. § 5148. Nothing in this Agreement shall be construed as a waiver of any sovereign immunity of the United States. The Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346(b), 2671-2680 provides the exclusive monetary damages remedy for allegedly wrongful or negligent acts or omissions by federal employees within the scope of their employment.
- 8. Indemnification:** Owner agrees to indemnify and hold harmless the Government from any and all claims, damage, or losses arising out of the Private Property Debris Removal Program activities carried out pursuant to this ROE. This indemnification is required by state and federal law, including but not limited to the Stafford Act, 42 U.S.C. § 5173. Please also see Section 9, below.
- 9. Markings of Infrastructure Facilities:** Owner agrees to make their best efforts to mark subgrade utility lines (sewer, water, electricity, gas, cable, etc.), and to mark the location of septic tanks, leach fields, water wells, hand dug wells/cisterns, or other subgrade structures. Owner should carefully complete the attached *Property Information Form* **and append any maps, diagrams, or legible notes** that may be useful to the Government's contractor in locating subgrade structures and instructing the crews which items the Owner may want to remain on the Property following the Private Property Debris Removal Program. The Government will endeavor to avoid all marked

Property Address: _____
APN: _____

structures; however, **Owner acknowledges pursuant to Section 7, that they release the Government from any liability for damages to marked or unmarked structures.** Owner further acknowledges pursuant to Section 8 that they indemnify, hold and save harmless the Government from any claims or losses due to any damages to marked or unmarked structures. Nothing in this Agreement shall be construed as a waiver of any sovereign immunity of the United States. The Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346(b), 2671-2680 provides the exclusive monetary damages remedy for allegedly wrongful or negligent acts or omissions by federal employees within the scope of their employment.

10. Driveway, Roadway and Other Incidental Damage: Multi-ton excavators must perform much of the demolition, consolidation and loading of flood debris into trucks for removal to appropriate recycling and disposal and end use sites. The scale and weight of this equipment, and the weight of loaded trucks hauling debris out of flood-damaged neighborhoods, often exceeds the design capacity of residential driveways, sidewalks, and roadways. Crews will take reasonable precautions to mitigate against damage. However, Owner acknowledges cracking and damage to asphalt and concrete pavement is a common and unavoidable consequence, and is therefore considered incidental to the Private Property Debris Removal Program. By signing this ROE and opting into the Private Property Debris Removal Program at this Property, the Owner acknowledges the risk of such incidental damage as well as their responsibility for the cost of any repairs to private property or jointly-owned private roadways that may be caused by Government contractors in the performance of the Debris Removal Program operations. Owner acknowledges pursuant to Section 8, they indemnify, hold and save harmless the Government from any repair claims described above, or any other incidental and unavoidable damage occurring as a result of routine operations associated with the Debris Removal Program.

11. Damage to Improved Property: Flood-generated debris and ash removal crews will attempt to minimize impacts to improved property that was not damaged by the flood. Owner may submit a complaint regarding any improved property that Owner believes was damaged during the Debris Removal Program operations at the Disaster Recovery Center at ENMU-Ruidoso Annex, 709 Mechem Drive, Ruidoso, NM, 88345, or DHSEM-DCM@dhsem.nm.gov. However, Owner acknowledges Section 7 of this ROE limits the liability of the Government with respect to such damage, if any.

12. Erosion Control: Owner acknowledges that erosion control measures may be necessary, such as wattles, compost socks, and hydromulch, to stabilize soil on or about the Property. Such erosion control measures are at the sole discretion of the Government.

13. Modification: The provisions of this ROE may not be modified. Owner may cancel this ROE only by submitting an executed *Withdrawal Form* (see below) to the County at the Disaster Recovery Center at ENMU-Ruidoso Annex, 709 Mechem Drive, Ruidoso, NM, 88345, or [DHSEM-](mailto:DHSEM-DCM@dhsem.nm.gov)

DCM@dhsem.nm.gov.

14. Fraudulent or Willful Misstatement of Fact: An individual who fraudulently or willfully misstates any fact in connection with this ROE may be subject to penalties under state and federal law, including civil penalties, imprisonment for not more than five years, or both, as provided under 18 U.S.C. § 1001.

15. Public Records Act: Owner acknowledges that completed ROE forms may be subject to public disclosure under the New Mexico Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 to -12. Other state and federal laws may apply. Pursuant to Section 14-2-1.1, the following protected personal identifiable information will be redacted: (1) all but the last four digits of a taxpayer identification number, financial account number, or driver's license number; all but the year of a person's date of birth; and a social security number.

Signatures are provided on the next page.

Property Address: _____
APN: _____

Printed name of Owner or Agent

Signature of Owner or Agent

Date

Printed name of Owner or Agent

Signature of Owner or Agent

Date

Printed name of Owner or Agent

Signature of Owner or Agent

Date

Phone number of Owner or Agent E-mail address of Owner or Agent

Mailing address of Owner or Agent

Approved by County of Lincoln and verified that the Property, APN, and Owner are accurate and meet the eligibility requirements of program:

Printed Name and Title of County Representative

Signature of County Representative

Date

Property Address: _____

APN: _____

Debris Removal Program Property Information

Please identify all that apply on the Property:

Vehicles	Location	Description	Comments
Car			
Boat or Trailer			
Other vehicles (ATVs, motorcycles, trailers, vans, motorhomes, recreational vehicles, trailers, etc.)			
Other (farm equipment, construction equipment, etc.)			

Underground Tanks	Location	Construction Date (If Known)	Comments
Septic ¹ Tanks and Leach Fields			
Fuel/Oil/Kerosene/Propane Tanks ²			
Water tanks			
Other			

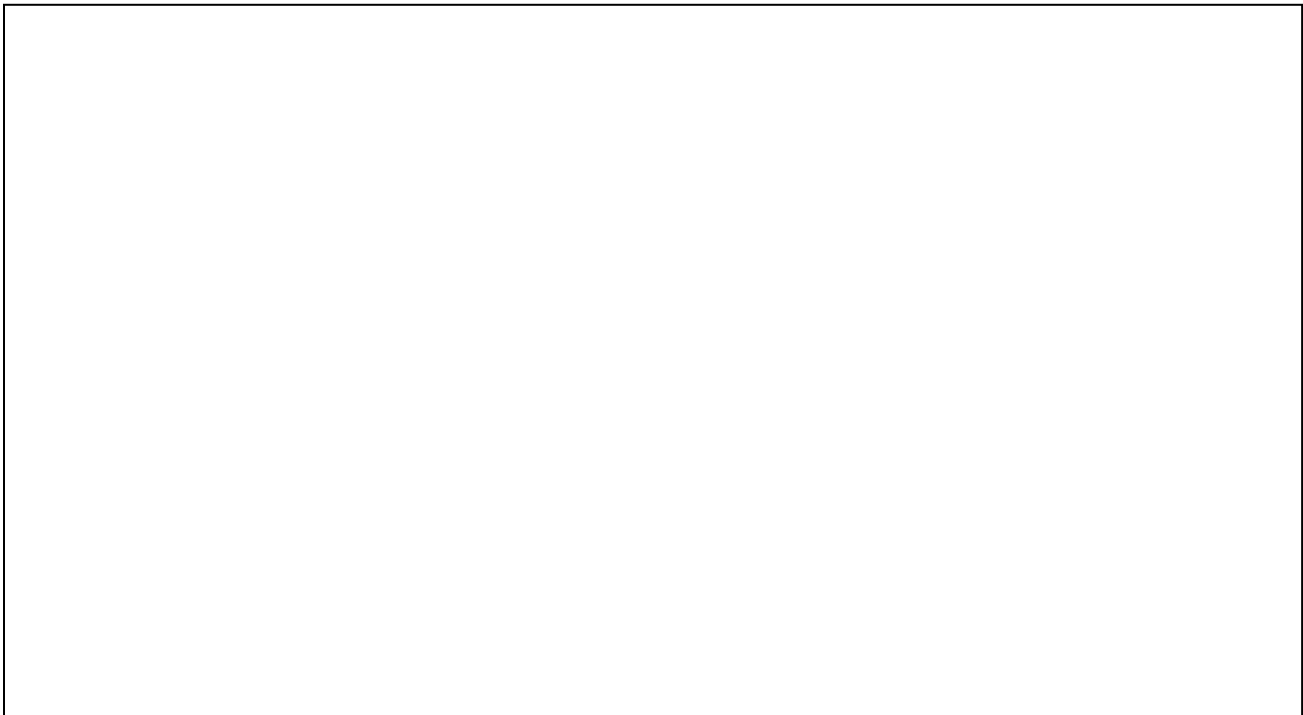
Underground Structures	Location	Construction Date (If Known)	Comments
Basement			
Root Cellar			
Other (water wells, cisterns/dug wells, mine shafts, bomb shelters, etc):			
Former or active buried trash and debris piles			

Property Address: _____
 APN: _____

Insert or Draw Map of Property



Additional Property Information



**STOP HERE AND DO NOT FILL OUT THE BELOW PAGE UNLESS YOU WISH TO
WITHDRAW FROM THE DEBRIS REMOVAL PROGRAM**

Withdrawal Form

To cancel this ROE, this Withdrawal Form must be signed by the Owner, delivered to the Disaster Recovery Center at ENMU-Ruidoso Annex, 709 Mechem Drive, Ruidoso, NM 88345, emailed to DHSEM-DCM@dhsem.nm.gov, or to the County in which the Property is located, and acknowledged by an authorized employee in advance of the Debris Removal Program activities at the Property. Allow at least three (3) business days to process.

Cancellation of services may ONLY be authorized by submitting this withdrawal form. If the owner verbally communicates to the on-site crew to stop work, the crew may pause for up to 48 hours. ***However, the Owner must deliver the Withdrawal Form to the Disaster Recovery Center at ENMU-Ruidoso Annex, 709 Mechem Drive, Ruidoso, NM 88345, or emailed to DHSEM-DCM@dhsem.nm.gov within 48 hours of said communication.*** Due to scheduling constraints, the Government cannot provide specific dates and times when they will be available at the Property site to accept a cancellation. Owner should therefore turn in the Withdrawal Form at the location designated by the County in the above paragraph if possible.

I have read and understand the foregoing statement concerning cancellation policies.

☐ I hereby certify that the Debris Removal Program at the Property **has** commenced, and that I request to cancel the Right of Entry (ROE).

☐ I hereby certify that the Debris Removal Program at the Property **has not yet** commenced, and that I request to cancel the Right of Entry (ROE).

Printed name of Owner or Agent

Signature of Owner or Agent Date

Phone number of Owner or Agent E-mail address of Owner or Agent

Mailing address of Owner or Agent

I hereby acknowledge receipt of the foregoing request for cancellation:

Title and Printed Name of County Representative

Signature of County Representative

Property Address: _____
APN: _____