

Authorization ID: #AUTH\_ID#  
Contact ID: #HOLDER\_ID#  
Expiration Date: #EXPIRATION\_DATE#  
Use Code: #USE\_CODE#

FS-2700-5 (09/2020)  
OMB No. 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE  
FOREST SERVICE**

**TERM SPECIAL USE PERMIT**

**AUTHORITY:  
Act of March 4, 1915, 16 U.S.C. 497**

**<Delete all user notes before printing.>**

**<USER NOTES FOR TITLE AND CLAUSE I.A>**

**<To authorize term permits for states, counties, cities, municipalities, or public agencies, delete “Act of March 4, 1915, 16 U.S.C. 497” and insert “Act of September 3, 1954, 43 U.S.C. 931c and 931d” in the title and in clause I.A. Do not use this permit to authorize use to federal agencies. Do not use this permit when the fee is waived.>**

Holder Name, Address, City, State, and Zip code.

Holder Name (the holder) is authorized to use and occupy National Forest System (NFS) lands in the National Forest, subject to the terms of this term special use permit (“the permit”).

This permit covers number acres in township, range, and section (the “permit area”), as shown on the map incorporated into this permit as Appendix A. This permit is issued for the purpose of:

The following appendices are attached to and made a part of this permit:

APPENDIX A: Map of the Permit Area  
APPENDIX B: Master Development Plan  
APPENDIX C: Site Development Schedule  
APPENDIX D: Operating Plan  
APPENDIX E: Initial and Follow-Up Environmental Site Assessments  
APPENDIX F: Authorized Improvements  
APPENDIX G: Authorized Services  
[list any additional appendices, including Appendix G for permits with the GRFS clause]

**I. GENERAL TERMS**

**A. AUTHORITY.** This permit is issued pursuant to the Act of March 4, 1915, the Term Permit Act, 16 U.S.C. 497, and 36 CFR Part 251, Subpart B, as amended, and is subject to their provisions.

**B. AUTHORIZED OFFICER.** The authorized officer is the Forest Supervisor, a District Ranger, or the Station, Institute, or Area Director with delegated authority pursuant to Forest Service Manual 2700.

**<USER NOTES FOR CLAUSE I.C>**

**<Forest supervisors have delegated authority to sign for a term of 20 years. Regional foresters must sign for a term of 30 years.>**

**C. TERM.** This permit shall expire at midnight on #EXPIRATION\_DATE#. Expiration of this permit shall not require notice, a decision document, or any environmental analysis or other documentation.

**D. CONTINUATION OF USE AND OCCUPANCY.** This permit is not renewable. Prior to expiration of this permit, the holder may apply for a new permit for the use and occupancy authorized by this permit. Applications for a new permit must be submitted at least one year prior to expiration of this permit. Issuance of a new permit is at the sole discretion of the authorized officer. At a minimum, before issuing a new permit, the authorized officer shall ensure that (1) the use and occupancy to be authorized by the new permit are consistent with the standards and guidelines in the applicable land management plan; (2) the type of use and occupancy to be authorized by the new permit is the same as the type of use and occupancy authorized by this permit; and (3) the holder is in compliance with all the terms of this permit. The authorized officer may prescribe new terms when a new permit is issued.

**E. AMENDMENT**

1. 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 that may be required by law, regulation, the applicable land management plan, or projects and activities implementing the land management plan pursuant to 36 CFR Part 218. The authorized officer shall amend the permit to authorize new, changed, or additional uses or NFS lands that have been approved by the authorized officer per 36 CFR 251.61.

2. At the sole discretion of the authorized officer, this permit may be amended to remove authorization to use any NFS lands not specifically covered in the master development plan for this permit or not needed for the use and occupancy authorized by this permit.

3. The holder may apply for an amendment to this permit to cover new or changed uses or areas. In approving or denying an amendment, the authorized officer shall consider, in addition to the requirements in applicable laws and regulations, the findings or recommendations of other affected agencies and whether the new or changed use or area can be accommodated by an amendment to this permit, or whether a new permit should be issued.

**F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS.** In exercising the privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulation, or policy. The Forest Service assumes no responsibility for enforcing laws, regulations, and other legal requirements that fall under the jurisdiction of other governmental entities.

**G. NON-EXCLUSIVE USE.** The use and occupancy authorized by this permit are not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area and the authorized facilities and improvements for inspection, monitoring, or any other purpose consistent with any right or obligation of the United States under any law or regulation. The Forest Service reserves the right to allow others to use the permit area in any way that is not inconsistent with the holder's rights and privileges under this permit, after consultation with all parties involved. Except for any restrictions that the holder and the authorized officer agree are necessary to protect the installation and operation of authorized improvements, the permit area shall remain open to the public for all lawful purposes.

**H. ASSIGNABILITY.** This permit is not assignable or transferable.

**I. TRANSFER OF TITLE TO THE IMPROVEMENTS**

1. Notification of Transfer. The holder shall notify the authorized officer when a transfer of title to all or part of the improvements is planned.

2. Transfer of Title. Any transfer of title to the improvements covered by this permit shall result in termination of the permit. The party who acquires title to the improvements must submit an application for a permit. The Forest Service is not obligated to issue a new permit to the party who acquires title to the improvements. The authorized officer shall determine that the applicant meets requirements under applicable federal regulations.

## **J. CHANGE IN CONTROL OF THE BUSINESS ENTITY**

1. Notification of Change in Control. The holder shall notify the authorized officer when a change in control of the business entity that holds this permit is planned.

(a) In the case of a corporation, control is an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business so as to permit the exercise of managerial authority over the actions and operations of the corporation or election of a majority of the board of directors of the corporation.

(b) In the case of a partnership, limited partnership, joint venture, or individual entrepreneurship, control is a beneficial ownership of or interest in the entity or its capital so as to permit the exercise of managerial authority over the actions and operations of the entity.

(c) In other circumstances, control is any arrangement under which a third party has the ability to exercise management authority over the actions or operations of the business.

2. Effect of Change in Control. Any change in control of the business entity as defined in clause I.J.1 shall result in termination of this permit. The party acquiring control must submit an application for a special use permit. The Forest Service is not obligated to issue a new permit to the party who acquires control. The authorized officer shall determine whether the applicant meets the requirements established by applicable federal regulations.

## **II. IMPROVEMENTS**

**A. LIMITATIONS ON USE**. Nothing in this permit gives or implies permission to build or maintain any structure or facility or to conduct any activity unless specifically authorized by this permit. Any use not specifically authorized by this permit must be proposed in accordance with 36 CFR 251.54 or 251.61. Approval of such a proposed use through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer.

**B. DRAWINGS**. All drawings for development, layout, construction, reconstruction, or alteration of improvements in the permit area, as well as revisions to those drawings, must be prepared by a licensed engineer, architect, landscape architect, or other qualified professional acceptable to the authorized officer. These drawings and drawing revisions must have written approval from the authorized officer before they are implemented. The authorized officer may require the holder to furnish as-built drawings, maps, or surveys upon completion of the work.

### **<USER NOTES FOR CLAUSES II.C and II.D>**

**<Delete clauses II.C and II.D from permits that do not have and will not have a master development plan.>**

**C. MASTER DEVELOPMENT PLAN**. The holder shall prepare and maintain, in a form acceptable to the Forest Service, a master development plan (MDP) encompassing the entire operation presently envisioned for development in connection with the NFS lands authorized by this permit. The MDP should encompass all NFS lands authorized for use by this permit. For planning purposes, a capacity for use measured in people-at-one-time shall be established in the MDP. Upon acceptance by the authorized officer, the MDP shall be incorporated into this permit as Appendix B. Overall development at the [type of use] authorized by the permit shall not exceed the capacity established in the MDP, and additional

construction beyond maintenance of existing improvements at the [type of use] covered by this permit shall not be authorized without amendment to the MDP and without the requisite environmental analysis and documentation needed to support that additional construction or development under the National Environmental Policy Act (NEPA). The holder shall propose any changes to the MDP in a form acceptable to the Forest Service and shall submit the proposed changes to the authorized officer. Once accepted, the revised MDP shall become part of this permit. Acceptance of the original or revised MDP by the authorized officer does not authorize new development or uses. The authorized officer's acceptance of the original or revised MDP does not constitute approval of its contents or provide any assurance that any particular item in the original or revised MDP will be authorized by the Forest Service or constructed by the holder. No rights or obligations of the holder or the Forest Service are determined by the authorized officer's acceptance of the original or revised MDP, nor does any legal consequences, including the requirement to conduct environmental analysis under NEPA, flow from the authorized officer's acceptance of the original or revised MDP.

**D. SITE DEVELOPMENT SCHEDULE.** The holder and the Forest Service jointly shall prepare a site development schedule, which shall be incorporated into this permit as Appendix C, before any construction occurs in the permit area. The site development schedule shall list improvements in the master development plan and any amendments to the plan in order of priority, the starting date for their construction, and the due date for their completion. All required plans and specifications for improvements included in the site development schedule shall be properly certified and submitted to the authorized officer at least 45 days before the starting date for their construction. The holder may accelerate the scheduled date for completion of any improvement, as long as the other scheduled improvements are completed on time and to the satisfaction of the authorized officer. Any other changes to the site development schedule must have prior written approval from the authorized officer. Pursuant to clause IV.K, the authorized officer may require a performance bond for improvements constructed under a site development schedule.

### **III. OPERATIONS -**

**A. OPERATING PLAN.** The holder shall prepare and annually revise by #DATE# an operating plan. The operating plan shall be prepared in consultation with the authorized officer or the authorized officer's designated representative and shall cover all operations authorized by this permit. The operating plan shall outline steps the holder will take to protect public health and safety and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor the holder's operations for compliance with the terms of this permit. The operating plan shall identify and schedule any inspections that the holder is required to conduct at the holder's expense. The operating plan shall be submitted by the holder and approved in writing by the authorized officer or the authorized officer's designated representative prior to commencement of operations and shall be incorporated into this permit as Appendix D. Any operating plan revisions shall be submitted by the holder and approved in writing by the authorized officer or the authorized officer's designated representative before they are implemented. The authorized officer may require an annual meeting with the holder to discuss the terms of the permit or operating plan, annual use reports, determine need for performance bond for construction projects and amount of bond, or other concerns either party may have.

**B. PERIOD OF USE.** The use and occupancy authorized by this permit shall be in normal operation at least [ ] days each year or season. Failure of the holder to exercise this minimum use may result in revocation of this permit under clause VII.A.

**C. RESPONSIBILITY FOR DAY-TO-DAY ACTIVITIES.** As a general rule, the holder shall conduct the day-to-day activities authorized by this permit. A limited amount of activities may be conducted by a party other than the holder, but only with prior written approval of the authorized officer. The holder shall continue to be responsible for compliance with all the terms of this permit.

**D. LEASING.** Subject to clause III.C, the holder may lease authorized concessions and improvements owned by the holder that are located within the permit area with the prior written approval of the

authorized officer. The Forest Service reserves the right to disapprove these leases. The holder shall remain responsible for compliance of the leased concessions and improvements with all the terms of this permit.

**E. CONDITION OF OPERATIONS.** The holder shall maintain the authorized 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 permit. Standards are subject to periodic change by the authorized officer.

**F. USE OF NATIONAL FOREST SYSTEM ROADS AND NATIONAL FOREST SYSTEM TRAILS.** The holder's use of National Forest System roads and National Forest System trails shall comply with applicable requirements in 36 CFR Part 212, Subpart A; 36 CFR Part 261, Subpart A; and orders issued under 36 CFR Part 261, Subpart B. Motor vehicle use shall be consistent with designations made under 36 CFR Part 212, Subpart B, unless specifically provided otherwise in the operating plan. Over-snow vehicle use shall be consistent with designations made under 36 CFR Part 212, Subpart C, unless specifically provided otherwise in the operating plan.

**G. MONITORING BY THE FOREST SERVICE.** The Forest Service shall monitor the holder's operations and reserves the right to inspect the permit area and authorized facilities and improvements at any time for compliance with the terms of this permit. The holder shall comply with inspection requirements deemed appropriate by the authorized officer. The obligations of the holder under this permit are not contingent upon any duty of the Forest Service to inspect the permit area or authorized facilities or improvements. A failure by the Forest Service or other governmental officials to inspect is not a defense to noncompliance with any of the terms of this permit.

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**H. CUTTING, DISPOSAL, AND PLANTING OF VEGETATION.** This permit does not authorize the cutting of trees, brush, shrubs, and other plants ("vegetation"). Vegetation may be cut, destroyed, or trimmed only after the authorized officer or the authorized officer's designated agent has approved in writing and marked or otherwise identified what may be cut, destroyed, or trimmed. The holder shall notify the authorized officer when approved cutting, destruction, or trimming of vegetation has been completed. The Forest Service shall determine in advance of felling the method of disposal of trees felled in the permit area that meet utilization standards. Disposal may be by sale or without charge per 36 CFR Part 223, as may be most advantageous to the United States. Debris from felling that does not meet utilization standards shall also be disposed of according to methods determined by the Forest Service. Planting of vegetation in the permit area must have prior written approval from the authorized officer.

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**I. SIGNAGE.** Signage posted on NFS lands must have prior written approval of the authorized officer.

**J. REFUSE DISPOSAL.** The holder shall comply with all applicable federal, state, and local requirements related to the disposal of refuse resulting from the use and occupancy authorized by this permit. -

**<USER NOTES FOR CLAUSES III.K THROUGH III.U>  
<Omit these clauses from permits that do not authorize public services.>**

**K. SANITATION.** The operation and maintenance of all sanitation, food service, and water-supply methods, systems, and facilities shall comply with applicable standards set by state and local health departments.

**<USER NOTES FOR CLAUSE III.L>**  
**<Review FSM 7420 for statutes, regulations, and additional Forest Service directives that apply to drinking water systems. Consult with the administrative unit's facilities engineer or environmental engineer on specific requirements or possible revisions for special situations. The authorized officer should ensure that qualified personnel administer authorizations that include the operation and maintenance of drinking water systems. If the permit is authorized under Section 7 of the**

**Granger-Thye Act or the permit otherwise authorizes the holder to operate all or part of a federally owned drinking water system, delete clause III.L, re-letter the remaining clauses in section III, and include Appendix F, "Operation of Federally Owned Drinking Water Systems," from Form FS-2700-4h in the permit.>**

**L. DRINKING WATER SYSTEM.** The holder, as the water supplier and owner or operator of the drinking water system for the facilities authorized by this permit, is responsible for compliance with all applicable federal, state, and local drinking water laws and regulations governing operation and maintenance of a public drinking water system, including but not limited to developing, operating, and maintaining the system and conducting drinking water testing and taking appropriate corrective and follow-up actions in accordance with federal, state, and any other applicable requirements. For purposes of this permit, public water systems are defined in accordance with the Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*), and the National Primary Drinking Water Regulations, 40 CFR Part 141, or state regulations, if more stringent. The holder shall retain all drinking water system records as required by applicable laws and regulations. The holder agrees to make the records available to the Forest Service and to any other regulatory agency authorized to review Forest Service activities.

**<USER NOTES FOR CLAUSE III.M>**

**<Select the following clause III.M if the sale of alcoholic beverages is prohibited in the permit area, and delete the remaining clause III.M.>**

**M. SALE OF ALCOHOLIC BEVERAGES.** The sale of alcoholic beverages is prohibited in the permit area.

**<Select the following clause III.M if the sale of alcoholic beverages is allowed in the permit area. Select the types of alcoholic beverages that may be sold under the holder's liquor license and delete the inapplicable beverages; move the word "and" as necessary; and delete the brackets. Delete the remaining clause III.M.>**

**M. SALE OF ALCOHOLIC BEVERAGES.** The sale of [liquor, beer, wine, and other types of alcoholic beverages] is allowed in the permit area, provided the holder has a valid state liquor license. However, in the event of a violation of any liquor law or regulation, the authorized officer may require that the sale of alcoholic beverages shall cease. The holder shall be informed in writing by the authorized officer if the sale of alcoholic beverages must cease.

**N. GAMBLING.** Gambling and gambling machines and devices are prohibited on NFS lands, regardless of whether they are lawful under state or local law.

**O. NONDISCRIMINATION**

1. The holder and its employees shall not discriminate against any person on the basis of race, color, sex (in educational and training programs), 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 furnish signs setting forth this policy of nondiscrimination. These signs shall be conspicuously displayed at the public entrance to the permit area and at other exterior or interior locations, as directed by the Forest Service.
4. 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.

**P. EQUAL ACCESS TO FEDERAL PROGRAMS.** In addition to the above nondiscrimination policy, the holder agrees to ensure that its programs and activities are open to the general public on an equal basis and without regard to any non-merit factor.

**Q. PROHIBITION OF TIME-SHARE ARRANGEMENTS.** No commercial facilities or equipment authorized under this permit will be operated under a time-share or interval-ownership arrangement. All authorized facilities and equipment shall be made available to the general public on a short-term rental basis.

**R. HOLDER'S REPRESENTATIVE.** The holder or the holder's designated representative shall be within the permit area at all times when the facilities are open to the public. The holder shall notify the authorized officer in writing who the holder's representative will be.

**S. HOLDER'S AND USERS' CONDUCT.** Disorderly or otherwise objectionable conduct by the holder or those occupying the permit area with the holder's permission shall be cause for revocation or suspension of this permit.

**T. REGULATING SERVICES AND RATES.** The authorized officer shall have the authority to regulate the adequacy and type of services provided the public under this permit and to require that these services conform to satisfactory standards. The holder may be required to furnish a schedule of prices for sales and services authorized by the permit. These prices may be regulated by the authorized officer, provided that the holder shall not be required to charge prices significantly different from those charged by comparable or competing enterprises.

**U. ADVERTISING.** The holder, either orally or in advertisements, signs, circulars, brochures, letterheads, and like materials, shall not misrepresent in any way the accommodations provided, the status of the permit, or the ownership of the permit area or adjacent lands. The fact that the authorized facilities and services are located in the [ ] National Forest shall be explicitly stated in all the holder's brochures and print advertising regarding the operations authorized by this permit.

#### **IV. RIGHTS AND LIABILITIES**

**A. LEGAL EFFECT OF THE PERMIT.** This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR Part 214, and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan. -

**B. VALID EXISTING RIGHTS.** This permit is subject to all valid existing rights. Valid existing rights include those derived from mining and mineral leasing laws of the United States. The United States is not liable to the holder for the exercise of any such right.

**C. ABSENCE OF THIRD-PARTY BENEFICIARY RIGHTS.** The parties to this permit do not intend to confer any rights on any third party as a beneficiary under this permit.

**D. NO WARRANTY OF ACCESS, SITE SUITABILITY, OR SERVICES.** This permit authorizes the use and occupancy of NFS lands by the holder for the purposes identified in this permit. The Forest Service does not make any express or implied warranty of access to the permit area, of the suitability of the permit area for the authorized uses, or for the furnishing of road or trail maintenance, water, fire protection services, search and rescue services, or any other services by a government agency, utility, association, or individual.

**<USER NOTES FOR THE REMAINING CLAUSES IN SECTION IV>**

**<Include the following clauses IV.E through IV.L in permits issued to non-federal entities unless otherwise directed by the user notes. Delete clauses IV.E through IV.G for permits issued to federal entities below.>**

**<USER NOTES FOR CLAUSE IV.E>**

**<Include clause IV.E in permits when they will involve the use of water and the water development and use will occur on NFS lands. Consult FSH 2709.11, Chapter 50, section 52.4, clauses D-24 through D-27, for alternate circumstances and choose the appropriate clauses in consultation with the local Forest Service Water Rights Program Manager. Select or fill in the appropriate use in brackets, and delete the bracketed language as appropriate.>**

**E. WATER FACILITIES AND WATER RIGHTS**

1. Water Facilities. No ditch, reservoir, well, spring, seepage, or other facility to pump, divert, store, or convey water (hereinafter “water facilities”) for which the point of diversion, storage, or withdrawal is on NFS lands may be initiated, developed, certified, or adjudicated by the holder unless expressly authorized in this permit. The authorization of any water facilities in the permit area is granted to allow use of water only in connection with the [recreation residence, resort, marina, or specify use] authorized by this permit. If the use of any water facilities in connection with this [recreation residence, resort, marina, or specify use] ceases, the authorization to use any associated water facilities terminates. The United States may place conditions on installation, operation, maintenance, and removal of water facilities that are necessary to protect public property, public safety, and natural resources on NFS lands in compliance with applicable law. Any change in a water facility, including a change in the ownership or beneficial use of water or location of use of water from a water facility, that is not expressly authorized in this permit shall result in termination of the authorization for that water facility.

2. Water Rights. This permit does not confer any water rights on the holder. The term “water rights” includes all authorizations, such as certificates, reservations, decrees, or permits, for water use issued under state law. Any necessary water rights must be acquired and maintained by the holder in accordance with State law and the terms of this permit. After this permit is issued, all water rights obtained by the holder for facilities that divert or pump water from sources located on NFS lands for use on NFS lands, whether authorized or unauthorized, are for the benefit of the United States and shall be acquired in the name of the United States. Any expenses for acquiring and maintaining water rights shall be the responsibility of the holder and not the responsibility of the United States. The United States reserves the right to take all actions necessary to maintain and protect any right to divert and use water on site.

**WATER RIGHTS HELD IN THE NAME OF THE UNITED STATES (if none, so state)**

<b>State ID #</b>	<b>Owner</b>	<b>Purpose of Use</b>	<b>Decree, License, or Certificate #</b>	<b>Point of Diversion</b>	<b>Point of Use</b>



**<USER NOTES FOR CLAUSE IV.E.3>**

**<Include clause IV.E.3 when water rights required for the use to be authorized have already been obtained in accordance with State law in the name of the holder; acquisition of those water rights did not violate the terms of the permit; and the water development and use will occur on NFS lands. Otherwise delete this clause. Select or fill in the appropriate use in brackets and delete the bracketed language as appropriate. When clause IV.E.3 is included in a permit, the notary clause must be added to the permit after the signature block. Additionally, when the authorized officer is exercising the power of attorney under clause IV.E.3(c) to effectuate transfer of water rights to a succeeding permit holder or the United States, the permit and the deed transferring title must be provided to the state engineer's office and the appropriate county recorder's office.>**

3. Water Rights Acquired in the Name of the Holder

(a) Identification of Water Rights.

**WATER RIGHTS HELD IN THE NAME OF THE HOLDER (if none, so state)**

State ID #	Owner	Purpose of Use	Decree, License, or Certificate #	Point of Diversion	Point of Use

(b) Termination or Revocation. Upon termination or revocation of this permit the holder shall transfer the water rights enumerated in clause IV.E.3(a) to any succeeding permit holder, for use only in connection with the [recreation residence, resort, marina, or specify other use] authorized by this permit. If that use is not reauthorized, the holder shall promptly petition in accordance with State law to remove from NFS lands the point of diversion and water use associated with the water rights enumerated in clause IV.E.3(a) or shall transfer these water rights to the United States.

(c) Documentation of Transfer. The holder and the holder's heirs and assignees shall execute and properly file any document necessary to transfer ownership of the water rights enumerated in clause IV.E.3(a) to a succeeding permit holder or the United States. By executing this permit, the holder hereby grants limited power of attorney to the authorized officer to execute any document on behalf of the holder as may be necessary to transfer the water rights enumerated in clause IV.E.3(a) to a succeeding permit holder or the United States.

Holder's initials and date: \_\_\_\_\_

(d) Waiver. The holder waives any claims against the United States for compensation for any water rights subject to clause IV.E.3(a) that are transferred, removed, or relinquished as a result of revocation or termination of this permit or for compensation in connection with imposition of any conditions on installation, operation, maintenance, and removal of water facilities associated with water rights enumerated in clause IV.E.3(a).

**F. RISK OF LOSS.** The holder assumes all risk of loss to the authorized improvements and all risk of loss of use and occupancy of the permit area, in whole or in part, due to public health and safety or environmental hazards. Loss to the authorized improvements and of use and occupancy of the permit area may result from but is not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), environmental contamination, avalanches, rising waters, winds, falling limbs or trees,

and other forces of nature. If any authorized improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, this permit shall terminate as to those improvements. If the authorized officer determines that any portions of the permit area cannot be safely occupied due to a public health or safety or environmental hazard, this permit shall terminate as to those portions of the permit area. Termination under this clause shall not give rise to any claim for damages, including lost profits and the value of the improvements, by the holder against the Forest Service.

**G. DAMAGE TO UNITED STATES PROPERTY.** The holder has an affirmative duty to protect from damage the land, property, and other interests of the United States that are associated with the use and occupancy authorized by this permit. Damage includes but is not limited to destruction of or damage to NFS lands, fire suppression costs, and destruction of or damage to federally owned improvements.

1. The holder shall be liable for all injury, loss, or damage, including fire suppression costs, prevention and control of the spread of invasive species, and the costs of rehabilitation or restoration of natural resources, resulting from the holder's use and occupancy of the permit area. Compensation shall include but not be 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, and all administrative, legal (including attorney's fees), and other costs. Such costs may be deducted from a performance bond required under clause IV.L.

2. The holder shall be liable for damage to all roads and trails of the United States caused by use of the holder or the holder's heirs, assignees, agents, employees, contractors, or lessees to the same extent as provided under clause IV.G.1, except that liability shall not include reasonable and ordinary wear and tear.

**H. HEALTH AND SAFETY.** The holder shall take all measures necessary to protect the health and safety of all persons affected by the use and occupancy authorized by this permit. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any physical or mechanical procedure, activity, event, or condition existing or occurring in connection with the authorized use and occupancy during the term of this permit that causes or threatens to cause a hazard to the health or safety of the public or the holder's employees, agents, or contractors. The holder shall as soon as practicable notify the authorized officer of all serious accidents that occur in connection with these procedures, activities, events, or conditions. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.

#### **I. ENVIRONMENTAL PROTECTION**

1. Compliance with Environmental Laws. The holder shall in connection with the use and occupancy authorized by this permit comply with all applicable federal, state, and local environmental laws and regulations, including but not limited to those established pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. 9601 *et seq.*, the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.*, the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.*, the Oil Pollution Act, as amended, 33 U.S.C. 2701 *et seq.*, the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 *et seq.*, the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 *et seq.*, and the Safe Drinking Water Act, as amended, 42 U.S.C. 300f *et seq.*

2. Definition of Hazardous Material. For purposes of clause IV.I and section V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of CERCLA, 42 U.S.C. 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials,

pollutant, contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws.

3. Environmental Site Assessments (SAs). Except as provided in clause IV.1.3(c), the holder is required to submit for written approval by the authorized officer an initial SA prior to use and occupancy under this permit and a follow-up SA prior to termination or upon revocation of this permit. The initial and follow-up SAs shall be incorporated into this permit as Appendix E.

(a) Purposes. The purpose of initial and follow-up SAs is to identify Recognized Environmental Conditions in the permit area, that is, the presence or likely presence of any hazardous substances or petroleum products in, on, or at the permit area: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment. A comparison of the initial and follow-up SAs shall assist the authorized officer in determining whether any environmental cleanup or restoration is required as a result of the use and occupancy. Any cleanup or restoration shall be completed promptly by the holder in accordance with all applicable federal, state, and local laws and regulations, to the satisfaction of the authorized officer and at no expense to the United States.

(b) Standard. All SAs must be conducted by the holder's environmental professional with the requisite certification and experience and must meet the objectives and performance factors of 40 CFR Part 312, Innocent Landowners, Standards for Conducting All Appropriate Inquiries. The holder may use The American Society for Testing and Materials (ASTM) guideline E1527-13, entitled Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, or the most recent version (40 CFR 312.11(b)), or select an alternate practice that constitutes all appropriate inquiries consistent with good commercial and customary practices.

(c) Exceptions. If a new permit will be issued to the same holder upon expiration of this permit, the follow-up SA shall satisfy the requirement for an initial SA for the new permit. Initial and follow-up SAs are not required when this permit is revoked at the request of the holder and a new permit is issued to the holder for the balance of this permit's term or when this permit is reissued for the balance of its term to the holder due to a modification pursuant to 36 CFR 251.61(a), provided that an initial SA shall be completed in either of these scenarios if one has not been done by the holder. When a new permit is issued due to a change in control of the business entity that holds this permit, the holder may rely on the initial SA performed by the future holder, provided that it is accepted by the authorized officer prior to termination of this permit.

(d) Cleanup or Other Remedial Action Based on the Initial SA. If the initial SA shows that a hazardous substance release is present in the permit area, the holder shall be responsible for any cleanup or other remedial action that the Forest Service determines to be required in the permit area based on the initial SA. The level of cleanup or other remedial action shall be commensurate with the holder's intended use and occupancy of the permit area and shall be completed before the holder's use and occupancy commence.

4. Oil Discharges and Release of Hazardous Materials. The holder shall immediately notify all appropriate response authorities, including the National Response Center and the authorized officer or the authorized officer's designated representative, of any oil discharge or of the release of a hazardous material in the permit area in an amount greater than or equal to its reportable quantity, in accordance with 33 CFR Part 153 and 40 CFR Part 302. For the purposes of this requirement, "oil" is as defined by section 311(a)(1) of the Clean Water Act, 33 U.S.C. 1321(a)(1). The holder shall immediately notify the authorized officer or the authorized officer's designated representative of any release or threatened release of any hazardous material in or near the permit area which may be harmful to public health or welfare or which may adversely affect natural resources on federal lands.

5. Remediation of Release of Hazardous Materials. The holder shall remediate any release, threat of release, or discharge of hazardous materials that occurs in connection with the holder's activities in the permit area, including activities conducted by the holder's agents, employees, contractors, or lessees and

regardless of whether those activities are authorized under this permit. The holder shall perform remediation in accordance with applicable law immediately upon discovery of the release, threat of release, or discharge of hazardous materials. The holder shall perform the remediation to the satisfaction of the authorized officer and at no expense to the United States. Upon revocation or termination of this permit, the holder shall deliver the site to the Forest Service in compliance with all applicable laws and regulations and free and clear of contamination.

**J. INDEMNIFICATION OF THE UNITED STATES.** The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use and occupancy authorized by this permit. This indemnification provision includes but is not limited to acts and omissions of the holder or the holder's heirs, assignees, agents, employees, contractors, or lessees in connection with the use and occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may in the future become applicable; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) the release or threatened release of any solid waste, hazardous waste, hazardous materials, pollutant, contaminant, oil in any form, or petroleum product into the environment. The authorized officer may prescribe terms that allow the holder to replace, repair, restore, or otherwise undertake necessary curative activities to mitigate damages in combination with or as an alternative to monetary indemnification.

**<USER NOTES FOR CLAUSE IV.K>**

**<Omit clause IV.K from permits that do not authorize public services and for which the authorized officer has determined, based on a risk assessment, that insurance is not required. Include clause IV.K in permits that authorize public services.>**

**K. INSURANCE.** The holder shall furnish proof of insurance, such as a certificate of insurance, to the authorized officer prior to issuance of this permit and each year thereafter that this permit is in effect. The Forest Service reserves the right to review the insurance policy and require any changes needed to ensure adequate coverage of the United States in connection with the authorized use and occupancy. The holder shall send an authenticated copy of any insurance policy obtained pursuant to this clause to the authorized officer immediately upon issuance of the policy. Any insurance policies obtained by the holder pursuant to this clause shall include the United States as an additional insured in an endorsement to the policy, and the additional insured provision shall provide for insurance coverage for the United States as required under this clause and to the extent of the full limits of insurance available to the holder. The holder shall give 30 days prior written notice to the authorized officer of cancellation of the insurance policy by the holder or any modification to the insurance policy. The certificate of insurance, the authenticated copy of the insurance policy, and written notice of cancellation or modification of insurance policies should be sent to [mailing address of administering office]. Minimum amounts of coverage and other insurance requirements are subject to change at the sole discretion of the authorized officer on the anniversary date of this permit.

1. The holder shall have in force liability insurance covering losses associated with the use and occupancy authorized by this permit arising from personal injury or death and third-party property damage in the minimum amount of \$#AMOUNT# as a combined single limit per occurrence.
2. Depending on the holder's operations, the Forest Service may require the holder to demonstrate the availability of funds to address any release or threatened release of hazardous materials that may occur in connection with the holder's use and occupancy. Any requirements imposed would be established case by case by the authorized officer based on the degree of environmental risk from the holder's operations. The storage and use of normal maintenance supplies in nominal amounts generally would not trigger financial assurance requirements.

**<If the holder is a state or a political subdivision of a state that has shown that state law limits its liability or obligation to indemnify, follow the direction in FSH 2709.11, chapter 50.>**

**<END USER NOTES FOR CLAUSE IV.K>**

**L. BONDING.** The authorized officer may require the holder to furnish a surety bond or other security for any of the obligations imposed by the terms of this permit or any applicable law, regulation, or order.

**<USER NOTES FOR CLAUSES IV.L.1 THROUGH IV.L.3>  
<Delete clauses IV.L.1 through IV.L.3 when a bond is not required.>**

1. As a further guarantee of compliance with the terms of this permit, the holder shall deliver and maintain a surety bond or other acceptable security, such as cash deposited and maintained in a federal depository or negotiable securities of the United States, in the amount of #AMOUNT# for [specify obligations covered, e.g., to secure the holder's obligation to restore the permit area after construction or upon revocation or termination of the permit without issuance of a new permit]. The authorized officer may periodically evaluate the adequacy of the bond or other security and increase or decrease the amount as appropriate. If the bond or other security becomes unsatisfactory to the authorized officer, the holder shall within 30 days of demand furnish a new bond or other security issued by a surety that is solvent and satisfactory to the authorized officer. If the holder fails to meet any of the requirements secured under this clause, money deposited pursuant to this clause shall be retained by the United States to the extent necessary to satisfy the obligations secured under this clause, without prejudice to any other rights and remedies of the United States.

2. The bond shall be released or other security returned 30 days after (a) the authorized officer certifies that the obligations covered by the bond or other security are met and (b) the holder establishes to the satisfaction of the authorized officer that all claims for labor and material for the secured obligations have been paid or released.

3. The holder may be required to obtain additional bonding or security prior to undertaking additional construction or alteration not covered by the bond or other security or when the authorized improvements are to be removed and the permit area restored.

**<USER NOTES FOR FEDERAL ENTITIES>  
<Include the following clauses IV.E through IV.G in permits issued to federal entities, and delete clauses IV.E through IV.L above.>**

**E. RISK OF LOSS.** The holder assumes all risk of loss to the authorized improvements and all risk of loss of use and occupancy of the permit area, in whole or in part, due to public health and safety or environmental hazards. Loss to the authorized improvements and of use and occupancy of the permit area may result from but is not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), avalanches, rising waters, winds, falling limbs or trees, and other forces of nature. If any authorized improvements are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the authorized improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, this permit shall terminate. If the authorized officer determines that the permit area cannot be safely occupied due to a public health or safety or environmental hazard, this permit shall terminate.

**F. HEALTH AND SAFETY.** The holder shall take all measures necessary to protect the health and safety of all persons affected by the use and occupancy authorized by this permit. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any physical or mechanical procedure, activity, event, or condition existing or occurring in connection with the authorized use and occupancy during the term of this permit that causes or threatens to cause a hazard to the health or safety of the public or the holder's employees, agents, or contractors. The holder shall as soon as practicable notify the authorized officer of all serious accidents that occur in connection with these procedures, activities, events, or conditions. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.

## **G. ENVIRONMENTAL PROTECTION**

1. Compliance with Environmental Laws. The holder shall in connection with the use and occupancy authorized by this permit comply with all applicable federal, state, and local environmental laws and regulations, including but not limited to those established pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. 9601 *et seq.*, the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.*, the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.*, the Oil Pollution Act, as amended, 33 U.S.C. 2701 *et seq.*, the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 *et seq.*, the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 *et seq.*, and the Safe Drinking Water Act, as amended, 42 U.S.C. 300f *et seq.*

2. Definition of Hazardous Material. For purposes of clause IV.G and section V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of CERCLA, 42 U.S.C. 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials, pollutant, contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws.

3. Environmental Site Assessments (SAs). Except as provided in clause IV.I.3(c), the holder is required to submit for written approval by the authorized officer an initial SA prior to use and occupancy under this permit and a follow-up SA prior to termination or upon revocation of this permit. The initial and follow-up SAs shall be incorporated into this permit as Appendix E.

(a) Purposes. The purpose of initial and follow-up SAs is to identify Recognized Environmental Conditions in the permit area, that is, the presence or likely presence of any hazardous substances or petroleum products in, on, or at the permit area: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment. A comparison of the initial and follow-up SAs shall assist the authorized officer in determining whether any environmental cleanup or restoration is required as a result of the use and occupancy. Any cleanup or restoration shall be completed promptly by the holder in accordance with all applicable federal, state, and local laws and regulations, to the satisfaction of the authorized officer and at no expense to the Forest Service.

(b) Standard. All SAs must be conducted by the holder's environmental professional with the requisite certification and experience and must meet the objectives and performance factors of 40 CFR Part 312, Innocent Landowners, Standards for Conducting All Appropriate Inquiries. The holder may use The American Society for Testing and Materials (ASTM) guideline E1527-13, entitled Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, or the most recent version (40 CFR 312.11(b)), or select an alternate practice that constitutes all appropriate inquiries consistent with good commercial and customary practices.

(c) Exceptions. If a new permit will be issued to the same holder upon expiration of this permit, the follow-up SA shall satisfy the requirement for an initial SA for the new permit. Initial and follow-up SAs are not required when this permit is revoked with the consent of the holder and a new permit is issued to the holder for the balance of this permit's term or when this permit is reissued for the balance of its term to the holder due to a modification pursuant to 36 CFR 251.61(a), provided that an initial SA shall be completed in either of these scenarios if one has not been done by the holder. When a new permit is issued due to a change in control of the business entity that holds this permit, the holder may rely on the initial SA performed by the future holder, provided that it is accepted by the authorized officer prior to termination of this permit.

(d) Cleanup or Other Remedial Action Based on the Initial SA. If the initial SA shows that a hazardous substance release is present in the permit area, the holder shall be responsible for any cleanup or other remedial action that the Forest Service determines to be required in the permit area based on the initial

SA. The level of cleanup or other remedial action shall be commensurate with the holder's intended use and occupancy of the permit area and shall be completed before the holder's use and occupancy commence.

4. Oil Discharges and Release of Hazardous Materials. The holder shall immediately notify all appropriate response authorities, including the National Response Center and the authorized officer or the authorized officer's designated representative, of any oil discharge or of the release of a hazardous material in the permit area in an amount greater than or equal to its reportable quantity, in accordance with 33 CFR Part 153 and 40 CFR Part 302. For the purposes of this requirement, "oil" is as defined by section 311(a)(1) of the Clean Water Act, 33 U.S.C. 1321(a)(1). The holder shall immediately notify the authorized officer or the authorized officer's designated representative of any release or threatened release of any hazardous material in or near the permit area which may be harmful to public health or welfare or which may adversely affect natural resources on federal lands.

5. Remediation of Release of Hazardous Materials. The holder shall remediate any release, threat of release, or discharge of hazardous materials that occurs in connection with the holder's activities in the permit area, including activities conducted by the holder's agents, employees, contractors, or lessees and regardless of whether those activities are authorized under this permit. The holder shall perform remediation in accordance with applicable law immediately upon discovery of the release, threat of release, or discharge of hazardous materials. The holder shall perform the remediation to the satisfaction of the authorized officer and at no expense to the Forest Service. Upon revocation or termination of this permit, the holder shall deliver the site to the Forest Service in compliance with all applicable laws and regulations and free and clear of contamination.

## **V. RESOURCE PROTECTION**

**A. WATER POLLUTION.** No waste or by-product shall be discharged into water in connection with the use and occupancy authorized by this permit except in full compliance with all applicable federal, state, and local environmental and other laws. Storage facilities for materials capable of causing water pollution, if accidentally discharged, shall be located so as to prevent any spillage into waters or channels leading into water except in full compliance with all applicable federal, state, and local environmental and other laws.

**B. SCENIC VALUES.** The holder shall protect the scenic values of the permit area and the adjacent land to the greatest extent possible during construction, operation, and maintenance of the authorized improvements.

**C. VANDALISM.** The holder shall take reasonable measures to prevent and discourage vandalism or disorderly conduct and when necessary shall contact the appropriate law enforcement officer to address these problems.

## **D. PESTICIDE USE**

1. Authorized Officer Concurrence. Pesticides may not be used outside of buildings in the permit area to control pests, including undesirable woody and herbaceous vegetation (including aquatic plants), insects, birds, rodents, or fish without prior written concurrence of the authorized officer. Only those products registered or otherwise authorized by the U.S. Environmental Protection Agency and appropriate State authority for the specific purpose planned shall be authorized for use within areas on NFS lands.

2. Pesticide-Use Proposal. Requests for concurrence of any planned uses of pesticides shall be provided in advance using the Pesticide-Use Proposal (form FS-2100-2). Annually the holder shall, on the due date established by the authorized officer, submit requests for any new, or continued, pesticide usage. The Pesticide-Use Proposal shall cover a 12-month period of planned use. The Pesticide-Use Proposal shall be submitted at least 60 days in advance of pesticide application. Information essential for review shall 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 a Pesticide-Use Proposal was submitted.

3. Safety Plan. Before applying pesticides in the permit area, the holder shall submit to the authorized officer a safety plan that includes, at a minimum, a precise statement of the treatment objectives; a description of the equipment, materials, and supplies to be used, including pesticide formulation, quantities, and application methods; a description of the lines of responsibility for project planning, project monitoring, and after-action review; a description of any necessary interagency coordination; a copy of the current Pesticide-Use Proposal for the permit; a description of the process by which treatment effectiveness will be determined; and a spill plan, communications plan, security plan, and when required by applicable local requirements, a provision for prior notification to sensitive individuals.

4. Reporting. By September 30th annually, the holder shall submit to the authorized officer a written report of each pesticide application project completed during the previous 12-month period. The report shall contain information pertaining to the pesticide application projects as requested by the authorized officer.

5. Labeling, Laws, and Regulations. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers. No pesticide waste, excess materials, or containers shall be disposed of in any area administered by the Forest Service.

**E. ARCHAEOLOGICAL AND PALEONTOLOGICAL DISCOVERIES**. The holder shall immediately notify the authorized officer of any antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall leave these discoveries intact and in place until otherwise directed by the authorized officer.

**F. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION (NAGPRA)**. In accordance with 25 U.S.C. 3002 (d) and 43 CFR 10.4, if the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on NFS lands, the holder shall immediately cease work in the area of the discovery and shall leave the discoveries intact and in place. The holder shall follow the applicable NAGPRA protocols for the undertaking provided in the NAGPRA plan of action or the NAGPRA comprehensive agreement; if there are no such agreed-upon protocols, the holder shall as soon as practicable notify the authorized officer of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the authorized officer certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a NAGPRA plan of action has been executed by the Forest Service following tribal consultation and any preconditions have been met.

**G. PROTECTION OF THREATENED AND ENDANGERED SPECIES, SENSITIVE SPECIES, AND SPECIES OF CONSERVATION CONCERN AND THEIR HABITAT**

1. Threatened and Endangered Species and Their Habitat. The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA) of 1973, 16 U.S.C. 531 *et seq.*, as amended, or within designated critical habitat shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on listed species or designated critical habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing threatened or endangered species or designated critical habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

2. Sensitive Species and Species of Conservation Concern and Their Habitat. The location of sites within the permit area needing special measures for protection of plants or animals designated by the



Regional Forester as sensitive species or as species of conservation concern pursuant to FSM 2670 shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on sensitive species or species of conservation concern or their habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing sensitive species or species of conservation concern or their habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

**H. CONSENT TO STORE HAZARDOUS MATERIALS.** The holder shall not store any hazardous materials at the site without prior written approval from the authorized officer. This approval shall not be unreasonably withheld. If the authorized officer provides approval, this permit shall include or, in the case of approval provided after this permit is issued, shall be amended to include specific terms addressing the storage of hazardous materials, including the specific type of materials to be stored, the volume, the type of storage, and a spill or release prevention and control plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

**<USER NOTES FOR CLAUSES V.H.1 THROUGH V.H.4>**

**<Include clauses V.H.1 through V.H.4 in permits issued to non-federal entities, and clauses V.H.1, V.H.3 and V.H.4, re-lettered appropriately, in permits issued to federal entities, when consenting to store hazardous materials. Otherwise, delete all four paragraphs.>**

1. If the holder receives consent to store hazardous material, the holder shall identify to the Forest Service any hazardous material to be stored at the site. Such identification information shall be consistent with column (1) of the table of hazardous materials and special provisions enumerated at 49 CFR 172.101 whenever the hazardous material appears in that table. For hazard communication purposes, the holder shall maintain Material Safety Data Sheets for any stored hazardous chemicals, consistent with 29 CFR 1910.1200(c) and (g). In addition, all hazardous materials stored by the holder shall be used, labeled, stored, transported, and disposed of in accordance with all applicable federal, state, and local laws and regulations. Any hazardous material transportation and disposal manifests shall clearly identify the holder as the generator of the hazardous waste.

2. If hazardous materials are used or stored at the site, the authorized officer may require the holder to deliver and maintain a surety bond in accordance with clause IV.L.

3. The holder shall not release any hazardous material onto land or into rivers, streams, impoundments, or natural or artificial channels leading to them. All prudent and safe attempts must be made to contain any release of these materials. The authorized officer may specify conditions that must be met, including conditions more stringent than those imposed by federal, state, and local regulations, to prevent releases and protect natural resources.

4. If the holder uses or stores hazardous materials at the site, upon revocation or termination of this permit the holder shall provide the Forest Service with a report certified by a professional or professionals acceptable to the Forest Service that the permit area is uncontaminated by the presence of hazardous materials and that there has not been a release or discharge of hazardous materials upon the permit area, into surface water at or near the permit area, or into groundwater below the permit area during the term of the permit. If a release or discharge has occurred, the professional or professionals shall document and certify that the release or discharge has been fully remediated and that the permit area is in compliance with all applicable federal, state, and local laws and regulations.

**I. WATER WELLS AND ASSOCIATED PIPELINES**

1. Other Jurisdictional Requirements. Clause IV.E governs water rights and water facilities. The holder shall obtain all required state and local water permits, licenses, registrations, certificates, or rights and shall provide a copy of them to the authorized officer. For new wells, this information shall be provided prior to disturbing NFS lands for the purpose of water use or development.

2. Well Construction or Development. For new or reconstruction of existing wells, the holder shall prepare a well construction and development plan and submit it to the authorized officer for approval. The well development and construction plan must have prior written approval from the authorized officer before well construction or development is initiated. The holder shall follow applicable federal, state, and local standards for design, construction, and development of new wells or reconstruction of existing wells. If such standards do not exist, the holder shall follow applicable standards issued by the American Society for Testing and Materials (ASTM), American Water Works Association (AWWA), or National Ground Water Association (NGWA). The construction and development plan must identify all potential sources for any proposed water injection during well construction or development. Only non-chlorinated, potable water may be injected during construction or development of wells to be used for monitoring or water withdrawal. Copies of all documentation for drilling, constructing, or developing wells, including all drilling, boring, and well construction logs, shall be provided to the authorized officer within 60 days of completion of work.

3. Well Decommissioning. The holder shall properly decommission and abandon all wells that are no longer needed or maintained in accordance with applicable federal, state, and local standards for water well abandonment. If such standards do not exist, the holder shall follow applicable standards issued by the ASTM, AWWA, or NGWA. At least 30 days prior to initiation of well decommissioning, the holder shall submit a well decommissioning plan to the authorized officer. The well decommissioning plan shall have written approval from the authorized officer before well decommissioning is initiated. All documentation of well decommissioning shall be provided to the authorized officer within 60 days of completion of the work.

## **VI. LAND USE FEE AND DEBT COLLECTION**

### **<USER NOTES FOR CLAUSE VI.A>**

**<Include the applicable clause VI.A, and delete the remaining options for clause VI.A.>**

**<Include the following clause VI.A in permits issued to federal entities, and for this option only, delete clauses VI.B through VI.F>**

**A. LAND USE FEE**. The use or occupancy authorized by this permit is exempt from a land use fee pursuant to 36 CFR 251.57 and Forest Service Handbook 2709.11, Chapter 30.

**<Include the following clause VI.A in permits other than for organizational camps that have an annual land use fee of less than \$3500 pursuant to FSM 2715.14.>**

**A. LAND USE FEE**. The holder shall pay an annual land use fee of \$#AMOUNT# for the period from [ ] to [ ] and thereafter annually on [ ], in the amount of \$#AMOUNT#.

**<Include the following clause VI.A in permits that have an annual land use fee of \$3500 or more, using the applicable clause or clauses. Delete the bracketed text and brackets.>**

**A. LAND USE FEE**. [From FSH 2709.11, Chapter 50, insert clause A-16 for organizational camps or clauses A-1 and A-2 for uses subject to the graduated rate fee system.]

**B. MODIFICATION OF THE LAND USE FEE**. The land use fee may be revised whenever necessary to reflect the market value of the authorized use or when the fee system used to calculate the land use fee is modified or replaced.

### **C. LAND USE FEE PAYMENTS**

1. Crediting of Payments. Payments shall be credited on the date received by the deposit facility, except that if a payment is received on a non-workday, the payment shall not be credited until the next workday.

2. Disputed Land Use Fees. Land use fees are due and payable by the due date. Disputed land use fees, other than land use fees recalculated pursuant to an audit, must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

3. Late Payments

(a) Interest. Pursuant to 31 U.S.C. 3717 *et seq.*, interest shall be charged on any land use fee not paid within 30 days from the date it became due. The rate of interest assessed shall be the higher of the Prompt Payment Act rate or the rate of the current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate), as prescribed and published annually or quarterly by the Secretary of the Treasury in the *Federal Register* and the Treasury Fiscal Requirements Manual Bulletins. Interest on the principal shall accrue from the date the land use fee is due.

(b) Administrative Costs. If the account becomes delinquent, administrative costs to cover processing and handling the delinquency shall be assessed.

(c) Penalties. A penalty of 6% per annum shall be assessed on the total amount that is more than 90 days delinquent and shall accrue from the same date on which interest charges begin to accrue.

4. Administrative Offset and Credit Reporting. Delinquent land use fees and other charges associated with the permit shall be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 *et seq.* and common law. Delinquencies are subject to any or all of the following:

(a) Administrative offset of payments due the holder from the Forest Service.

(b) If in excess of 90 days, referral to the United States Department of the Treasury for appropriate collection action as provided by 31 U.S.C. 3711(g)(1).

(c) Offset by the Secretary of the Treasury of any amount due the holder, as provided by 31 U.S.C. 3720 *et seq.*

(d) Disclosure to consumer or commercial credit reporting agencies.

**D. NONPAYMENT**. This permit shall terminate if the holder fails to pay any land use fee, interest, or any other charges within 90 calendar days of the due date. The holder shall remain responsible for the delinquent charges.

**<USER NOTES FOR CLAUSE VI.E>**

**<Include clauses VI.E and VI.F in permits that have revenue-based land use fees. Do not include clauses VI.E and VI.F in permits that have a land use fee based on the appraised value of the authorized use.>**

**E. ACCESS TO RECORDS**. For purposes of administering this permit (including ascertaining that the correct land use fee was paid), the holder shall make all accounting books and supporting records for the authorized operations, as well as those of lessees operating in the permit area, available for review by the Forest Service or other federal agencies authorized to review Forest Service activities. Review of accounting books and supporting records shall be made at dates convenient to the holder and reviewers. Financial information shall be kept confidential to the extent permitted by law. The holder shall retain these records and keep them available for review for 5 years after they were generated, unless otherwise approved by the authorized officer in writing.

**F. ACCOUNTING RECORDS**. The holder shall follow generally accepted accounting principles or other comprehensive bases of accounting acceptable to the Forest Service in recording financial transactions and in reporting financial results to the authorized officer. When requested by the authorized officer, the holder at its own expense shall have annual accounting reports for the authorized operations audited or

prepared by a licensed independent accountant acceptable to the Forest Service. The holder shall require lessees to comply with these same requirements. At a minimum, the holder's and lessees' accounting system shall include:

1. Systematic internal controls, including recording by type of business the gross receipts derived from all operations conducted under this permit. Gross receipts should be recorded daily and, if possible, deposited into a bank account without reduction for disbursements. Receipt entries shall be documented by cash register tapes, sale invoices, rental records, cash accounts from other sources, or some other means.
2. A permanent record of capital investments in facilities (including a depreciation schedule).
3. Generation and maintenance of other records and accounts as may be specified by the authorized officer.

## **VII. REVOCATION, SUSPENSION, AND TERMINATION**

### **A. REVOCATION AND SUSPENSION**

1. The authorized officer may revoke or suspend this permit in whole or in part:
  - (a) For noncompliance with federal, state, or local law;
  - (b) For noncompliance with the terms of this permit;
  - (c) For abandonment or other failure of the holder to exercise the privileges granted; or
  - (d) At the discretion of the authorized officer, for specific and compelling reasons in the public interest.
2. The authorized officer may revoke this permit at the request of the holder. Revocation at the request of the holder must be agreed to in writing by the authorized officer. As a condition of revocation of this permit at the request of the holder, the authorized officer has discretion to impose any terms deemed appropriate as provided for in this permit.
3. Prior to revocation or suspension, other than revocation at the request of the holder under clause VII.A.2 and immediate suspension under clause VII.C, the authorized officer shall give the holder written notice of the grounds for revocation or suspension. In the case of revocation or suspension based on clause VII.A.1(a), VII.A.1(b), or VII.A.1(c), the authorized officer shall give the holder a reasonable period, not to exceed 90 days, to cure any noncompliance.

#### **<USER NOTES FOR CLAUSE VII.B>**

**<For the bracketed text, select the cite "IV.E" for permits issued to federal entities. Select the cite "IV.F" for permits issued to non-federal entities. Delete the unselected cite and the brackets.>**

**B. REVOCATION FOR SPECIFIC AND COMPELLING REASONS IN THE PUBLIC INTEREST.** The authorized officer may revoke this permit during its term if the Forest Service determines based on a land management planning decision that the use and occupancy authorized by this permit should be changed for specific and compelling reasons in the public interest, other than a determination under clause [IV.E/IV.F] that the authorized improvements or the permit area cannot be safely occupied. Prior to revoking the permit under this clause, the authorized officer shall give the holder 90 days written notice, provided that the authorized officer may prescribe a shorter notice period if justified by the public interest. The Forest Service shall then have the right to remove or relocate the authorized improvements, to require the holder to remove or relocate them, or to purchase them. Removal or relocation by the Forest Service of the authorized improvements shall be accepted by the holder in full satisfaction of all claims

against the United States under this clause. If the Forest Service requires the holder to remove or relocate the authorized improvements or purchases them, the Forest Service shall be obligated to pay the lesser of (1) the cost of removal or relocation of the authorized improvements or (2) the value of the authorized improvements as determined by the Forest Service through an appraisal of their replacement cost, less an allowance for depreciation of all types. If that amount is fixed by agreement between the authorized officer and the lessee, that amount shall be accepted by the holder in full satisfaction of all claims against the United States under this clause. If agreement is not reached, the authorized officer shall determine the amount to be paid, which shall be set forth in the revocation decision. A payment made pursuant to this clause is subject to the availability of appropriations. Nothing in this permit implies that Congress will appropriate funds to cover a deficiency in appropriations.

**C. IMMEDIATE SUSPENSION.** The authorized officer may immediately suspend this permit in whole or in part when necessary to protect public health or safety or the environment. The suspension decision shall be in writing. The holder may request an onsite review with the authorized officer's superior of the adverse conditions prompting the suspension. The authorized officer's superior shall grant this request within 48 hours. Following the onsite review, the authorized officer's superior shall promptly affirm, modify, or cancel the suspension.

**D. APPEALS AND REMEDIES.** Written decisions made by the authorized officer relating to administration of this permit are subject to administrative appeal pursuant to 36 CFR Part 214, as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service, other than as provided in clause VII.B.

**E. TERMINATION.** This permit shall terminate when by its terms a fixed or agreed upon condition, event, or time occurs without any action by the authorized officer. Examples include but are not limited to expiration of the permit by its terms on a specified date and, in the case of a permit issued to a business entity, termination upon change of control of the business entity. Termination of this permit is not subject to administrative appeal and shall not give rise to any claim for damages by the holder against the Forest Service.

**<USER NOTES FOR CLAUSE VII.F>**

**<Include the following clause VII.F in permits issued to non-federal entities, and delete the remaining clause VII.F.>**

**F. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT ISSUANCE OF A NEW PERMIT.** Except as provided in clause VII.B, upon revocation of this permit or termination of this permit without issuance of a new permit, the authorized officer has the discretion to require the holder to sell or remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and to restore the site to the satisfaction of the authorized officer. If the holder fails to sell or remove all structures or improvements within the prescribed period, they shall 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 costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

**<Include the following clause VII.F in permits issued to federal entities, and delete the remaining clause VII.F.>**

**F. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT ISSUANCE OF A NEW PERMIT.** Upon revocation or termination of this permit without issuance of a new permit, the holder shall remove within a reasonable period prescribed by the authorized officer all structures and improvements installed by the holder in the permit area and shall restore the site to the satisfaction of the authorized officer.

**G. CONTINUATION OF OBLIGATIONS AND LIABILITIES BEYOND EXPIRATION OR REVOCATION.** Notwithstanding the termination or revocation of this permit, its terms shall remain in

effect and shall be binding on the holder and the holder's personal representative, successors, and assignees until all the holder's obligations and liabilities accruing before or as a result of termination or revocation of this permit have been satisfied.

**<USER NOTES FOR CLAUSE VII.H>**

**<Include clause VII.H when the lands authorized for use are withdrawn for hydroelectric power or reclamation purposes. Otherwise, delete it.>**

**H. TERMINATION FOR THE DEVELOPMENT OF HYDROELECTRIC POWER OR RECLAMATION PURPOSES.** Any lands covered by this permit which have been withdrawn for hydroelectric power under the act of March 3, 1879, or the act of June 25, 1910, or are covered by an application or license governed by the Federal Power Act of June 10, 1920, are subject at any time to use for the development of hydroelectric power. Any lands covered by this permit which have been withdrawn under the Reclamation Act of June 17, 1902, are subject at any time to use for reclamation purposes. This permit is issued with the specific understanding that (1) the use and occupancy authorized by this permit shall not interfere with such development of hydroelectric power or reclamation and that (2) the permit shall terminate after 90 days written notice when, in the judgment of the Federal Power Commission, the lands in question are needed for the development of hydroelectric power or, in the judgment of the Bureau of Reclamation, the lands in question are needed for reclamation purposes. The holder shall have 90 days to remove the authorized improvements. Termination under this clause does not constitute revocation for specific and compelling reasons in the public interest under clause VII.B and shall not give rise to any claim by the holder against the Federal Power Commission, the Bureau of Reclamation, the Forest Service, or hydroelectric power licensees for damages, including lost profits and damage to improvements, due to such development of hydroelectric power or reclamation.

**VIII. MISCELLANEOUS 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 to the extent the authorized use provides a general benefit to a corporation.

**B. CURRENT ADDRESSES.** The holder and the authorized officer shall keep each other informed of current mailing addresses, including those necessary for billing and payment of land use fees.

**C. SUPERSEDED PERMIT.** This permit supersedes a special use permit designated #PREV\_REISSUE\_HOLDER#, #PREV\_AUTH\_ID#, dated #PREV\_REIS\_ISSUE\_DATE#.

**D. SUPERIOR CLAUSES.** If there is a conflict between any of the preceding printed clauses and any of the following clauses, the preceding printed clauses shall control.

**THIS PERMIT IS ACCEPTED SUBJECT TO ALL ITS TERMS.**

**BEFORE THIS PERMIT IS ISSUED TO AN ENTITY, DOCUMENTATION MUST BE PROVIDED TO THE AUTHORIZED OFFICER OF THE AUTHORITY OF THE SIGNATORY FOR THE ENTITY TO BIND IT TO THE TERMS OF THIS PERMIT.**

ACCEPTED:

\_\_\_\_\_  
[NAME AND TITLE OF PERSON SIGNING ON BEHALF OF HOLDER, DATE  
IF HOLDER IS AN ENTITY]  
#HOLDER\_NAME#

**<Add the following signature block in when clause IV.E.3 has been included in the permit.>**

On [date], before me, a notary public in the State of \_\_\_\_\_, personally appeared [name of holder], known to me to be the person who signed the permit as the holder.

\_\_\_\_\_  
Notary Public for the State of \_\_\_\_\_  
My commission expires [date]

APPROVED:

\_\_\_\_\_  
#AUTHORIZED OFFICER NAME# DATE  
#TITLE#  
 National Forest  
USDA Forest Service

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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.

**APPENDIX A**  
**MAP OF THE PERMIT AREA**



**APPENDIX B**  
**MASTER DEVELOPMENT PLAN**

**APPENDIX C**  
**SITE DEVELOPMENT SCHEDULE**

**APPENDIX D**  
**OPERATING PLAN**

**APPENDIX E**

**INITIAL AND FOLLOW-UP ENVIRONMENTAL SITE ASSESSMENTS**

**APPENDIX F**  
**AUTHORIZED IMPROVEMENTS**

The following facilities are authorized by this permit:

A. Land-Based

B. Water-Based

**APPENDIX G**  
**AUTHORIZED SERVICES**

The services authorized under this permit are:

<Include Appendix G in permits with the GRFS clause. Otherwise, delete it.>

**APPENDIX G**

**GROSS FIXED ASSETS**

<u>Land-Based</u>	\$
<u>Water-Based</u>	\$
Total Value of Gross Fixed Assets	\$_____