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Form 42-248-42-1409(6) July, 2000

Department of Water Resources

WATER RESOURCES  
WESTERN REGION

**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
**NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP**

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.  
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided, if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

| Water<br>Right No(s) | Adjudication<br>Claim No(s) | Split | Water<br>Right No(s) | Adjudication<br>Claim No(s) | Split |
|----------------------|-----------------------------|-------|----------------------|-----------------------------|-------|
| 65-13878             |                             |       |                      |                             |       |
| P/D 65-04057         |                             |       |                      |                             |       |
| P/D 65-02864         |                             |       |                      |                             |       |
| P/D 65-02865         |                             |       |                      |                             |       |
| 65-13061             |                             |       |                      |                             |       |

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):  
**PLAT OF PROPERTY** or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).
- OR**
- if your water right(s) and/or adjudication claim(s) are for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Richard L & Judith R. Area  
2006 N. Silversage Ave
4. New Owner/Claimant(s) Boise, Idaho 83713  
Name Connector (Check one) ☐ and, ☐ or, ☐ and/or
- New Mailing Address Wayne or Julia Stephens
- City, State and ZIP Code 24604 Emmett Rd Caldwell ID 83607
- New Telephone Number 208 585-3134
5. Date you acquired the property 4-30-2002

Form 42-248/42-1407/6 July, 2000

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

| DESCRIPTION OF YOUR PORTION OF WATER RIGHT<br>(If the right(s) will not be split, skip this area and proceed to item 7) |                                                                            |                                                              |
|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|--------------------------------------------------------------|
| Water Right and/or Adjudication Claim Number _____                                                                      |                                                                            |                                                              |
| Water Use                                                                                                               | Diversion Rate or Volume<br>(cubic feet per second or acre-feet per annum) | Description<br>(acres, number and type of stock, homes, etc) |
| Irrigation                                                                                                              | _____                                                                      | _____                                                        |
| Stock                                                                                                                   | _____                                                                      | _____                                                        |
| Domestic                                                                                                                | _____                                                                      | _____                                                        |
| Other _____                                                                                                             | _____                                                                      | _____                                                        |
| <b>Total</b>                                                                                                            | _____                                                                      | _____                                                        |

| DESCRIPTION OF YOUR PORTION OF WATER RIGHT<br>(If the right(s) will not be split, skip this area and proceed to item 7) |                                                                            |                                                              |
|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|--------------------------------------------------------------|
| Water Right and/or Adjudication Claim Number _____                                                                      |                                                                            |                                                              |
| Water Use                                                                                                               | Diversion Rate or Volume<br>(cubic feet per second or acre-feet per annum) | Description<br>(acres, number and type of stock, homes, etc) |
| Irrigation                                                                                                              | _____                                                                      | _____                                                        |
| Stock                                                                                                                   | _____                                                                      | _____                                                        |
| Domestic                                                                                                                | _____                                                                      | _____                                                        |
| Other _____                                                                                                             | _____                                                                      | _____                                                        |
| <b>Total</b>                                                                                                            | _____                                                                      | _____                                                        |

7. Signature of New Owner(s) or Claimant(s)  
(include title if applicable)

Wayne Stephens

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

## For Office Use Only

Received by REN Date 4-1-02 Fee 75.00  
 Received by \_\_\_\_\_ Date \_\_\_\_\_ Receipt No. W030286  
 Processed by \_\_\_\_\_ AJ Date \_\_\_\_\_ WR \_\_\_\_\_ Date \_\_\_\_\_

Fees paid for: 65-2864, 65-2865 + 65-4057.

PC43495

## WARRANTY DEED

FOR VALUE RECEIVED Richard L. Area and Judith R. Area, husband and wife

the Grantors, do hereby grant, bargain, sell and convey unto

Wayne K. Stephens and Julia Stephens, husband and wife

the Grantees, whose address is 24604 Emmett Rd, Caldwell, Id 83607

the following described premises, to-wit:

See attached Exhibit "A", which by this reference is made a part hereof and is comprised of one (1) page.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant in and with the said Grantees, that they are the owners in the simple of said premises; that said premises are free from all encumbrances, except for general taxes and assessments for the year 2002 & second half 2001 and subsequent years, covenants, conditions, restrictions and easements of record; and that they will warrant and defend the same from all lawful claims whatsoever.

DATED: April 30, 2002

Richard L. Area  
Richard L. Area

Judith R. Area  
Judith R. Area

STATE OF IDAHO

COUNTY OF CANYON

On this 1 day of MAY in the year 2002, before me, a Notary Public, personally appeared RICHARD L. AREA AND JUDITH R. AREA known or identified to me to be the persons whose names subscribed to the within instrument, and acknowledged to me that they executed the same.

Kathy McManis  
Notary Public  
Residing at Caldwell  
My commission expires 5/27/05



Instrument # 262032  
VALLEY COUNTY, CASCADE IDAHO  
2002 05-07 03:12:00 No. of Pages: 2  
Recorded by: AMERITITLE  
LELAND C. HENRICH  
Ex-Officio Recorder Deputy  
Index to: DEEDS

PIONEER TITLE COMPANY  
CANYON COUNTY

100 10TH AVE SOUTH  
NAMPA, IDAHO 83651

610 SOUTH KIMBALL  
CALDWELL, ID 83605

**CONTINUATION  
EXHIBIT A**

12N 5E 36

A parcel of land located in Valley County, Idaho, more particularly described as follows:

Warm Springs Lode mining claim designated as Survey No. 3259, embracing a portion of Section 36, Township 12 North, Range 5 East, Boise Meridian, Valley County, Idaho, Patent Number 1072706.

EXCEPTING THEREFROM a portion of Section 36, Township 12 North, Range 5 East, Boise Meridian, and is the southwesterly 1/3 of Warm Springs Lode Mining Claim which is recorded in Book 23, page 638, Recorder's Office, Valley County, Idaho, Patent Number 1072706 and designated as Survey No. 3529 and is more particularly described as follows:

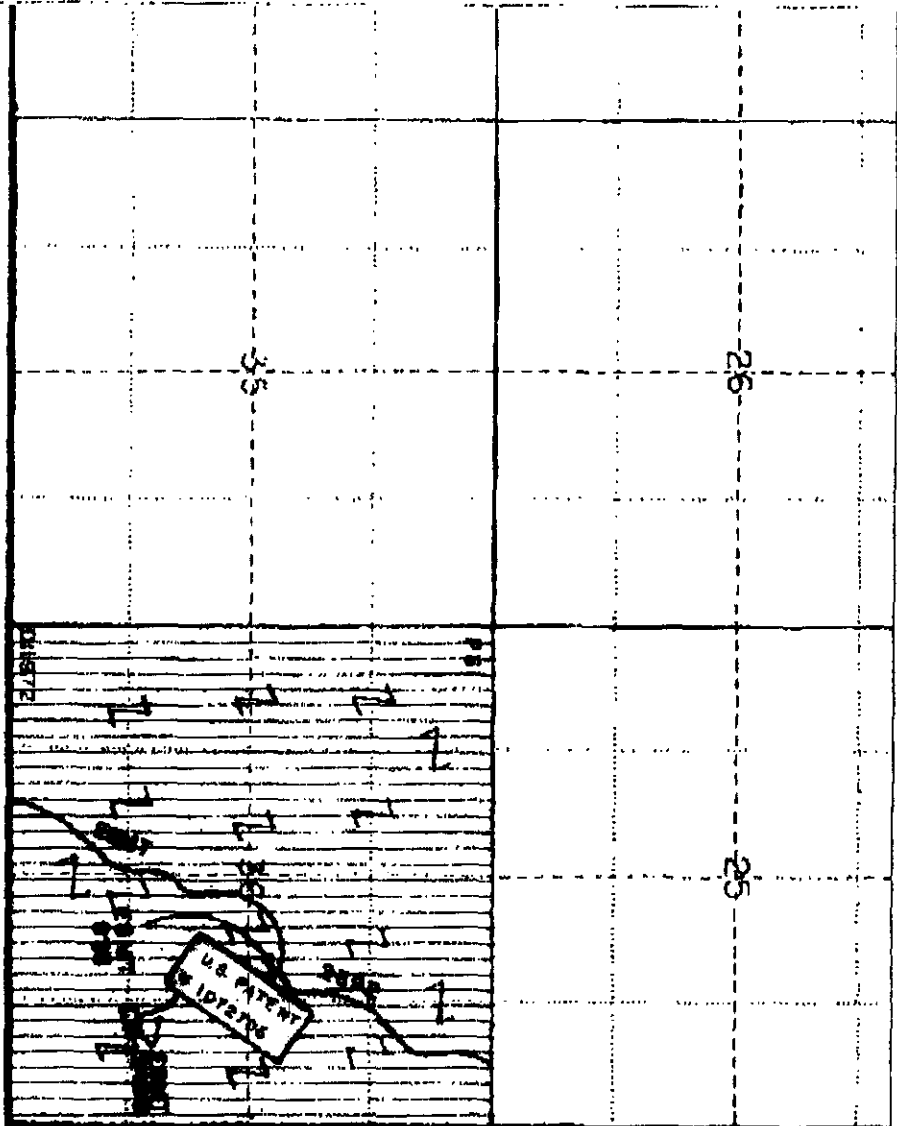
Commencing at the East one quarter corner of said Section 36, Township 12 North, Range 5 East, Boise Meridian; thence North 61° 49' West a distance of 656.2 feet; thence South 32° 50' West along the southeasterly boundary of said Patent 1072706, a distance of 1000 feet to the True Point of Beginning; thence continuing South 32° 50' West a distance of 500 feet to the southeasterly corner of said Patent 1072706; thence North 57° 10' West along the southwesterly boundary of Patent 1072706, a distance of 600 feet to the southwesterly corner of corner of Patent 1072706; thence North 32° 50' East along the northwesterly boundary of Patent 1072706, a distance of 500 feet; thence South 57° 10' East a distance of 600 feet to the True Point of Beginning.

TOGETHER WITH easement recorded in the records of Valley County, Idaho, at page 367 in Book 9 of Miscellaneous Deeds.

Commitment No: AMT0336-02

STEWART TITLE

T12N R6W E



MS-3269

BOUNDARY LINES  
 MINERAL LEASES  
 GRAZING & CROP LEASES  
 TIMBER SALES  
 MISCELLANEOUS LEASES

http://gis.idl.state.id.us/plans/sid/t12n05e0000/sid

|                        |  |         |            |             |
|------------------------|--|---------|------------|-------------|
| Post-It® Fax Note 7671 |  | Date    | 11/4/04    | Page 1 of 1 |
| To: Jeff Repass        |  | From:   | S.A. Muraw |             |
| Co. Dept.              |  | Co.     |            |             |
| Phone #                |  | Phone # |            |             |
| Fax # 237-6700         |  | Fax #   |            |             |

Scale in Chd  
 10 20 30  
 10 20 30

SECTION - ACRES LOT  
 NORTH  
 RANGE  
 TOWNSHIP  
 COUNTY  
 STATE

STATE MINERAL  
 & SURFACE RIGHT  
 STATE SURFACE  
 RESTRICTED MINE



Authorization ID: EMT550903  
Contact ID: SILVER CREEK PL  
Use Code: 141  
Expiration Date: 12/31/2022

FS-2700-4h (9/02)  
OMB No. 0596-0082

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DEC 20 2004

DEPARTMENT OF  
WATER RESOURCES

U.S. DEPARTMENT OF AGRICULTURE  
Forest Service  
SPECIAL USE PERMIT FOR  
CAMPGROUND AND RELATED GRANGER-THYE CONCESSIONS  
Authority: Granger-Thye Act, 16 U.S.C. 580d  
(Ref. FSM 2710)

SILVER CREEK PLUNGE, c/o Wayne and Julia Stephens, 24604 Emmett Road, , CALDWELL, ID 83607

SILVER CREEK PLUNGE (the holder) is hereby authorized to use and occupy National Forest System lands, subject to the conditions below, on the Boise National Forest.

Operate and maintain camping and picnicking services adjacent to the private resort known as Silver Creek Plunge. Authorized holder improvements include: picnic tables, fire containment devices, water systems, camping spurs and portable toilets as detailed on an approved campground plan. Holder is responsible for daily maintenance and upkeep on Forest Service improvements including 2 toilet buildings, 6 interpretive displays, fence and two bridges, located within the development boundary as defined on the attached map. Appendix A, Operating Plan, is hereby made a part of this permit. Operating and maintaining 2 - 15 foot discharge pipes from the pool.

| <u>FACILITY</u>     | <u>LEGAL DESCRIPTION</u> | <u>ACRES</u> | <u>DISTRICTS</u> |
|---------------------|--------------------------|--------------|------------------|
| Silver Creek Plunge | Sec. 36. T.12N.R5E.      | 20.7         | Emmett           |

THIS permit covers 20.7 acres, which are described above and are as shown on the location map attached to and made a part of this permit. The above described area shall be referred to herein as the permit area.

THIS permit is issued for the purpose of operating and maintaining a Forest Service developed recreation site(s) as provided herein and in the attached annual operating plan (Appendix A), annual Granger-Thye fee offset agreement (Appendix B), holder maintenance and reconditioning plan (Appendix C), recreation site maps (Appendix D), facility and improvement inventory (Appendix E), and Forest Service Manual 7420 (Appendix F), all of which are hereby made a part of this permit.

#### I. AUTHORITY AND GENERAL TERMS OF THE PERMIT

**A. AUTHORITY.** This permit is issued under Section 7 of the Granger-Thye Act, 16 U.S.C. 580d, 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 who issued this permit or a delegated subordinate officer.

**C. TERM.** This permit shall expire at midnight on December 31, 2022, 20 years from the date of issuance, provided that the permit term may be extended up to 5 years by amendment at the sole discretion of the authorized officer based on sustained satisfactory performance or administrative need. Expiration of this permit shall not require notice, a decision document, or any environmental analysis or other documentation.

**D. RENEWAL.** This permit is not renewable. After it expires, continuation of the type of use and occupancy authorized by this permit shall be at the sole discretion of the authorized officer. After expiration, issuance of a new permit for the type of use and occupancy authorized by this permit shall be subject to competition.

**E. AMENDMENT.** This permit may be amended in whole or in part by the Forest Service when at the discretion of the authorized officer such action is deemed necessary or desirable to incorporate new terms that may be required by law, regulation, forest land and resource management plans, or other management decisions.

**F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS.** In exercising the rights and 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 is not exclusive. The Forest Service reserves a continuing right of access to the permit area, including a continuing right of physical entry to the permit area 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 structures and developments, the lands and waters covered by this permit shall remain open to the public for all lawful purposes. To facilitate public use of this area, all existing roads shall remain open to the public, except for roads that may be closed by joint agreement of the holder and the authorized officer.

## **H. CHANGE IN CONTROL**

**1. Notification.** The holder shall notify the authorized officer when a change in control of the business entity that holds this permit is contemplated. If the holder is a corporation, change of control means the sale or transfer of a controlling interest in the corporation. If the holder is a partnership or a limited liability company, change of control means the sale or transfer of a controlling interest in the partnership or limited liability company. If the holder is an individual, change of control means the sale or transfer of the business to another party.

**2. Termination.** This permit is not transferable. Any change in control of the business entity as defined in clause 1.H.1 shall subject this permit to termination upon issuance of a new permit to the party who acquires control of the business entity. That party must submit an application for a permit for the type of use and occupancy authorized by this permit. Issuance of a new permit to the party acquiring control shall be at the sole discretion of the authorized officer. The authorized officer shall determine that the applicant meets requirements under federal regulations. If a new permit is issued to the party acquiring control, the term shall be for no more than the balance of the term of this permit. Once the permit issued to the party acquiring control expires, issuance of a new permit for the type of use and occupancy authorized by this permit shall be subject to competition.

**I. LIMITATIONS.** Nothing in this permit gives or implies permission to build or maintain any structure or facility or to conduct any activity, unless specifically provided for in this permit. Any use not specifically identified in this permit must be approved by the authorized officer through a new permit or a permit amendment.

## **II. OPERATIONS, MAINTENANCE, AND RECONDITIONING**

### **A. ANNUAL OPERATING PLAN**

1. The holder or his/her designated representative shall prepare and annually revise by December 15 an annual operating plan. The annual operating plan shall be prepared in consultation with the authorized officer or his/her designated representative and shall cover all operations authorized by this permit, regardless of season. The annual operating plan shall be submitted by the holder and approved by the authorized officer or his/her designated representative prior to the operating season.

2. The annual operating plan shall specify the operational requirements governing the sites covered by this permit. At a minimum, the annual operating plan shall enumerate the minimum operating seasons; how the holder will provide services to the public; protect public health and safety and the environment; and repair, maintain, or enhance the function of the improvements covered by this permit. The annual operating plan shall contain standards and sufficient detail to enable the Forest Service to monitor operations for compliance.

3. The holder shall perform a condition survey of the water system each year before it is opened. The holder shall prepare a brief written report that notes all deficiencies that may render compliance with Appendix F of this permit (Operation of Federally Owned Drinking Water Systems) and other applicable regulatory requirements

infeasible. The condition survey report shall also include a detailed description of all water system deficiencies and/or repair work which the holder has identified as requiring corrective action in order for the system to be in compliance with Appendix F of this permit and applicable Federal and State safe drinking water regulation. If repair work is necessary, a repair plan shall be attached to the condition survey report. The repair plan shall identify all water system components requiring repair, estimated costs for repair and the approximate time schedule to complete the repair. The report shall be sent to the authorized officer at least two weeks days prior to opening the system for the season. All deficiencies shall be corrected to the satisfaction of the Forest Service prior to opening the system. Corrections and the date they were made shall be recorded in the condition survey. If the system operates throughout the year, the condition survey shall be submitted to the Forest Service by January 15 each year.

**B. MINIMUM USE AND OCCUPANCY.** Use and occupancy of the permit area shall be exercised at least 90 days each year, unless otherwise authorized in writing under additional terms of this permit.

**C. GRANGER-THYE FEE OFFSET AGREEMENT.** Government maintenance and reconditioning projects shall be performed in accordance with an annual Granger-Thye fee offset agreement as provided in clause IV.E.2 of this permit.

**D. HOLDER MAINTENANCE, RECONDITIONING OR RENOVATION PLAN.** The holder at its expense shall perform holder maintenance, reconditioning, or renovation as defined in clause IV.E.1(d) of this permit under a holder maintenance, reconditioning, or renovation plan approved by the Forest Service. The holder maintenance, reconditioning, or renovation plan shall describe required holder maintenance, reconditioning, or renovation responsibilities and their frequency. The work performed under this plan shall not be subject to fee offset under clause IV.E.

The holder shall maintain all equipment and other facilities on site in good repair and free of leakage of lubricants, fuel, coolants, and hydraulic fluid. The holder shall properly dispose of all hazardous waste-contaminated soil, vegetation, debris; vehicle oil filters (drained of free-flowing oil); oily rags; and waste oil in accordance with local, State, and Federal regulations off of Government property and shall transport such substances, or arrange to have such substances transported in accordance with State and Federal regulations.

**E. ALTERATION OF GOVERNMENT IMPROVEMENTS.** If during the term of this permit any government-owned improvements are altered in any way, the material, equipment, fixtures or other appurtenances that are affixed to or made a part of those improvements in connection with the alteration shall become the property of the United States, regardless of whether the work is performed by the holder or any other party. The holder shall not be entitled to any compensation for that property, other than to the extent it qualifies for fee offset under clause IV.E.

**F. RESPONSIBILITY FOR DAY-TO-DAY ACTIVITIES.** As a general rule, the holder shall conduct the day-to-day activities authorized by this permit. Some but not all of these 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.

**G. REMOVAL AND PLANTING OF VEGETATION.** This permit does not authorize the cutting of timber or other vegetation. Trees or shrubbery may be removed or destroyed only after the authorized officer or his/her designated agent has approved and marked what may be removed or destroyed. Timber cut or destroyed shall be paid for at current stumpage rates for similar timber in the National Forest. The Forest Service reserves the right to dispose of the merchantable timber to those other than the holder at no stumpage cost to the holder. Unmerchantable material shall be disposed of as directed by the authorized officer. Trees, shrubs, and other plants may be planted in the permit area as approved by the authorized officer.

**H. SIGNS.** Signs or other advertising posted on National Forest System lands shall be subject to prior written approval of the authorized officer as to location, design, size, color, and content. Erected signs shall be maintained to standards determined by the Forest Service.

**I. NONDISCRIMINATION.**

1. The holder and its employees shall not discriminate against any person on the basis of race, color, sex (in educational activities), national origin, age, or disability or by curtailing or refusing to furnish accommodations, facilities, services, or use privileges offered to the public generally. In addition, the holder and its employees shall comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments of 1972, as amended, and the Age Discrimination Act of 1975, as amended.

2. The holder shall include and require compliance with the above nondiscrimination provisions in any third-party agreement made with respect to the operations authorized under this permit.

3. Signs setting forth this policy of nondiscrimination to be furnished by the Forest Service shall be conspicuously displayed at the public entrance to the premises, 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.

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

K. ~~NATIONAL RECREATION RESERVATION SERVICE (NRRS).~~ The NRRS is the only authorized reservation service to be utilized by the holder. No other reservation service of any kind may be used by the holder. Operational procedures for the NRRS will be developed and placed in the annual operating plan.

### III. RIGHTS AND LIABILITIES

A. **LEGAL EFFECT OF THE PERMIT.** This permit is revocable and terminable. It is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

B. **THIRD-PARTY RIGHTS.** This permit is subject to all valid rights and claims of third parties. The United States is not liable to the holder for the exercise of any such right or claim.

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, including any party who has responsibility for any day-to-day activities authorized by this permit, if approved by the authorized officer under clause II.F.

D. **WATER RIGHTS.** This permit does not confer any water rights on the holder. Water rights must be acquired under state law. Upon revocation or termination of this permit, the holder shall transfer any water rights associated with the use and occupancy authorized by this permit to the succeeding permit holder. If there is no succeeding permit holder, the holder shall relinquish those water rights to the Forest Service.

E. **RISKS.** The holder assumes all risk of loss of the property. Loss to the property 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 acts of God. If the authorized improvements 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.

**F. 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. Damage includes but is not limited to fire suppression costs, damage to government-owned improvements covered by this permit, and all costs and damages associated with or resulting from the release or threatened release of a hazardous material occurring during or as a result of activities of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees on, or related to, the lands, property, and other interests covered by this permit. For purposes of clauses III.F, III.I, and V, "hazardous material" shall mean any hazardous substance, pollutant, contaminant, hazardous waste, oil, and/or petroleum product, as those terms are defined under any federal, state, or local law or regulation.

1. The holder shall avoid damaging or contaminating the environment, including but not limited to the soil, vegetation (such as trees, shrubs, and grass), surface water, and groundwater, during the holder's use and occupancy of the site. If the environment or any government property covered by this permit becomes damaged during the holder's use and occupancy of the site, the holder shall immediately repair the damage or replace the damaged items to the satisfaction of the authorized officer and at no expense to the United States.

2. The holder shall indemnify the United States for any damages arising out of the use and occupancy authorized by this permit, including damage to government-owned improvements covered by this permit. The holder shall be liable for all injury, loss, or damage, including fire suppression, or other costs in connection with rehabilitation or restoration of natural resources associated with the use and occupancy authorized by this permit. 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 in connection therewith.

3. With respect to roads, the holder shall be liable for damage to all roads and trails of the United States open to public use caused by use of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees to the same extent as provided under clause III.F.1, except that liability shall not include reasonable and ordinary wear and tear.

**G. HEALTH, SAFETY, AND ENVIRONMENTAL PROTECTION.** The holder shall take all measures necessary to protect the environment, natural resources, and 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 before, during the term of this permit or existing or occurring after the term of this permit and arising out of or relating to any activity, event, or condition existing or occurring during the term of this permit that causes or threatens to cause: a hazard to the safety of workers or to public health or safety; or, harm to the environment (including but not limited to areas of vegetation or timber, fish or other wildlife populations, their habitats, or any other natural resources). The holder shall immediately notify the authorized officer of all serious accidents that occur in connection with such activities. The responsibility to protect the health and safety of all persons affected by the use and occupancy authorized by this permit is solely that of the holder. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations and activities of the holder for hazardous conditions or compliance with health and safety standards.

**H. INDEMNIFICATION OF THE UNITED STATES.** The holder shall indemnify, defend, and hold the United States harmless 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 and hold harmless provision includes but is not limited to acts and omissions of the holder or the holder's heirs, assigns, 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, and including but not limited to those environmental laws listed in clause V.A of this permit; (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 substance, 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 actions to mitigate damages in addition to or as an alternative to monetary indemnification.

**1. 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 and approve the insurance policy prior to issuance. The holder shall send an authenticated copy of any insurance policy obtained pursuant to this clause to the Forest Service immediately upon issuance of the policy. Any insurance policies obtained by the holder pursuant to this clause shall name the United States as an additional insured, and the additional insured provision shall provide for insurance coverage for the United States as required under this clause. Such policies shall also specify that the insurance company shall give 30 days' prior written notice to the Forest Service of cancellation of or any modification to the policies. 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. Liability.** 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 \$500,000.00 as a combined single limit.

**2. Property.** The holder shall have in force property insurance for the federal government property covered by this permit, including the land and government-owned improvements in the minimum amount of \$50,000. The types of loss to be covered by this clause shall include but not be limited to fire suppression costs and damage to government-owned improvements and lands covered by this permit. At the sole discretion of the authorized officer, the Forest Service may require the holder to use all proceeds from property damage insurance policies to repair, rebuild, restore, or replace damaged government property covered by the policy, or may obtain payment of those proceeds from the concessionaire or the insurance company.

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 on a case-by-case basis by the authorized officer based on the degree of environmental risk from the holder's operations. The use and storage of normal campground maintenance items in nominal amounts would generally not trigger financial assurance requirements.

**J. PERFORMANCE BOND.** The authorized officer may at any time during the term of this permit require the holder to furnish a bond or other security to secure any or all of the obligations imposed by the terms of this permit or any applicable law, regulation, or order. The following terms shall apply if a bond is required.

**1. Amount and Form of Bonding.** As a further guarantee of compliance with the terms of this permit, the holder agrees to deliver and maintain a surety bond or other acceptable security in the amount of . In lieu of a bond, the holder may deposit and maintain in a federal depository cash in the foregoing amount or negotiable securities of the United States having a market value at the time of deposit of at least the foregoing dollar amount.

**2. Sufficiency of Bonding.** The authorized officer may periodically evaluate the adequacy of the bond and increase or decrease the amount as appropriate. Should the bond or other security delivered under this permit become unsatisfactory to the Forest Service, 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 Forest Service.

**3. Remedies.** The bond shall provide that at the Forest Service's sole discretion the surety shall pay the United States for any loss covered by the bond or, in the event of complete default under the permit, shall pay a third party to operate the concession for the balance of the permit term. The bond shall also provide that selection of a third party to operate the site is subject to Forest Service approval. If the holder fails to meet any of the requirements secured under this clause, the Forest Service has the discretion to require the surety to pay the United States for any loss covered by the bond or, in the event of complete default under the permit, to pay a third party to operate the concession for the balance of the permit term, without prejudice to any other rights and remedies of the United States.

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

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

#### IV. PERMIT FEES AND ACCOUNTING RECORDS

**A. PERMIT FEES.** The holder shall pay to the USDA, Forest Service, an annual permit fee for the term of this permit based on the fair market value of the use and occupancy authorized by this permit of N/A percent of adjusted gross revenue as defined in clause IV.B. The minimum annual permit fee for the authorized use and occupancy shall be \$ 2,100. ~~If the percentage of gross revenue in a given year is less than the minimum annual permit fee, the holder shall pay the minimum annual permit fee.~~ The holder shall pay the permit fee in advance of the authorized use and occupancy, as provided in clause IV.C. Payments due before commercial operations commence pursuant to clause IV.C.1 are not refundable, except to the extent they are subject to fee offset under clause IV.C.3 and IV.E. The Forest Service may adjust the minimum permit fee every five years from the due date of the first annual payment to make the annual permit fee commensurate with the fair market value of the authorized use and occupancy.

#### B. DEFINITIONS

1. **Adjusted Gross Revenue.** Gross revenue plus applicable revenue additions, minus applicable revenue exclusions.
2. **Gross Revenue.** The total amount of receipts from the sale of goods or services provided by the holder or third party under the permit.
3. **Revenue Additions.** The following are added to gross revenue:
  - (a) The value of goods and services that are donated or bartered; and
  - (b) The value of gratuities, which are goods, services, or privileges that are not available to the general public.
4. **Revenue Exclusions.** The following are excluded from gross revenue:
  - (a) Amounts paid or payable to a state licensing authority.
  - (b) Revenue from the sale of operating equipment and from capitalized or other assets used in authorized operations.
  - (c) Refunds of use fees provided to the public by the holder.

#### C. PAYMENT SCHEDULE

~~1. **Initial Payment.** An initial cash payment representing the portion of the estimated annual permit fee for one month of revenue during the operating season (but not less than \$1,500, unless the total permit fee is less than \$1,500) shall be paid in advance of use each year. This payment is not refundable except to the extent that all or part of the initial cash payment may be offset by the cost of work performed pursuant to a Granger-Thye fee offset agreement as provided in clauses IV.C.3 and IV.E.2.~~

~~2. **Subsequent Payments.** The holder shall report sales, calculate fees due, and make payment in two installments, on Insert date SEE USER NOTE Recommend June 30, and on Insert Date SEE USER NOTE Recommend July 31.~~

#### 3. Holder-Performed Fee Offset Work.

**(a) Work in Lieu of Cash Payments.** Notwithstanding clause IV.C.2, the cost of work performed by the holder pursuant to a Granger-Thye fee offset agreement as provided in clause IV.E.2 may be credited in lieu of cash payments against the annual permit fee, provided that the work has been accomplished in accordance with the Granger-Thye fee offset agreement, and has been accepted as completed by the Forest Service before the end of the holder's fiscal year.

In the absence of a current, Granger-Thye fee offset agreement, payment must be made pursuant to clause IV.C.2.

**(b) Documentation of Expenses.** Prior to reimbursement or credit for Granger-Thye fee-offset work, the holder shall submit sufficient documentation to allow the authorized officer to determine that the costs claimed are allocable to the Granger-Thye fee offset agreement, actual, reasonable, and not unallowable.

4. **Final Payment.** The Forest Service shall reconcile annually the actual permit fee against permit fee payments made and credits for fee offset work. The holder shall pay any additional fees owed for the past year's operation within 30 days of billing.

5. **Overpayment.** Overpayment of the permit fee will be reimbursed by the Forest Service only if paid pursuant to clauses IV.C.1 and 2. Credit for offset work pursuant to clause IV.C.3 is limited to the amount of the annual permit fee; expenses will not be reimbursed if they are greater than the annual permit fee.

D. **DOCUMENTATION OF REVENUE.** The holder shall provide documentation of use and revenue for purposes of permit fee verification.

1. **Use and Revenue Data.** The holder shall submit to the authorized officer on a monthly basis use and revenue data covering each week of the operating season. At a minimum, such data shall consist of the number of sites occupied, all extra vehicle charges, the total number of Golden Age and Golden Access Passports honored, the total amount of use fees collected from the public, and the total amount of other types of revenue collected from the public.

2. **Income Statements.** No later than 90 days after the close of the holder's fiscal year, the holder shall submit to the authorized officer a statement of income reporting the results of the holder's annual operations. The statement shall include all adjustments, such as taxes deducted, and shall be broken down by categories of sales. E. **GRANGER-TYPE FEE OFFSET.** Pursuant to 16 U.S.C. 580d, the Forest Service may offset all or part of the permit fee by the amount paid by the holder for renovation, reconstruction, improvement, and maintenance deemed to be the government's responsibility, as defined below, of government-owned improvements and their associated land.

## 1. Definitions

(a) **Maintenance.** Actions taken to keep fixed assets in acceptable condition. Maintenance includes preventive maintenance, normal repairs, replacement of parts and structural components, and other activities needed to preserve a fixed asset so that it continues to provide acceptable service and achieves its expected life. Maintenance includes work needed to meet laws, regulations, codes, and other legal direction as long as the original intent or purpose of the fixed asset is not changed. Maintenance excludes activities aimed at expanding capacity of an asset or otherwise upgrading it to serve needs different from or significantly greater than those originally intended, such as construction of new facilities.

(b) **Improvement.** Advancing a fixed asset to a better quality or state. Improvement includes replacement. Replacement means substitution or exchange of an existing fixed asset or component with one having essentially the same capacity and purpose. Improvement is always the responsibility of the Government rather than the holder.

(c) **Reconditioning or Renovation.** A type of maintenance that rehabilitates an existing fixed asset or any of its components in order to restore the functionality or life of the asset. Reconditioning and renovation do not include construction of new facilities.

(d) **Holder Maintenance, Reconditioning, or Renovation.** Maintenance, reconditioning, or renovation that neither materially adds to the value of the property nor appreciably prolongs its life. The work serves only to keep the facility in an ordinary, efficient operating condition. From an accounting or tax perspective, it is work that may be expensed, but not capitalized. Examples include but are not limited to interior decorating, interior painting, vandalism repair, repair of broken windows, light bulb replacement, cleaning, unplugging drains, drive belt replacement, preventive maintenance, lubrication of motors, greasing, servicing, inspecting, oiling, adjusting, tightening, aligning, watering, weeding, waxing, refinishing picnic tables, routine housekeeping, and general snow removal. In fulfilling these responsibilities, the holder shall obtain any licenses and certified inspections required by regulatory agencies and follow state and local laws, regulations, and ordinances and industry standards or codes applicable to the permitted operation.

(e) **Government Maintenance, Reconditioning, Renovation, or Improvement.** Maintenance reconditioning, renovation, or improvement that arrests deterioration, improves and upgrades facilities, and appreciably prolongs the life of the property. Examples include but are not limited to installing a new roof, new floor, or new siding;

rebuilding boilers; replacing pipes, pumps, and motors; repairing or maintaining the paths, lands, walks, walls, or landscaping adjacent to other government-owned structures; replacing vault toilets with flush facilities, paving interior roads, upgrading facilities, and installing utilities; and performing exterior painting and refinishing. Exterior painting that repairs unsightly visual marks caused by everyday use does not meet the definition outlined above. Government maintenance, reconditioning, renovation or improvement, whether performed by the holder or the Forest Service, shall be performed at the sole discretion of the authorized officer.

**2. Granger-Thye Fee Offset Agreement.** Before issuance of this permit and before each operating season thereafter, the Forest Service and the holder shall enter into an annual written Granger-Thye fee offset agreement that specifies the government maintenance, reconditioning, renovation and improvement to be used to offset the permit fee. The agreement shall specify whether the concessionaire shall be required or has the option to enter into a collection agreement to have the Forest Service perform the work. The agreement shall enumerate the portion of the permit fee to be offset by the cost of work performed by the holder and the schedule for completion of offset work. Additionally, the agreement shall specify the portion of the permit fee to be offset by the cost of work performed by the Forest Service. The agreement shall specify which projects are to be used for offset that year and shall also include standards for completion of the projects and examples of allowable costs.

**3. Collection Agreements for Forest Service Oversight for Major Government Maintenance, Reconditioning, Renovation, and Improvements performed by the holder.** The Forest Service may require the holder to enter into a collection agreement with the Forest Service to pay the cost of a Forest Service employee administering and overseeing major government maintenance, reconditioning, and improvement projects and offset those costs against the holder's annual permit fee. For purposes of this clause only, a major government maintenance, reconditioning, and improvement project is one costing \$N/A or more. Allowable costs include monitoring to ascertain that work is being done to Forest Service standards. Allowable costs do not include routine permit administration by the Forest Service. If the Forest Service exercises this option, a separate collection agreement shall be executed by the parties and made a part of this permit.

## **F. FEE PAYMENT ISSUES**

**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 Fees.** Fees are due and payable by the due date. No appeal of disputed fees will be considered by the Forest Service without full payment of the disputed amount. Adjustments will be made if dictated by settlement terms or an appeal decision.

### **3. Late Payments**

**(a) Interest.** Pursuant to 31 U.S.C. 3717 *et seq.*, interest shall be charged on any fee amount not paid within 30 days from the date 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 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 fee amount 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.

**(d) Termination for Nonpayment.** This permit shall terminate without the necessity of prior notice and opportunity to comply when any permit fee payment is 90 calendar days from the due date in arrears. The holder shall be responsible for the delinquent fees, as well as any other costs of restoring the site to its original condition, including hazardous waste cleanup.

**4. Administrative Offset and Credit Reporting.** Delinquent 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 60 days, referral to the 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.

**G. ACCOUNTING RECORDS AND ACCESS.** The holder shall follow generally accepted accounting principles or other cash basis of accounting in recording financial transactions. When requested by the Forest Service, the holder at its own expense shall have its annual accounting records audited by an independent public accountant acceptable to the Forest Service. The holder shall require any party who has responsibility for any day-to-day activities under clause II.F of this permit to comply with these same requirements. The holder shall make all of the accounting books and supporting records for the business activities authorized by this permit, as well as those of any parties authorized to operate under clause II.F of this permit, available for audit by the Forest Service or other federal agencies authorized to review Forest Service activities. The holder shall retain these records and make them available for review for five years after the end of the year they were generated, unless disposition is otherwise authorized by the Forest Service in writing.

## V. RESOURCE AND IMPROVEMENT PROTECTION

**A. 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 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 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. 9601 *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.*

## B. WATER SYSTEMS

1. The holder, as the water supplier and operator of the drinking water system, shall operate the system in compliance with Forest Service Manual (FSM) Chapter 7420, applicable federal, state, and local drinking water laws and all regulations applicable to public and nonpublic drinking water systems. This includes, but is not limited to, renovation, operating and maintaining the system and conducting drinking water testing, maintaining records to demonstrate compliance. The holder shall be able to demonstrate compliance with Appendix F of this permit (Operation of Federally Owned Drinking Water Systems) and all other applicable requirements by maintaining all necessary records. For the purposes of this authorization, public water systems are as defined in the Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*, as amended, and in the National Primary Drinking Water Regulations, 40 CFR Part 141, or by state regulations if more stringent. Requirements under FSM 7420 applicable to the holder are set forth in this section and Appendix F to the permit entitled "Operation of Federally Owned Drinking Water Systems."

2. For federally owned systems, the holder shall notify and consult with the Forest Service within 24 hours or on the next business day after notification by the laboratory of a sample that tests positive for microbiological contamination. The holder shall provide a copy of positive lab test to the Forest Service within one week of receiving the lab result. The holder shall notify the State drinking water program and Forest Service within 48 hours of any failure to comply with a federal or state drinking water requirement and make a written record that the notification occurred and place it in the system's record file. The holder shall notify and consult with the Forest Service within 48 hours of notification of a maximum contaminant level violation or an acute violation. The holder shall respond to the microbial contamination event as specified in Appendix F of this permit (Operation of Federally Owned Drinking Water Systems) and applicable regulations.

3. The holder shall retain all records as required by applicable laws and regulations. The holder agrees to make the records available upon request to the Forest Service and to any other regulatory agency authorized to review Forest Service activities. Copies of microbiological test results for federally owned water systems shall be forwarded monthly to the Forest Service by the 15th of the month following the sampling date. Copies of all other drinking water sample results shall be forwarded to the Forest Service at the end of the operating season. If the operating season is longer than six months in length, copies of sample results must be provided to the Forest Service every six months. The holder shall clearly identify all sample results that violate FSM requirements or state, federal, and local requirements when the copies are submitted. Sample results that violate any of these requirements must have the results of required follow up samples attached. Copies of sample results that violate state requirements must have documentation attached to demonstrate that the state was informed of the violation within 48 hours of the lab notifying the holder of the results. The holder shall surrender all records for a federally owned system to the Forest Service upon permit termination or revocation.

4. For federally owned systems, the holder shall provide the name of the water system operator in writing to the Forest Service and notify the authorized officer within 72 hours of a change in personnel. Operators shall be certified to operate drinking water systems for all water systems classified as community or non-transient noncommunity system or when otherwise required by the state in which the system is located. Records to demonstrate operator certification shall be kept by the holder and made available to Forest Service upon request.

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

**D. PESTICIDE USE.** Pesticides may not be used to control undesirable woody and herbaceous vegetation, aquatic plants, insects, rodents, trash fish, and other pests and weeds without prior written approval from the authorized officer. A request for approval of planned uses of pesticides shall be submitted annually by the holder on the due date established by the authorized officer. The report shall cover a 12-month period of planned use beginning 3 months after the reporting date. 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 or weeds require control measures that were not anticipated at the time an annual report was submitted. Only those materials registered by the U.S. Environmental Protection Agency for the specific purpose planned shall be considered for use on National Forest System lands. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers.

**E. ARCHAEOLOGICAL-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 as the result of operations under this permit. The holder shall leave such discoveries intact until authorized to proceed by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the holder.

**F. PROTECTION OF HABITAT OF ENDANGERED, THREATENED, AND SENSITIVE SPECIES.** Location of areas needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA), 16 U.S.C. 531 *et seq.*, as amended, or as sensitive by the Regional Forester under the authority of Forest Service Manual Chapter 2670, derived from ESA Section 7 consultation, may be shown on a separate map, hereby made a part of this permit, or identified on the ground. Protective and mitigative measures specified by the authorized officer shall be the sole responsibility of the holder. If protective measures prove inadequate, if other such areas are discovered, or if new species are listed as federally threatened or endangered or as sensitive by the Regional Forester, the authorized officer may specify additional protection, regardless of when such facts become known. Discovery of such areas by either party shall be promptly reported to the other party.

**G. 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 plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

**H. CLEANUP AND REMEDIATION.** Except with respect to any federally permitted release as that term is defined under Section 101(10) of CERCLA, 42 U.S.C. 9601(10), the holder shall clean up or otherwise remediate any release, threat of release, or discharge of hazardous materials that occurs either on site or in connection with the holder's activities, whether or not those activities are authorized under this permit. The holder shall perform cleanup or remediation immediately upon discovery of the release, threat of release, or discharge of hazardous materials. The holder shall perform the cleanup or 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 free and clear of contamination.

**I. CERTIFICATION UPON REVOCATION OR TERMINATION.** 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 site covered by this permit is uncontaminated by the presence of hazardous materials and that there has not been a release or discharge of hazardous materials upon the site, into surface water at or near the site, or into groundwater below the site 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 site is in compliance with all federal, state, and local laws and regulations.

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

**A. REVOCATION AND SUSPENSION.** The Forest Service may suspend or revoke this permit in whole or in part for:

1. Noncompliance with federal, state, or local laws and regulations.
2. Noncompliance with the terms of this permit.
3. Reasons in the public interest.
4. Abandonment or other failure of the holder to exercise the privileges granted.

**B. OPPORTUNITY TO TAKE CORRECTIVE ACTION.** Prior to revocation or suspension under clause VI.A, the authorized officer shall give the holder written notice of the grounds for each action and a reasonable time, not to exceed 30 days, to complete corrective action prescribed by the authorized officer.

**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 must be in writing. Within 10 days of the request of the holder, the superior of the authorized officer shall arrange for an on-the-ground review of the adverse conditions with the holder. Following this review the superior shall take prompt action to affirm, modify, or cancel the suspension.

**D. APPEALS AND REMEDIES.** Any discretionary decisions or determinations by the authorized officer are subject to the administrative appeal regulations at 36 CFR Part 251, Subpart C, or revisions thereto. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service.

**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 termination upon change of control of the business entity. Termination of this permit is not subject to administrative appeal.

## **VII. MISCELLANEOUS PROVISIONS**

**A. REGULATING SERVICES AND RATES.** The Forest Service reserves the right to regulate the adequacy and type of services provided the public 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 this permit. Such prices and services may be regulated by the Forest Service, provided that the holder shall not be required to charge prices significantly different from those charged by comparable or competing enterprises.

**B. ADVERTISING.** The holder orally and in advertisements, signs, circulars, brochures, letterheads, and other materials shall not misrepresent in any way the accommodations or services provided or the status of the permit

or permit area. The fact that the permit area is located on the Boise National Forest shall be made readily apparent in all the holder's brochures and print advertising regarding use of the permit area.

**C. CURRENT ADDRESSES.** The holder and the Forest Service shall keep each other informed of current mailing addresses, including those necessary for payment of fees.

**D. HOLDER REPRESENTATIVE.** The holder or a designated representative shall be present on the premises at all times when the facilities are open to the public. The holder shall notify the authorized officer in writing as to who the representative will be.

**E. LIQUOR SALES PROHIBITED.** The sale of liquors or other intoxicating beverages is prohibited in the permit area.

**F. GAMBLING.** Gambling or gambling devices shall not be permitted on National Forest System lands, regardless of whether gambling or gambling devices are lawful under state or local law.

**G. FIREWORKS.** The sale of fireworks is prohibited on land covered by this permit. Possession or use of fireworks on land covered by this permit is also prohibited without prior written approval from the authorized officer.

**H. DISORDERLY CONDUCT.** Disorderly or otherwise objectionable conduct by the holder or those occupying the premises with the holder's permission shall upon proof thereof be cause for revocation of this permit.

**I. SERVICES NOT PROVIDED.** This permit does not provide for the furnishing of road maintenance, water, fire protection, or any other such service by a government agency, utility, association, or individual.

**J. 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.

**K. SUPERIOR CLAUSES.** In the event of any conflict between any of the preceding printed clauses and any provisions in the appendices attached to this permit, the preceding printed clauses shall control.

**L. Nondiscrimination in Employment and Services (B1).** During the performance of this authorization, the holder agrees:

1. In connection with the performance of work under this authorization, including construction, maintenance, and operation of the facility, the holder shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, or disability. (Ref. Title VII of the Civil Rights Act of 1964, as amended).

2. The holder and employees shall not discriminate by segregation or otherwise against any person on the basis of race, color, religion, sex national origin, age, or disability, by curtailing or refusing to furnish accommodations, facilities, services, or use privileges offered to the public generally. (Ref. Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendments, and the Age Discrimination Act of 1975).

3. The holder shall include and require compliance with the above nondiscrimination provisions in any subcontract made with respect to the operations under this authorization.

4. When furnished by the Forest Service, signs setting forth this policy of nondiscrimination will be conspicuously displayed at the public entrance to the premises, and at other exterior or interior locations as directed by the Forest Service.

5. 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 of the State in which the breach or violation occurs.

**M. Master Development Plan (C7).** The holder agrees to prepare and submit changes in the Master Development Plan encompassing the entire resort presently envisioned for development in connection with the National Forest lands permitted by this authorization, and in a form acceptable to the Forest Service. Additional construction beyond maintenance of existing improvements shall not be authorized until this plan has been amended. Planning should encompass all the area for use by this authorization. The accepted Master Development Plan shall become a part of this authorization. For planning purposes, a capacity for the area in people-at-one time shall be established in the Master Development Plan and appropriate National Environmental Policy Act (NEPA) document. The overall development shall not exceed that capacity without further environmental analysis documentation through the appropriate NEPA process.

**N. Removal and Planting of Vegetation and Other Resources (D5).** The holder shall obtain prior written approval from the authorized officer before removing or altering vegetation or other resources. The holder shall obtain prior written approval from the authorized officer before planting trees, shrubs, or other vegetation within the authorized area.

**O. Maintenance and Alteration of Government Improvements (D16).** The holder shall maintain the present improvements, as well as any future improvements, appurtenances, and furnishings in full conformance with the Operations and Maintenance Plan entitled Silver Creek Plunge Operation and Maintenance Plan, which is hereby made a part of this authorization.

If during the term of this authorization, the Government-owned improvements are altered, reconstructed, or modified in any way, the material, equipment, fixtures, or other appurtenances which are affixed to or made a part of said improvements in connection with the alteration project shall become a part of the property. Ownership shall immediately accrue to the Government, regardless of whether said work is performed by the holder or any other party.

**P. Termination or Revision of Authorization for Government Improvements (E12).** If during the term of this authorization, the Forest Service determines public interest requires revision of the conditions of use or the termination of the use of Government-owned improvements, the use of which is permitted by this authorization, said conditions of use may be revised or the use terminated or suspended at the discretion of the Regional Forester.

**Q. Superseded Authorization (X18).** This authorization supersedes a special-use authorization designated: EMT550902.

**R. Regulating Services and Rates (X22).** The Forest Service shall have the authority to check and regulate the adequacy and type of services provided the public and to require that such services conform to satisfactory standards. The holder may be required to furnish a schedule of prices for sales and services permitted by the authorization. Such prices and services may be regulated by the Forest Service: Provided, that the holder shall not be required to charge prices lower than those charged by comparable or competing enterprises.

S. **Signs (X29).** Signs or advertising devices erected on National Forest System lands shall have prior approval by the Forest Service as to location, design, size, color, and message. Erected signs shall be maintained or renewed as necessary to neat and presentable standards, as determined by the Forest Service.

T. **Improvement Relocation (X33).** This authorization is granted with the express understanding that should future location of United States Government-owned improvements or road rights-of-way require the relocation of the holder's improvements, such relocation will be done by, and at the expense of, the holder within a reasonable time as specified by the authorized officer.

U. **Water Rights (X74).** This authorization does not convey any legal interest in water rights as defined by applicable State law.

V. **Fees.** The holder shall pay an annual fee of Two Thousand One Hundred Dollars, \$2,100 for the period from January 1 to December 31, 2003 and thereafter annually on January 1, Two Thousand One Hundred Dollars, \$ 2,100: Provided, charges for this use shall be made or readjusted annually as adjusted by the Implecet Price Deflater – Gross National Product (IPD-GNP) adjustment factor.

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This permit is accepted subject to all its terms and conditions.

HOLDER: Wayne Stephens

U.S. DEPARTMENT OF AGRICULTURE  
Forest Service

By: Operator

(Title)

By: Richard R. Smith

Richard Smith, Forest Supervisor

Date: 2-11-03

Date: 3-4-2003

[Attach annual operating plan, annual Granger-Thye fee offset agreement, holder maintenance and reconditioning plan, recreation site maps, facility and improvement inventory, "Operation of Federally Owned Drinking Water Systems," and any other appendices.]

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082.

This information is needed by the Forest Service to evaluate requests to use National Forest System lands and manage those lands to protect natural resources, administer the use, and ensure public health and safety. This information is required to obtain or retain a benefit. The authority for that requirement stems from the Organic Act of 1897 and the Federal Land Policy and Management Act of 1976, which authorize the Secretary of Agriculture to promulgate regulations for managing National Forest System lands. These statutes, along with the Granger-Thye Act, authorize the Secretary of Agriculture to issue authorizations for the use and occupancy of National Forest System lands. The Secretary of Agriculture's regulations at 36 CFR Part 251, Subpart B, establish procedures for issuing those authorizations.

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.

Public reporting burden for collection of information, if requested, is estimated to average 1 hour per response for annual financial information; 1 hour per response to prepare or update operating and maintenance plans; 1 hour per response for inspection reports; and 1 hour for each request that may include such items as reports, logs, facility and user information, and other similar information requests. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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**FSM 7400 - PUBLIC HEALTH AND POLLUTION CONTROL FACILITIES  
CHAPTER 7420 - DRINKING WATER**

### **7420.1 - Authority**

1. Safe Drinking Water Act (SDWA) (42 U.S.C. 300f) and Amendments. This act and all applicable amendments provide for safe drinking water and direct the Environmental Protection Agency (EPA) to establish national drinking water regulations.

2. National Primary Drinking Water Regulations (NPDWR) (Title 40, Code of Federal Regulations, Part 141 (40 CFR Part 141)). Establishes primary drinking water regulations pursuant to section 1412 of the Public Health Service Act, as amended by the Safe Drinking Water Act (Pub. L. 93-523 codified at 42 U.S.C. 300f et seq.); and related regulations applicable to public water systems.

3. National Primary Drinking Water Regulations Implementation (Title 40, Code of Federal Regulations, Part 142 (40 CFR Part 142)). Sets forth regulations, pursuant to sections 1413 through 1416, 1445, and 1450 of the Public Health Service Act, as amended by the Safe Drinking Water Act (42 U.S.C. 300f et seq.), for the implementation and enforcement of the national primary drinking water regulations contained in 40 CFR Part 141.

4. National Secondary Drinking Water Regulations (NSDWR) (Title 40, Code of Federal Regulations, Part 143 (40 CFR Part 143)). Establishes National Secondary Drinking Water Regulations pursuant to section 1412 of the Safe Drinking Water Act, as amended (42 U.S.C. 300g-1).

5. Executive Order 12088 issued October 12, 1978 (E.O. 12088) as amended by Executive Order 12580(10)(b) (EO 12580(10)(b)), Jan 23, 1987. The purpose of this order is to ensure that Federal agencies, in the design, construction, management, operation, and maintenance of Federal facilities and activities under agency control, take all necessary actions for the prevention, control, and abatement of environmental pollution, in full cooperation with State and local governments.

### **7420.2 - Objective**

The objective of the Forest Service Drinking Water Program is to protect the health of the public and Forest Service personnel by ensuring that water provided by the Forest Service for human consumption at any administrative site or public-use area is both safe and protected.

### **7420.3 - Policy**

Where objectives and standards cannot be met to the degree defined in this chapter, the Forest Service shall make such waters unavailable for human consumption. The Forest Service must comply with Federal and State regulations with respect to Federally owned public water systems. Where Federal or State regulations differ, the more stringent regulations shall apply, so long as the stricter requirements provisions are not used to justify new classes of liability and responsibility, and such requirements are applied in the same manner and to the same extent as

nongovernment water systems. Where stated in this chapter, Federally owned non-public water systems shall comply with Federal and State regulations for public water systems. In addition, the Forest Service shall employ current water saving technology to the greatest extent practicable in new construction and reconstruction of all water systems. Do not construe, either expressively or by implication, anything in this chapter as increasing or diminishing any Federal or State authorities, rights, responsibilities, privileges, or presumptions.

#### 7420.4 - Responsibility

#### 7420.41 - Regional Foresters, Station Directors, and Northeastern Area and International Institute of Tropical Forestry Directors

It is the responsibility of each Regional Forester, Station Director, and the Area and Institute Directors to:

1. Ensure that responsibility for preparing engineering reports, engineering design, and operation and maintenance manuals for water supply and treatment systems is delegated to qualified engineers (FSM 7420.5).

2. Ensure review and interpretation of State legislative or administrative actions that affect the Drinking Water Program and provide for full awareness and understanding of the public health aspects and requirements of these actions throughout the Region.

3. Ensure that project criteria and engineering reports for all drinking water supply and treatment facilities are reviewed and approved before design of these facilities. This responsibility may be delegated to the appropriate staff director.

4. Ensure a close working contact is maintained with all State public health agencies.

5. Ensure that an adequate number of qualified personnel (FSM 7420.5) receive necessary training in water system design, construction inspection, and water system operation and maintenance.

6. Review and approve or disapprove design drawings and construction specifications for all construction, reconstruction, and modifications of drinking water systems and ensure coordination of State review and approval as necessary. This responsibility may be delegated to the appropriate staff director. Delegation of responsibility should occur only if the requirement for a qualified independent engineering review of design drawings and specifications can be met.

7. Provide for monitoring of water system construction activities to ensure competent performance for the duration of the project.

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8. Ensure the review of monitoring schedules and results of microbiological, primary contaminant, secondary contaminant, regulated and unregulated organic and inorganic chemical, radiological, and other testing to ensure performance is consistent with the laws and regulations cited herein and with applicable State regulations.

Stations without qualified personnel shall obtain the necessary professional and technical expertise from Regional Offices to carry out these responsibilities.

**7420.42 - Forest Supervisors and Project Leaders**

It is the responsibility of each Forest Supervisor and Project Leader to:

1. Ensure that appropriate engineering and environmental reports for drinking water facilities are prepared.
2. Provide necessary field data for the complete planning and design of water supply and treatment systems.
3. Ensure that qualified engineers complete all required sanitary surveys and qualified personnel complete all condition surveys.
4. Maintain close contact and coordinate with all State and local public health agencies.
5. Obtain and maintain all permits that may be required by State or authorized health districts or counties for public water systems.
6. Provide qualified and certified personnel (FSM 7420.5) to adequately inspect and supervise project construction (FSM 7115).
7. Ensure that qualified personnel monitor, operate, and maintain all drinking water systems in accordance with legally applicable regulations and standards. Provide certified operators when legally required by State regulations.
8. Notify the applicable State or local agency of any changes in water system status such as opening date, closing date, permanent closure date, and so forth.
9. Delegate the responsibility for sampling, monitoring, recordkeeping, and reporting to qualified and appropriate personnel.
10. Designate the location of the official permanent file for water systems. Maintain analysis results and submit records and reports as required by the NPDWR, NSDWR, State regulations, and FSM 7421.3.

11. Review corrective actions taken at the operating level to ascertain compliance with standards. Perform follow-up action, including documentation, for unsatisfactory test results.
12. Notify the public according to State and NPDWR notification procedures when Maximum Contaminant Levels (MCL) are exceeded.

## 7420.5 - Definitions

Average Daily Population (ADP). For classification and inventory purposes, the sum of the daily transient and daily resident population served or having access to the drinking water system, per month divided by the days per month. Where actual or sample counts are not available at recreation sites, determine ADP by multiplying Persons-At-One-Time (PAOT) by the percentage of site use where PAOT equals four people per site. At administrative sites, number of residents shall be based on three people per residence and the actual capacity of other quarters served with drinking water.

Condition Survey. An onsite review performed by the water system operator of the water source, facilities, and equipment as defined in the operation and maintenance plan for the system. Condition surveys are an integral part of the sanitary surveys and serve as a supplement to the last current sanitary survey (FSM 7413.8 and FSH 7409.11, ch. 70).

Confluent Growth. A continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion thereof, in which bacterial colonies are not discrete. This does not necessarily include coliform growth. Non-coliform growth is often called heterotrophic growth.

Drinking Water System. A system for providing water suitable for human consumption via service connections (including hand pump wells).

E.coli and fecal coliforms. Escherichia coli and fecal coliforms are a subset of the total coliform group and represent disease causing organisms.

Human consumption. Use of water for drinking, food preparation, dishwashing, oral hygiene, and bathing/showering.

Maximum Contaminant Level (MCL). The maximum permissible level of a contaminant in water that is delivered to any user of a public water system.

Non-Public Water System. A system not meeting the public water system definition. A non-public water system is subdivided into the following two categories:

- a. Non-Public, Non-Transient (NPNJT). A system serving less than 25 year-round residents or serving less than 25 of the same persons ADP more than 180 days per year (for example, smaller Forest Service Ranger Stations or housing sites).

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b. Non-Public, Transient (NPT). A system serving less than 25 individuals ADP and not meeting the requirements of NPNT water system (for example, smaller recreation sites and guard stations/work centers).

Other Water System (O). A water system where the Forest Service is not the "supplier" per EPA rules; for example, municipal, special use, and other systems.

Public Water System. As defined in the NPDWR (State definitions may be more stringent), a system for the provision to the public of piped water for human consumption, if such a system has at least 15 service connections or regularly serves an average of at least 25 individuals daily 60 days or more per year. A public water system is subdivided into one of the following three categories:

- a. Community (C). A public water system regularly serving year-round residents.
- b. Non-Transient, Non-Community (NTNC). A public water system operating at least 180 days per year and regularly serving at least 25 of the same individuals.
- c. Transient, Non-Community (TNC). A public water system not meeting the requirements for a community or a non-transient, non-community water system.

Qualified Engineer/Personnel. An engineer or person having the required training and experience, or certification, who is assigned by a Forest Supervisor, Regional Forester, Station, Area, or Institute Director to perform certain specific technical functions within the authorizing line officer's delegated authority. Technical qualifications should be appropriate for the technical requirements of the functions assigned. Consider the consistency of qualifications with engineers or other personnel assigned similar work in State and private activities.

Repeat samples. A set of samples taken when a routine sample is total coliform-positive or when a repeat sample is total coliform-positive. Repeat samples must be collected within 24 hours of being notified of a positive result.

Routine sample. A sample that is representative of the water throughout the distribution system, taken by properly trained personnel on a routine basis when the system is operational, which is used to determine the microbial quality of the water.

Sanitary Survey. An onsite review performed by the State or qualified Forest Service engineer (FSH 7409.11, ch. 70) of the water source, facilities, equipment, operation, and maintenance of a public water system for the purpose of evaluating the adequacy of the source, facilities, equipment, operation, and maintenance for the purpose of producing and distributing safe drinking water (FSH 7409.11, ch. 70).

Service Connection. The piping connection by which drinking water is conveyed from the distribution system to the user. Piping, fixtures, and adjacent development indicate that water is suitable for human consumption. Examples of service connections include: an individual building (residence, crew quarters, office, or mobile home--not including utility hose bibs stubbed from building plumbing); a building exterior drinking fountain provided for public use; an individual yard or campground hydrant; a handpump on a well; a building containing a toilet and wash basin or shower, which is equipped with a drinking water service.

Special sample. Special samples are collected to determine the success of corrective actions. Special samples may also be taken to determine whether seasonal systems are ready to be opened, or whether disinfection practices are sufficient following pipe or tank repair or replacement. Special samples must be marked as such when sent in to the laboratory for analysis, so that the results are not forwarded to the enforcement agency.

Total coliforms. A group of bacteria used as the primary measure of the degree of microbial contamination in drinking water. Although total coliforms are usually not pathogenic themselves, their presence in drinking water indicates that fecal pathogens may also be present.

## 7421 - DRINKING WATER SYSTEMS

Classify all operating drinking water systems in accordance with State definitions and FSM 7420.5. Operate all federally owned systems in compliance with FSM 7420.3. All public water systems shall comply with the requirements of the NPDWR, NSDWR (FSM 7420.1), applicable State regulations, and these Forest Service standards. Non-public water systems shall conform to these standards and to State regulations when applicable and where stated in this chapter.

Where compliance with NPDWR, NSDWR, State regulations, and these standards is physically infeasible, such as in wilderness areas, cross-country trails, or roadside springs, keep water sources in an undeveloped condition indicating the water source is unprotected. When providing the public with information about these water sources through trail guides, brochures, or maps, include a warning statement as to portability of undeveloped water sources. Do not identify water sources on maps or brochures in a way that may mislead users into thinking the water is protected and safe.

Do not apply requirements of this chapter to range or wildlife water systems if their design and construction features clearly indicate they are not for human use. If range or wildlife water systems are an integral part of a drinking water system, such integral parts must meet the requirements for drinking water, and protection measures shall separate non-drinking water portions from the drinking water portions.

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Do not consider piped water systems used exclusively for nonconsumptive purposes at administrative sites (where all water for human consumption, including water used in cooking and bathing, is either hauled, boiled, or otherwise adequately treated) as drinking water systems. Utilize this exception only in limited situations with controlled access to minimize inadvertent human consumption and in accordance with Regional direction.

For emergency water supply procedures, see FSM 7422 and FSH 6709.11, chapter 7.

**7421.1 - Protection of Water Supplies**

Protect water supplies by using the following means:

1. Physical protection and treatment as provided by designed and constructed features (FSM 7410 and FSH 7409.11, chs. 10, 20, and 40).
2. Proper operation and maintenance of the facilities (FSM 7413.9 and FSH 7409.11, ch. 70).
3. Sanitary surveys (FSM 7420.5).
4. Condition surveys (FSM 7420.5).

**7421.11 - Physical Protection**

1. Design and Construction. Base the design and construction of water supply facilities on State regulations and sound, accepted environmental health engineering codes and practices, and modify as necessary to meet any unique Forest Service requirements (FSH 7409.11). Do not compromise the health and safety objective stated in FSM 7420.2 for reasons of economy.

2. Operation and Maintenance. Ensure operations follow the procedures established in the design. Maintenance must ensure continued protection. Make no changes that would compromise the health and safety objective stated in FSM 7420.2. Provide certified water treatment plant operators as required by State regulations.

**7421.12 - Treatment and Disinfection**

Disinfect and filter all drinking water systems having surface water sources or groundwater sources under the direct influence of surface water as required by State regulations and 40 CFR Parts 141 and 142. Direct influence of surface water for individual sources shall be determined by the State and/or qualified Forest Service Engineer. The determination is based on State criteria which may include site-specific measurements of water quality and/or documentation of source construction, characteristics, and geology.

Disinfect all water systems utilizing groundwater sources not under the direct influence of surface water if there is a history of microbiological contamination, or when a condition or sanitary survey determines that microbiological contamination could occur. Additionally, disinfect any public system when Federal or State regulations require disinfection.

Disinfection and/or filtration are not effective substitutes for the correction of system deficiencies or for an adequate public health surveillance program.

7421.13 - Sanitary Surveys

1. Initial Survey. Perform and document sanitary surveys for each new drinking water supply source and system before it becomes available for public use. Identify any system deficiency that would result in noncompliance with applicable provisions of the NPDWR, NSDWR, State regulations, and FSM 7421, before using the system. If deficiencies are found, the Forest official shall prepare a corrective action plan and submit it to the Forest Supervisor for approval (FSM 7420.42). Do not open the system for use until corrective action is completed or another alternative is authorized. Conduct surveys in accordance with the outlines and formats in:

- a. EPA's "Manual of Small Public Water Supply Systems," Publication #570/9-91/003, May 1991.
- b. EPA's "Manual of Individual and Non-Public Water Supply Systems," Publication #570/9-91/004, May 1991.
- c. FSH 7409.11, chapter 70.

d. Procedures recommended and offered by the Regional Office or State and district/county health departments.

2. Subsequent Surveys. Perform and document sanitary surveys for all systems in accordance with applicable State regulations, at an interval not to exceed 5 years, or more frequently if there are recurring deficiencies. When problems develop, provide a report to the appropriate line officer to ensure management is kept informed.

7421.14 - Condition Surveys

Perform and document whenever:

- a. Routine bacteriological analysis indicates, and a bacteriological repeat sample analysis confirms, that coliform bacteria exist.
- b. A seasonal system is opened for the year.

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- c. There is a significant change in conditions that may affect the supply or system (such as a significant earthquake).

**7421.2 - Monitoring and Follow-up Actions**

Sample and analyze Forest Service drinking water systems to determine the level of primary contaminants (regulated and unregulated organic and inorganic chemicals, turbidity, radio nuclides, and microbiological) and secondary contaminants.

**7421.22 - Microbiological Monitoring**

Monitor non-public water systems for microbial contamination in the same manner as required for public non-community systems. Follow-up actions for non-public systems differ from public systems (FSM 7421.22b).

**7421.22a - Routine Sampling**

Perform microbiological testing for total coliform bacteria at a minimum frequency of one routine sample per month for every full or partial calendar month of operation for all systems. Consider each handpump a separate water system.

This minimum frequency assumes that monthly tests are taken at approximately 30-day intervals. Take samples early in the month to allow sufficient follow-up time.

A higher frequency of routine sampling is required by NPDWR and the State if the average number of daily users is greater than 1,000 persons per day.

Take at least one special sample and ensure it tests total coliform-negative, before opening all seasonally operated systems. Special samples do not count in determining Maximum Contaminant Level (MCL) violations or in meeting the monthly sampling requirements.

Develop a written sample sitting plan for each public water system with a distribution system. The sitting plan should be designed to ensure that the system is routinely sampled at varied representative locations and that contamination in any portion of the distribution system is eventually detected.

Testing laboratories must be EPA and/or State approved. Collect and handle samples in compliance with laboratory requirements.

Arrange for the lab to report results to the appropriate staff as soon as possible if a test result is total or fecal coliform-positive.

7421.22b - Follow-up Actions

1. Public Systems. Whenever a routine sample result is total coliform-positive, take a set of four repeat samples within 24 hours of notification by the lab or State. Take the samples at locations as directed by the State, in accordance with the sample sitting plan, or as follows:

- a. One at the same tap where the contamination occurred.
- b. One at a downstream tap.
- c. One at an upstream tap.
- d. One within five service connections of the original sample.

If the system has only one service connection (such as a handpump), sample according to State direction or collect a single 400-milliliter sample.

For any routine sample that is total coliform-positive, perform five routine samples during the next month the system is open.

2. Nonpublic Systems. Whenever a routine sample result is total coliform-positive, take one repeat sample within 24 hours of notification by the lab or State.

3. All Systems. Temporary closure of a water system for the purpose of performing corrective action or seasonal closure does not relieve the responsibility for compliance with repeat sampling, additional routine sampling, reporting to EPA or the State, and public notification as set forth in the NPDWR and State regulations.

At sites with water-carried sewage systems, if follow-up action is to close the system, the toilet supply may be left open if all points of drinking, including sinks and showers, can be isolated and shut off. Otherwise, shut off the entire system.

In the case of a waterborne disease outbreak at a Federally owned water system, contact the Regional Environmental Engineer and the State for special provisions for public notification and monitoring.

See exhibit 01 for follow-up actions to be initiated within 24 hours based on the results of repeat sampling.

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7421.22b - Exhibit 01

Follow-up Actions For Microbiological Sampling

Based on the results of the repeat sampling, initiate the appropriate follow-up actions within 24 hours:

| <u>SAMPLE RESULT</u>                                       |                         |                                                        |                        |                                                                                        |
|------------------------------------------------------------|-------------------------|--------------------------------------------------------|------------------------|----------------------------------------------------------------------------------------|
| <u>ROUTINE SAMPLES</u>                                     | <u>REPEAT SAMPLE(S)</u> | <u>MCL VIOLATION</u>                                   | <u>ACUTE VIOLATION</u> | <u>FOLLOWUP ACTION</u>                                                                 |
| TC-                                                        | None                    | No                                                     | No                     | None. Quality satisfactory.                                                            |
| TC+<br>FC-/EC                                              | TC-                     | No                                                     | No                     | Public systems must have five routine samples taken the next month the system is open. |
| TC+<br>FC-/EC                                              | TC+<br>FC-/EC           | Yes                                                    | No                     | See Action 1.                                                                          |
| TC+<br>FC-/EC                                              | TC+<br>FC+/EC           | Yes                                                    | Yes                    | See Action 2.                                                                          |
| TC+<br>FC+/EC                                              | TC-                     | No                                                     | No                     | Public systems must have five routine samples taken the next month the system is open. |
| TC+<br>FC+/EC                                              | TC+<br>FC-/EC           | Yes                                                    | Yes                    | See Action 2.                                                                          |
| TC+<br>FC+/EC                                              | TC+<br>FC+/EC           | Yes                                                    | Yes                    | See Action 2.                                                                          |
| Confluent Growth                                           | None                    | No                                                     | No                     | Sample invalid. See Action 3.                                                          |
| TC = Total Coliform<br>EC = E. Coli<br>FC = Fecal Coliform |                         | - = Negative test results<br>+ = Positive test results |                        |                                                                                        |

**ACTION 1: MCL VIOLATION**

- A. Public systems. Notify, consult, and coordinate with the State within 48 hours of being notified of the positive result. Take five routine samples the next month the system is open.
- B. Public and non-public systems. Notify users within 14 days according to appropriate State or NPDWR notification procedures including: posting, hand delivery, or media (newspaper, radio, or television), depending on the classification of the system and corresponding State direction. For non-public systems where State or EPA regulations have not established public notification procedures, notify users by posting signs at the facility, visitor information site, District Office, or any other site deemed appropriate. For systems serving resident populations, make notification by letter, in addition to posting signs.
1. Administrative systems. Search for the source of contamination by doing a condition survey (FSM 7421.14). Take corrective action when the source of contamination is found. Take daily special samples until two consecutive special samples are TC negative. If three samples are TC positive (routine, repeat, and one special sample), issue a temporary boil water notice or close the system. The temporary boil notice shall include water used for drinking, food preparation, and bathing. Boiling water shall be a temporary measure (not to exceed 30 days).
- If the need for boiling will exceed 30 days, obtain appropriate engineering approval. Rescind the notice or open the system only after the problem has been corrected and two consecutive daily special samples are TC negative.
2. Recreation systems. Search for the source of contamination by doing a condition survey (FSM 7421.14). Take corrective action when the source is found. Take daily special samples until two consecutive special samples are TC negative. If three samples are TC positive (routine, repeat, and one special sample), close the system. At sites with water-carried sewage systems, the toilet supply may be left open if all points of drinking, including showers and sinks, can be isolated and shut off. Otherwise, shut off the entire system. Open the system only after the problem has been corrected and two consecutive daily special samples are TC negative.

7421.22b - Exhibit 01--Continued

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7421.22b - Exhibit 01--Continued

**ACTION 2: ACUTE VIOLATION**

- A. Public systems. Notify, consult, and coordinate with the State within 48 hours of being notified of the positive result. Take five routine samples the next month the system is open.
- B. Public and non-public systems. Notify users within 72 hours according to appropriate State or NPDWR notification procedures including: posting, hand delivery, or media (newspaper, radio or television), depending on the classification of the system and corresponding State direction. For non-public systems where State or EPA regulations have not established public notification procedures, notify users by posting signs at the facility, visitor information site, District Office, or any other site deemed appropriate. For systems serving resident populations, make notification by letter, in addition to posting signs.
1. Administrative systems. Issue a temporary boil water notice or close the system. The temporary boil notice shall include water used for drinking, food preparation, and bathing. Boiling water shall be a temporary measure (not to exceed 30 days). If the need for boiling exceeds 30 days, obtain appropriate engineering approval. Search for the source of contamination by doing a condition survey (FSM 7421.14). Take daily special samples. Rescind the notice or open the system only after the problem has been corrected and two consecutive daily special samples are TC negative.
  2. Recreation systems. Close the water system. At sites with water-carried sewage systems, the toilet supply may be left open if all points of drinking, including showers and sinks, can be isolated and shut off. Otherwise, shut off the entire system. Search for the source of contamination by doing a condition survey (FSM 7421.14). Take corrective action when the source is found. Open the system only after the problem has been corrected and two consecutive daily special samples are TC negative.

**ACTION 3: CONFLUENT GROWTH**

The sample is invalid. Take another routine sample at the same location within 24 hours of being notified of the invalid result. If the second sample has confluent growth, search for the cause and correct it. Continue sampling until a valid sample is obtained. If the valid sample is TC positive, follow actions as outlined in FSM 7421.22b.

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**7421.23 - Disinfectant**

Perform residual disinfectant monitoring in compliance with NPDWR and State regulations for all public and non-public systems requiring disinfection (FSM 7421.12).

Failure to maintain the required residual disinfectant levels for public systems with filtration is a treatment technique violation that requires public notification.

Report residual disinfectant measurements for public systems monthly to the State.

**7421.24 - Turbidity**

Perform turbidity monitoring in compliance with NPDWR and State regulations for all public systems and non-public systems using surface water sources or groundwater sources determined to be under the direct influence of surface water, or systems designated by the State.

Failure to maintain the required turbidity levels as required on public systems is a treatment violation that requires public notification.

Report turbidity measurements on public systems monthly to the State.

**7421.25 - Primary Contaminants, Secondary Contaminants, Regulated and Unregulated Organic and Inorganic Chemicals, and Other Contaminants**

The level of required monitoring varies based upon system classification. All public water systems are required to be monitored for primary and secondary contaminants in accordance with the NPDWR, NSDWR, and applicable State regulations. Comply with State and Federal monitoring schedules for all contaminants in public systems.

Perform one baseline sampling, as a minimum, for the primary and secondary contaminants shown in exhibit 01 on all non-public systems and public transient non-community systems. For new systems, conduct the sampling and analyses before opening the system. If the one-time test results exceed the MCL established for public systems, perform follow-up monitoring and take action in accordance with public system regulations (NPDWR and State regulations), except for reporting to the regulatory agency.

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7421.25 - Exhibit 01

Primary and Secondary Contaminants

PRIMARY CONTAMINANTS

Arsenic  
Barium  
Cadmium  
Chromium  
Fluoride  
Lead  
Mercury  
Nitrate  
Nitrite  
Selenium  
Sodium

SECONDARY CONTAMINANTS

Aluminum  
Chloride  
Color  
Copper  
Foaming Agents (Surfactants)  
Iron  
Manganese  
Odor  
pH  
Silver  
Sulfate  
Total Dissolved Solids  
Zinc

Whenever the maximum level of a contaminant is exceeded, analyze a repeat sample for confirmation of the test results.

Judge the acceptability of the water quality using the Maximum Contaminant Levels (MCL's) established in the NPDWR and NSDWR. These MCL's apply to both public and non-public systems.

For public and non-public systems serving resident populations, correct any deficiency in water quality that would result in noncompliance with the NPDWR, NSDWR, State regulations, and FSM 7421. Report any system with a contaminant in excess of established MCL's to the Regional Environmental Engineer for review on a case-by-case basis.

For public systems, send sampling results to the State and follow the public notification requirements if there is an MCL violation. For non-public water systems, follow public notification requirements for public non-community systems if contaminants exceed the MCL's.

**7421.26 - Radionuclide**

Perform radionuclide monitoring on public community and public non-transient, non-community systems in accordance with NPDWR and applicable State standards.

**7421.3 - Documentation**

1. Establish and maintain a computer-based Drinking Water System Inventory showing each drinking water system, including physical data, treatments, and monitoring results. Keep the inventory updated by data entry at the Forest level where possible. Annually, transmit an updated copy of the inventory for changes that have occurred to the Region, Station, Area, or Institute Offices.

2. Maintain original documents of records in the following categories as required by 40 CFR 141.33:

- a. Sanitary Survey Reports,
- b. Condition Survey Reports,
- c. Contaminant and chemical test results,
- d. Bacteriological analysis,
- e. Records of corrective actions for violations,
- f. Records of variances or exemptions, and
- g. Disinfection and turbidity test results.

Refer to FSH 6209.11 for record retention and disposal periods.

3. Establish a permanent file for each inventoried drinking water system. Retain records at the location designated in FSM 7413.9.

**7422 - HAULED DRINKING WATER**

Hauled drinking water can be used in emergency situations (for example, fire situations). Hauled drinking water may be used for other limited situations with appropriate engineering approval. The drinking water supplied shall meet State and local regulations as well as the following:

1. Water Sources. Obtain hauled drinking water from a source that complies with public system standards.

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2. Water Uses. Provide hauled drinking water for drinking as well as food preparation and bathing at sites where all of these activities are necessary (for example residences).

3. Chlorine Residual. Maintain a free chlorine residual level of 0.2 parts per million (ppm) up to 1.0 ppm at all times (1/3 cup household bleach to 1,000 gallons of water may achieve 1.0 ppm chlorine residual level).

4. Water Haulers/Suppliers. Ensure that water haulers/suppliers:

- a. Have chlorine residual test kits available at all times.
- b. Test for free chlorine residual levels when:
  - (1) Loading drinking water for transport;
  - (2) After adding any disinfectant, if the addition of disinfectant is necessary;
  - (3) When unloading; and
  - (4) Every 24 hours the water is in use.
- c. Maintain records showing source, dates, and times of loading, unloading, chlorine residual test results, and other operational items as deemed necessary.

5. Water Hauling Containers. Ensure that these containers are:

- a. Used exclusively for drinking water or food-grade related products. Do not use containers which have been previously used for toxic substances;
- b. Clearly and conspicuously labeled "For Drinking Water Use Only";
- c. Disinfected before being put into service after a period of 72 hours or more of non-use. Clean the tank thoroughly and disinfect it by filling it with a 50 ppm chlorine mixture (one gallon of bleach to 1,000 gallons water). After 24 hours, drain and flush the tank with drinking water. Other disinfection methods may be used as approved by a qualified engineer;
- d. Made of non-toxic, non-corrodible materials or coated with non-toxic coatings. Surfaces that come in contact with water shall be smooth, without pits, dents, or crimps that may hold contaminating matter;
- e. Enclosed except for a screened or filtered air vent;
- f. Equipped with a drain that provides complete tank drainage; and

g. Equipped with a filler/inspection port at the top of the tank with a lockable watertight cover.

6. Hoses and Similar Equipment. Hoses shall have a smooth interior surface made of food-grade standard materials. Keep pumps, hoses, fittings, valves, and similar equipment clean and disinfected. Operate and handle such equipment in a manner which prevents contamination, and keep it capped or closed when not in use.

7. Microbiological Testing. Perform microbiological testing for total coliforms a minimum of once per month. For temporary or emergency water systems, perform microbiological testing at least one time for each container.

## 7423 - SPECIAL-USE AND OTHER PERMITTED DRINKING WATER SYSTEMS

Title 40, Code of Federal Regulations, Parts 141 and 143, and State and local regulations apply to public water systems operated on National Forest lands under permit (FSM 7420.1). Permittees are responsible for achieving compliance with these regulations, as well as any other Federal and State laws and regulations relating to public water systems. This includes developing, operating and maintaining, and conducting drinking water testing (including microbiological, contaminant, chemical, and public notification, and so forth) in accordance with Federal and State requirements, or as directed by health officials. Permittees are also responsible for taking prompt and appropriate action to correct any deficiencies causing unsatisfactory test results and are required to maintain a file of test results and corrective actions taken.

When the permit is authorized under the Cramer-Thye Act, where the Federal government acting through the Forest Service owns all or part of the public or non-public water system, the Forest Service shall be listed as the water supplier with the State and shall ensure that the permittee maintains all required records (for example: bacteriological, turbidity, and disinfection). All monitoring and follow-up action required under FSM 7421.2 shall apply and permittees are required to forward a copy of all test results to the authorized officer (FSM 7420.5).

To check for permittee compliance with required Federal and State regulations, authorized officers shall perform administrative monitoring and investigations (FSM 2716).

