



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

Application for a Permit to Use Surface Water

Please type or print in dark ink. If your application is found to be incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "n/a." Please read and refer to the instructions when completing your application. A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

1. APPLICANT INFORMATION

A. Individuals

Applicant: Kathleen Hoffman
First Last
Mailing address: 2717 NW Starview
Bend Or 97701
City State Zip
Phone: 541-383-8570
Home Work Other
*Fax: 541-383-8570 *E-Mail address: Khoffman@Bendcable.com

B. Organizations

(Corporations, associations, firms, partnerships, joint stock companies, cooperatives, public and municipal corporations)

Name of organization: US DA Forest Service
Name and title of person applying: Phil Cruz, District Ranger
Mailing address of organization: 1230 NE 3rd St, Suite A-262
Bend Or 97701
City State Zip
Phone: 541-383-4000
Day Evening
*Fax: _____ *E-Mail address: _____

* Optional information

For Department Use		
App. No. <u>5-86905</u>	Permit No. _____	Date _____

Last updated: 9/8/2006

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2. SOURCE AND PROPERTY OWNERSHIP

A. The Proposed Source of Water

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into. If unnamed, say so:

Source 1: EIK Lake Tributary to: none
Source 2: _____ Tributary to: _____
Source 3: _____ Tributary to: _____
Source 4: _____ Tributary to: _____

If any source listed above is stored water that is authorized under a water right permit, certificate, or decree, attach a copy of the document or list the document number (for decrees, list the volume, page and/or decree name). _____

B. Applications to Use Stored Water

Complete this section if any source listed in item 2A above is stored water.

Do you, or will you, own the reservoir(s) described in item 2A above?

- ☒ Yes. N/A
- ☐ No. (Please enclose a copy of your written notification to the operator of the reservoir of your intent to file this application, which you should have already mailed or delivered to the operator.)

If *all* sources listed in item 2A are stored water, the Department will review your application using the expedited process provided in ORS 537.147, unless you check the box below. Please see the instruction booklet for more information.

- ☐ By checking this box, you are requesting that the Department process your application under the standard process outlined in ORS 537.150 and 537.153, rather than the expedited process provided by ORS 537.147. To file an application under the standard process, you must enclose the following:
- A copy of a signed non-expired contract or other agreement with the owner of the reservoir (if not you) to impound the volume of water you propose to use in this application.
 - A copy of your written agreement with the party (if any) delivering the water from the reservoir to you.

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C. Property Ownership

Do you own all the land where you propose to divert, transport, and use water?

☒ Yes (Skip to section 3 "Water Use.")

☐ No (Please check the appropriate box below.)

☐ I have a recorded easement or written authorization permitting access.

☐ I do not currently have written authorization or easement permitting access.

☐ Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigated and/or domestic use only (ORS 274.040).

You must provide the legal description of: (1) the property from which the water is to be diverted, (2) any property crossed by the proposed ditch, canal or other work, and (3) any property on which the water is to be used as depicted on the map.

List the names and mailing addresses of all affected landowners.

3. WATER USE

Please read the instruction booklet for more details on "type of use" definitions, how to express how much water you need and how to identify the water source you propose to use. You must fill out a supplemental form for some uses as they require specific information for that type of use.

A. Type(s) of Use(s)

See list of beneficial uses provided in the instructions.

- If your proposed use is **domestic**, indicate the number of households to be supplied with water: _____ /
- If your proposed use is **irrigation**, please attach **Form I**
- If your proposed use is **mining**, attach **Form R**
- If your proposed use is **municipal or quasi-municipal**, attach **Form M**
- If your proposed use is **commercial/industrial**, attach **Form Q**

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B. Amount of Water

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):

(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

Source	Type of use	Amount
EIK Lake	Human Consumption	0.005 ☒ cfs ☐ gpm ☐ af
		☐ cfs ☐ gpm ☐ af
		☐ cfs ☐ gpm ☐ af
		☐ cfs ☐ gpm ☐ af

C. Period of Use

Indicate the time of year you propose to use the water:

May → Oct.

(For seasonal uses like irrigation give dates when water use would begin and end, e.g. March 1–October 31.)

D. Acreage

If you will be applying water to land, indicate the total number of acres where water will be applied or used:

NO

(This number should be consistent with your application map.)

4. WATER MANAGEMENT**A. Diversion**

What method will you use to divert water from the source?

☒ Pump (give horsepower and pump type):

1/2 HP Jet Pump Code L

☐ Head-gate (give dimensions):

☐ Other means (describe):

B. Monitoring

How will you monitor your diversion to be sure you are within the limits of your water right (allowed rate and duty) and you are not wasting water?

☐ Weir

☐ Meter

☐ Periodic Sampling

☐ Other means (describe):

Bucket + Stop watch

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C. Transport

How will you transport water to your place of use?

☐ Ditch or canal (give average width and depth):

Width _____ Depth _____

Is the ditch or canal to be lined? ☐ Yes ☐ No

☒ Pipe (give diameter and total length):

Diameter 3/4 inch Length water line to tank 175 feet
tank to Cabin 34 feet

☐ Other (describe) _____

D. Application/Distribution Method

What equipment will you use to apply water to your place of use? Pump, pipe, holding tank

Irrigation or land application method (check all that apply):

- | | | |
|--|--|---|
| ☐ Flood | ☐ High-pressure sprinkler | ☐ Low pressure sprinkler |
| ☐ Drip | ☐ Water cannons | ☐ Center pivot system |
| ☐ Hand lines | ☐ Wheel lines | |
| ☐ Siphon tubes or gated pipe with furrows | | |
| ☐ Other, describe _____ | | |

Distribution method

- ☐ Direct pipe from source ☒ In-line storage (tank or pond) ☐ Open canal
150 gal. tank

E. Conservation

What methods will you use to conserve water? Why did you choose this distribution or application method? Have you considered other methods to transport, apply, distribute or use water? For example, if you are using sprinkler irrigation rather than drip irrigation, explain. If you need additional space, attach a separate sheet.

Cabin is used four months a year
bottled water is consumed for drinking &
cooking. Lake water is used for showers and
dishes. Our tank is filled and the water used
conservatively as the cabin is used 10-15 days
a month for 3-4 months.

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5. RESOURCE PROTECTION

A. Protection Practices

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the waterway or streamside area. See instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources.

☒ Diversion will be screened to prevent uptake of fish and other aquatic life.

Describe planned actions: Screened filter in place
at uptake.

☒ Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas. Describe planned actions:

N/A

☒ Operating equipment in a water body will be managed and timed to prevent damage to aquatic life. Describe:

N/A - equipment not in water

☒ Water quality will be protected by preventing erosion and run-off of waste or chemical products. Describe:

Waste water goes through
leaching field.

☒ Other:

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6. PROJECT SCHEDULE

Indicate the anticipated dates that the following construction tasks should begin. If construction has already begun, or is completed, please indicate that date.

Proposed date construction will begin: Already in place

Proposed date construction will be completed: _____

Proposed date beneficial water use will begin: _____

7. REMARKS

If you would like to clarify any information you have provided in the application, please do so here and reference the specific application question you are addressing.

Please see cover letter

8. MAP REQUIREMENTS

The Department cannot process your application without accurate information showing the source of water and location of water use. You must include a map with this application form that clearly indicates the township, range, section, and quarter/quarter section of the proposed points of diversion and place of use. The map must provide tax lot numbers. See the map guidelines sheet for detailed map specifications.

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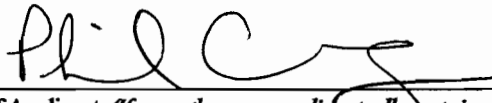
5-86905

9. SIGNATURE

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application packet.
- I cannot legally use water until the Water Resources Department issues a permit to me.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be canceled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit to me, I may have to stop using water to allow senior water right holders to get water they are entitled to, and

I swear that all information provided in this application is true and correct to the best of my knowledge:



6-8-07

Signature of Applicant (If more than one applicant, all must sign.)

Date

Kathleen Hoffman 6/7/07

Before you submit your application be sure you have:

- Answered each question completely.
- Attached a legible map which includes township, range, section, quarter/quarter and tax lot number.
- + • Included a Land Use Information Form or receipt stub signed by a local official.
- + • Included the legal description of all the property involved with this application. You may supply a copy of the deed, land sales contract, or title insurance policy, to meet this requirement.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount. The Department's fee schedule can be found at www.wrd.state.or.us or call (503) 986-0900.

WRD on the web:
www.wrd.state.or.us

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File #:

Oregon Water Resources Department

Application Supplement for Human Consumption & Livestock Uses

For water use permit applications within or above scenic waterways, or from streams for which water is not available due to required instream flows, the Department may issue limited permits for human consumption and livestock uses. Human consumption use is limited to use of water for drinking, cooking, and sanitation, and does not include other uses such as lawn or garden watering or other related water uses.

In order to issue a permit to you for human consumption or livestock use, the Department must find that you cannot reasonably obtain water from any other source. For human consumption, an additional finding must be made that denial of the water right would result in loss of reasonable expectations for use of your property. For livestock use, additional findings must be made that issuance of a permit is necessary to prevent the livestock from watering in or along the stream bed and that you have excluded livestock from the stream and the adjacent riparian zone.

Please answer the following questions, and sign and return this form to Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266.

1. Can you reasonably obtain water from any other source? YES / NO
(circle one)

If not, please describe why each of the following options are not reasonable:

- a. Groundwater, such as a well on yours or a neighbor's property. (If expense is the reason groundwater is not reasonable, please provide two estimates of the cost.)

Not feasible, cost prohibitive
for amount of use.

- b. Securing stored water from upstream reservoirs.

N/A no stored water upstream

- c. Trucking water. (If expense is the reason this option is not reasonable, please provide a copy of an estimate of the cost of trucking water.)

Area would not easily be accessible
to trucking water, too expensive
due to location

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d. Community or municipal water suppliers.

N/A

e. Tying in to a neighboring property's spring.

N/A

g. Transferring existing water rights to your proposed use(s).

N/A. A few Elk Lake water rights are in use + they are not transferable.

Please identify any other alternate water sources you have considered, and why they are not feasible:

Have not considered other source - cabin used for such a short period of time each year, not feasible because of cost + location.

2. If you are seeking a permit for **human consumption use**, would denial of your application result in loss of reasonable expectations for use of your property?

YES / NO / NOT APPLICABLE
(circle one)

If so, please describe how:

It is not possible to transport water to the high lakes + therefore if permit denied cabin could not be used.

3. If you are seeking a permit for **livestock use**, is the proposed use necessary to prevent the livestock from watering in or along the stream bed?

YES / NO / NOT APPLICABLE
(circle one)

4. If you are seeking a permit for **livestock use**, have you excluded livestock from the stream and the adjacent riparian zone?

YES / NO / NOT APPLICABLE
(circle one)

Applicant Signature: Kathleen Heffernan Date: 6-7-07

Applicant Signature: _____ Date: _____

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REAL PROPERTY TAX STATEMENT

JULY 1, 2005 TO JUNE 30, 2006
 DESCHUTES COUNTY, OREGON
 1300 NW WALL ST., SUITE 200
 BEND OR 97701

ACCOUNT NO:
 112765

PROPERTY DESCRIPTION

CODE: 1004
 MAP: 180832-A0-00100A6
 CLASS: 801
 SITUS: 59990 CASCADE LAKES HWY BEND

HOFFMAN, KATHLEEN & SKOVBOG, CATHY R
 2717 NW STARVIEW DR
 BEND, OR 97701 USA

VALUES:	LAST YEAR	THIS YEAR
REAL MARKET (RMV)		
LAND	0	0
STRUCTURES	11,040	12,590
TOTAL RMV	11,040	12,590
TOTAL ASSESSED VALUE	10,860	11,180
EXEMPTIONS		
NET TAXABLE:	10,860	11,180
TOTAL PROPERTY TAX:	119.37	126.80

SCHOOL DISTRICT #1	53.26
HIGH DESERT ESD	1.08
C O C C	6.94

DESCHUTES COUNTY	14.29
SHERIFF (CNTY)	17.89
COUNTY LIBRARY	6.15
COUNTY EXTENSION/4H	0.25
911	1.81
911 LOCAL OPTION	1.01

JAIL BOND	1.80
FAIRGROUNDS BOND	1.79
BEND LIBRARY	1.11
SCHOOL #1 BOND 1993	1.49
SCHOOL #1 BOND 1998	9.82
SCHOOL #1 BOND 2002	6.95
C O C C BOND	1.16

ASSESSMENT QUESTIONS (541) 388-6508
 TAX QUESTIONS (541) 388-6540

2005-06 TAX (Before Discount) 126.80

TOTAL DUE (After Discount and Pre-payments) 123.00

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 SALEM, OREGON

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USDA FOREST SERVICE BILL FOR COLLECTION ENCLOSE A COPY OF THIS BILL WITH YOUR CHECK OR MONEY ORDER. DO NOT SEND CASH. PLEASE INCLUDE BILL NO. AND PAYER CODE NO. ON YOUR CHECK. MAKE YOUR CHECK PAYABLE TO: USDA FOREST SERVICE			1. BILL DATE: 11/30/2006 PAGE: 1 OF 1 MAIL PAYMENT TO: USDA FOREST SERVICE P.O. BOX 894183 LOS ANGELES CA 90189-4183														
TO: KATHLEEN HOFFMAN 2717 NW STARVIEW DRIVE BEND, OR 97701-5634			PAYER INDICATE AMOUNT ENCLOSED: \$ <u>1903.67</u> <i>pt 12/3/06</i> 2. NET AMOUNT DUE: \$1,903.67 3. DUE DATE: 01/01/2007 4. BILL NUMBER: BF 060120H0040 5. PAYER CODE: MISC C														
6. AGREEMENT NO: CONTRACT NO:			7. DESCRIPTION:														
8. REMARKS: FAILURE TO PAY FEES BY DUE DATE CONSTITUTES NON-COMPLIANCE WITH AUTHORIZATION. PLEASE MAIL ONE COPY OF THIS BILL, ALONG WITH YOUR PAYMENT, IN THE ATTACHED ENVELOPE			9. PRINCIPAL: \$1,903.67 10. INTEREST: 11. ADMINISTRATIVE COSTS: 12. PENALTY: 13. AMOUNT DUE: \$1,903.67 14. AMOUNT CREDITED: \$.00 15. NET AMOUNT DUE: \$1,903.67														
NOTE: PLEASE SEND ALL CORRESPONDENCE, INQUIRIES, AND CHANGE OF ADDRESS TO: DESCHUTES NATIONAL FOREST SUPERVISORS OFFICE 1001 SW EMKAY DRIVE BEND, OR 97702 541-383-5300 FAILURE TO MAKE PAYMENT BY DUE DATE WILL RESULT IN THE ASSESSMENT OF LATE PAYMENT CHARGES (INTEREST, ADMINISTRATIVE COST, AND/OR PENALTY CHARGES) IN ACCORDANCE WITH YOUR CONTRACT, PERMIT, OR THE DEBT COLLECTION ACT OF 1982, AS AMENDED. POSTMARKS ARE NOT HONORED.																	
<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">DATE/PERIOD</th> <th style="width: 45%;">DESCRIPTION</th> <th style="width: 40%;">AMOUNT</th> </tr> </thead> <tbody> <tr> <td>01/01/2007 To</td> <td>2720 SPECIAL USES BEN060 Bend/Fort Rock Ranger District</td> <td>\$1,903.67</td> </tr> <tr> <td>12/31/2007</td> <td>123 RECREATION RESIDENCE</td> <td></td> </tr> <tr> <td></td> <td>PERMIT ISSUED: 09/05/2000</td> <td></td> </tr> </tbody> </table>						DATE/PERIOD	DESCRIPTION	AMOUNT	01/01/2007 To	2720 SPECIAL USES BEN060 Bend/Fort Rock Ranger District	\$1,903.67	12/31/2007	123 RECREATION RESIDENCE			PERMIT ISSUED: 09/05/2000	
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16. ORG	17. JOB	18. AMOUNT	16. ORG	17. JOB	18. AMOUNT	16. ORG	17. JOB	18. AMOUNT
0601	89840107	\$1,903.67						

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5-86965

Authorization ID BEN060
Contact ID HOFFMAN
Expiration Date: 12/31/2008

FS-2700-5a (8/99)
OMB No. 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE
Forest Service
TERM SPECIAL USE PERMIT
For Recreation Residences
As of March 4, 1915, As Amended
(Ref. FSM 2710)**

2717 NW Stawview

Kathleen Hoffman of ~~1061 NW Promontory Ct.~~ ^{2717 NW Stawview}, Bend, OR 97701 (hereafter called the holder) is hereby authorized to use National Forest lands, for a recreation residence for personal recreational use on the Deschutes National Forest, subject to the provisions of this permit including items I.A through XII, on page(s) 2 through 8. This permit covers .45 acres.

Described as: (1) Lot EL M 06 of the Elk Lake tract.
(A plat of which is on file in the office of the Forest Supervisor.)

The following improvements, whether on or off the lot, are authorized:

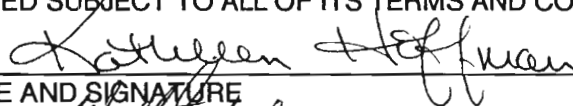
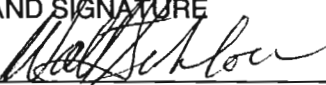
On-lot facilities: One (1) guest cabin, storage building, toilet

Off-lot facilities: Maintaining an off-lot water supply system (including pipe line, pump, and storage tank) for domestic use only. A strip of land approximately 75 feet in length by 2 feet in width to accommodate a buried pipe line between Elk Lake and the southwest boundary of Tract M, Lot 6. A driveway.

This use shall be exercised at least 15 days each year, unless otherwise authorized in writing. It shall not be used as a full-time residence to the exclusion of a home elsewhere.

THIS PERMIT IS NOT TRANSFERABLE
PURCHASERS OF IMPROVEMENTS ON SITES AUTHORIZED BY THIS PERMIT MUST SECURE A NEW
PERMIT FROM THE FOREST SERVICE.

THIS PERMIT IS ACCEPTED SUBJECT TO ALL OF ITS TERMS AND CONDITIONS.

ACCEPTED:	Kathleen Hoffman		9-5-00
	HOLDER'S NAME AND SIGNATURE		DATE
APPROVED:	WALTER C. SCHLOER, JR.		9-5-00
	AUTHORIZED OFFICER'S NAME AND SIGNATURE	District Ranger	DATE
		TITLE	

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TERMS AND CONDITIONS

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I. AUTHORITY AND USE AND TERM AUTHORIZED.

- A. This permit is issued under the authority of the Act of March 4, 1915, as amended (16 U.S.C. 497), and Title 36, Code of Federal Regulations, Sections 251.50-251.64. Implementing Forest Service policies are found in the Forest Service Directives System (FSM 1920, 1950, 2340, 2720; FSH 2709.11, Chap. 10-50). Copies of the applicable regulations and policies will be made available to the holder at no charge upon request made to the office of the Forest Supervisor.
- B. The authorized officer under this permit is the Forest Supervisor, or a delegated subordinate officer.
- C. This permit authorizes only personal recreation use of a noncommercial nature by the holder, members of the holder's immediate family, and guests. Use of the permitted improvements as a principal place of residence is prohibited and shall be grounds for revocation of this permit.
- D. Unless specifically provided as an added provision to this permit, this authorization is for site occupancy and does not provide for the furnishing of structures, road maintenance, water, fire protection, or any other such service by a Government agency, utility association, or individual.
- E. Termination at End of Term: This authorization will terminate on 12/31/2008.

II. OPERATION AND MAINTENANCE.

- A. The authorized officer, after consulting with the holder, will prepare an operation and maintenance plan which shall be deemed a part of this permit. The plan will be reviewed annually and updated as deemed necessary by the authorized officer and will cover requirements for at least the following subjects:
 - 1. Maintenance of vegetation, tree planting, and removal of dangerous trees and other unsafe conditions
 - 2. Maintenance of the facilities.
 - 3. Size, placement and descriptions of signs.
 - 4. Removal of garbage or trash.
 - 5. Fire protection.
 - 6. Identification of the person responsible for implementing the provisions of the plan, if other than the holder, and a list of names, addresses, and phone numbers of persons to contact in the event of an emergency.

III. IMPROVEMENTS.

- A. Nothing in this permit shall be construed to imply permission to build or maintain any improvement not specifically named on the face of this permit or approved in writing by the authorized officer in the operation and maintenance plan. Improvements requiring specific approval shall include, but are not limited to: signs, fences, name plates, mailboxes, newspaper boxes, boathouses, docks, pipelines, antennas, and storage sheds.
- B. All plans for development, layout, construction, reconstruction or alteration of improvements on the lot, as well as revisions of such plans, must be prepared by a licensed engineer, architect, and/or landscape architect (in those states in which such licensing is required) or other qualified individual acceptable to the authorized officer. Such plans must be approved by the authorized officer before the commencement of any work.

IV. RESPONSIBILITIES OF HOLDER.

- A. The holder, in exercising the privileges granted by this permit, shall comply with all present and future regulations of the Secretary of Agriculture and all present and future federal, state, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit. However, the Forest Service assumes no responsibility for enforcing laws, regulations, ordinances and the like which are under the jurisdiction of other government bodies.

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- B. The holder shall exercise diligence in preventing damage to the land and property of the United States. The holder shall abide by all restrictions on fires which may be in effect within the forest at any time and take all reasonable precautions to prevent and suppress forest fires. No material shall be disposed of by burning in open fires during a closed fire season established by law or regulation without written permission from the authorized officer.
- C. The holder shall protect the scenic and esthetic values of the National Forest System lands as far as possible consistent with the authorized use, during construction, operation, and maintenance of the improvements.
- D. No soil, trees, or other vegetation may be removed from the National Forest System lands without prior permission from the authorized officer. Permission shall be granted specifically, or in the context of the operations and maintenance plan for the permit.
- E. The holder shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer. The holder shall fully repair and bear the expense for all damage, other than ordinary wear and tear, to National Forest lands, roads and trails caused by the holder's activities.
- F. The holder assumes all risk of loss to the improvements resulting from acts of God or catastrophic events, including but not limited to, avalanches, rising waters, high winds, falling limbs or trees and other hazardous natural events. In the event the improvements authorized by this permit are destroyed or substantially damaged by acts of God or catastrophic events, the authorized officer will conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. The analysis will be provided to the holder within 6 months of the event.
- G. The holder has the responsibility of inspecting the site, authorized rights-of-way, and adjoining areas for dangerous trees, hanging limbs, and other evidence of hazardous conditions which could affect the improvements and or pose a risk of injury to individuals. After securing permission from the authorized officer, the holder shall remove such hazards.
- H. In case of change of permanent address or change in ownership of the recreation residence, the holder shall immediately notify the authorized officer.

V. LIABILITIES.

- A. This permit is subject to all valid existing rights and claims outstanding in third parties. The United States is not liable to the holder for the exercise of any such right or claim.
- B. The holder shall hold harmless the United States from any liability from damage to life or property arising from the holder's occupancy or use of National Forest lands under this permit.
- C. The holder shall be liable for any damage suffered by the United States resulting from or related to use of this permit, including damages to National Forest resources and costs of fire suppression. Without limiting available civil and criminal remedies which may be available to the United States, all timber cut, destroyed, or injured without authorization shall be paid for at stumpage rates which apply to the unauthorized cutting of timber in the state wherein the timber is located.

VI. FEES.

- A. Fee Requirement: This special use authorization shall require payment in advance of an annual rental fee.
- B. Appraisals:
 - 1. Appraisals to ascertain the fair market value of the lot will be conducted by the Forest Service at least every 20 years. The next appraisal will be implemented in 2020.
 - 2. Appraisals will be conducted and reviewed in a manner consistent with the Uniform Standards of Professional Appraisal Practice, from which the appraisal standards have been developed, giving

accurate and careful consideration to all market forces and factors which tend to influence the value of the lot.

3. If dissatisfied with an appraisal utilized by the Forest Service in ascertaining the permit fee, the holder may employ another qualified appraiser at the holder's expense. The authorized officer will give full and complete consideration to both appraisals provided the holder's appraisal meets Forest Service standards. If the two appraisals disagree in value by more than 10 percent, the two appraisers will be asked to try and reconcile or reduce their differences. If the appraisers cannot agree, the Authorized Officer will utilize either or both appraisals to determine the fee. When requested by the holder, a third appraisal may be obtained with the cost shared equally by the holder and the Forest Service. This third appraisal must meet the same standards of the first and second appraisals and may or may not be accepted by the authorized officer.

C. Fee Determination:

1. The annual rental fee shall be determined by appraisal and other sound business management principles. (36 CFR 251.57(a)). The fee shall be 5 percent of the appraised fair market fee simple value of the lot for recreation residence use. Fees will be predicated on an appraisal of the lot as a base value, and that value will be adjusted in following years by utilizing the percent of change in the Implicit Price Deflator - Gross National Product (IPD-GNP) index as of the previous June 30. A fee from a prior year will be adjusted upward or downward, as the case may be, by the percentage change in the IPD-GNP, except that the maximum annual fee adjustment shall be 10 percent when the IPD-GNP index exceeds 10 percent in any one year with the amount in excess of 10 percent carried forward to the next succeeding year where the IPD-GNP index is less than 10 percent. The base rate from which the fee is adjusted will be changed with each new appraisal of the lot, at least every 20 years.
2. If the holder has received notification that a new permit will not be issued following expiration of this permit, the annual fee in the tenth year will be taken as the base, and the fee each year during the last 10-year period will be one-tenth of the base multiplied by the number of years then remaining on the permit. If a new term permit should later be issued, the holder shall pay the United States the total amount of fees foregone, for the most recent 10-year period in which the holder has been advised that a new permit will not be issued. This amount may be paid in equal annual installments over a 10-year period in addition to those fees for existing permits. Such amounts owing will run with the property and will be charged to any subsequent purchaser of the improvements.

D. Initial Fee: The initial fee may be based on an approved Forest Service appraisal existing at the time of this permit, with the present day value calculated by applying the IPD-GNP index to the intervening years.

E. Payment Schedule: Based on the criteria stated herein, the initial payment is set at \$1,616.64 per year and the fee is due and payable annually on January 1. Payments will be credited on the date received by the designated collection officer or deposit location. If the due date(s) for any of the above payments or fee calculation statements fall on a nonworkday, the charges shall not apply until the close of business of the next workday. Any payments not received within 30 days of the due date shall be delinquent.

F. Late Payment Interest, Administrative Costs and Penalties: 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 the fee or fee calculation financial statement specified in this authorization becomes due. The rate of interest assessed shall be the higher of the rate of the current value of funds to the U.S. Treasury (i.e., Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly or at the Prompt Payment Act rate. Interest on the principal shall accrue from the date the fee or fee calculation financial statement is due.

In the event the account becomes delinquent, administrative costs to cover processing and handling of the delinquency will be assessed.

A penalty of 6 percent per annum shall be assessed on the total amount delinquent in excess of 90 days and shall accrue from the same date on which interest charges begin to accrue.

Payments will be credited on the date received by the designated collection officer or deposit location. If the due date for the fee or fee calculation statement falls on a non-workday, the charges shall not apply until the close of business on the next workday.

Disputed fees are due and payable by the due date. No appeal of fees will be considered by the Forest Service without full payment of the disputed amount. Adjustments, if necessary, will be made in accordance with settlement terms or the appeal decision.

If the fees become delinquent, the Forest Service will:

Liquidate any security or collateral provided by the authorization.

If no security or collateral is provided, the authorization will terminate and the holder will be responsible for delinquent fees as well as any other costs of restoring the site to its original condition including hazardous waste cleanup.

Upon termination or revocation of the authorization, delinquent fees and other charges associated with the authorization will be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 *et seq.* Delinquencies may be subject to any or all of the following conditions:

Administrative offset of payments due the holder from the Forest Service.

Delinquencies in excess of 60 days shall be referred to United States Department of Treasury for appropriate collection action as provided by 31 U.S.C. 3711 (g), (1).

The Secretary of the Treasury may offset an amount due the debtor for any delinquency as provided by 31 U.S.C. 3720, *et seq.*

G. Nonpayment Constitutes Breach: Failure of the holder to make the annual payment, penalty, interest, or any other charges when due shall be grounds for termination of this authorization. However, no permit will be terminated for nonpayment of any monies owed the United States unless payment of such monies is more than 90 days in arrears.

H. Applicable Law: Delinquent fees and other charges shall be subject to all the rights and remedies afforded the United States pursuant to federal law and implementing regulations. (31 U.S.C. 3711 *et seq.*)

VII. TRANSFER, SALE, AND RENTAL.

A. Nontransferability: Except as provided in this section, this permit is not transferable.

B. Transferability Upon Death of the Holder:

1. If the holder of this permit is a married couple and one spouse dies, this permit will continue in force, without amendment or revision, in the name of the surviving spouse.
2. If the holder of this permit is an individual who dies during the term of this permit and there is no surviving spouse, an annual renewable permit will be issued, upon request, to the executor or administrator of the holder's estate. Upon settlement of the estate, a new permit incorporating current Forest Service policies and procedures will be issued for the remainder of the deceased holder's term to the properly designated heir(s) as shown by an order of a court, bill of sale, or other evidence to be the owner of the improvements.

C. Divestiture of Ownership: If the holder through voluntary sale, transfer, enforcement of contract, foreclosure, or other legal proceeding shall cease to be the owner of the physical improvements, this permit shall be terminated. If the person to whom title to said improvements is transferred is deemed by the authorizing officer to be qualified as a holder, then such person to whom title has been transferred will be granted a new permit. Such new permit will be for the remainder of the term of the original holder.

D. Notice to Prospective Purchasers: When considering a voluntary sale of the recreation residence, the holder shall provide a copy of this special use permit to the prospective purchaser before finalizing the sale. The holder cannot make binding representations to the purchasers as to whether the Forest Service will reauthorize the occupancy.

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- E. Rental: The holder may rent or sublet the use of improvements covered under this permit only with the express written permission of the authorized officer. In the event of an authorized rental or sublet, the holder shall continue to be responsible for compliance with all conditions of this permit by persons to whom such premises may be sublet.

VIII. REVOCATION.

- A. Revocation for Cause: This permit may be revoked for cause by the authorized officer upon breach of any of the terms and conditions of this permit or applicable law. Prior to such revocation for cause, the holder shall be given notice and provided a reasonable time--not to exceed ninety (90) days--within which to correct the breach.
- B. Revocation in the Public Interest During the Permit Term:
1. This permit may be revoked during its term at the discretion of the authorized officer for reasons in the public interest. (36 CFR 251.60(b)). In the event of such revocation in the public interest, the holder shall be given one hundred and eighty (180) days prior written notice to vacate the premises, provided that the authorized officer may prescribe a date for a shorter period in which to vacate ("prescribed vacancy date") if the public interest objective reasonably requires the lot in a shorter period of time.
 2. The Forest Service and the holder agree that in the event of a revocation in the public interest, the holder shall be paid damages. Revocation in the public interest and payment of damages is subject to the availability of funds or appropriations.
 - a. Damages in the event of a public interest revocation shall be the lesser amount of either (1) the cost of relocation of the approved improvements to another lot which may be authorized for residential occupancy (but not including the costs of damages incidental to the relocation which are caused by the negligence of the holder or a third party), or (2) the replacement costs of the approved improvements as of the date of revocation. Replacement cost shall be determined by the Forest Service utilizing standard appraisal procedures giving full consideration to the improvement's condition, remaining economic life and location, and shall be the estimated cost to construct, at current prices, a building with utility equivalent to the building being appraised using modern materials and current standards, design and layout as of the date of revocation. If revocation in the public interest occurs after the holder has received notification that a new permit will not be issued following expiration of the current permit, then the amount of damages shall be adjusted as of the date of revocation by multiplying the replacement cost by a fraction which has as the numerator the number of full months remaining to the term of the permit prior to revocation (measured from the date of the notice of revocation) and as the denominator, the total number of months in the original term of the permit.
 - b. The amount of the damages determined in accordance with paragraph a. above shall be fixed by mutual agreement between the authorized officer and the holder and shall be accepted by the holder in full satisfaction of all claims against the United States under this clause: Provided, That if mutual agreement is not reached, the authorized officer shall determine the amount and if the holder is dissatisfied with the amount to be paid may appeal the determination in accordance with the Appeal Regulations (36 CFR 251, Subpart C) and the amount as determined on appeal shall be final and conclusive on the parties hereto: Provided further, That upon the payment to the holder of the amount fixed by the authorized officer, the right of the Forest Service to remove or require the removal of the improvements shall not be stayed pending final decision on appeal.

IX. ISSUANCE OF A NEW PERMIT.

- A. Decisions to issue a new permit or convert the permitted area to an alternative public use upon termination of this permit require a determination of consistency with the Forest Land and Resource Management Plan (Forest plan).
1. Where continued use is consistent with the Forest plan, the authorized officer shall issue a new permit, in accordance with applicable requirements for environmental documentation.
 2. If, as a result of an amendment or revision of the Forest Plan, the permitted area is within an area allocated to an alternative public use, the authorized officer shall conduct a site specific project analysis to determine the range and intensity of the alternative public use.

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- a. If the project analysis results in a finding that the use of the lot for a recreation residence may continue, the holder shall be notified in writing, this permit shall be modified as necessary, and a new term permit shall be issued following expiration of the current permit.
- b. If the project analysis results in a decision that the lot shall be converted to an alternative public use, the holder shall be notified in writing and given at least 10 years continued occupancy. The holder shall be given a copy of the project analysis, environmental documentation, and decision document.
- c. A decision resulting from a project analysis shall be reviewed two years prior to permit expiration, when that decision and supporting environmental documentation is more than 5 years old. If this review indicates that the conditions resulting in the decision are unchanged, then the decision may be implemented. If this review indicates that conditions have changed, a new project analysis shall be made to determine the proper action.

B. In issuing a new permit, the authorized officer shall include terms, conditions, and special stipulations that reflect new requirements imposed by current Federal and State land use plans, laws, regulations, or other management decisions. (36 CFR 251.64).

C. If the 10-year continued occupancy given a holder who receives notification that a new permit will not be issued would extend beyond the expiration date of the current permit, a new term permit shall be issued for the remaining portion of the 10-year period.

X. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR NOTIFICATION THAT A NEW PERMIT WILL NOT BE ISSUED FOLLOWING TERMINATION OF THIS PERMIT.

A. Removal of Improvements Upon Revocation or Notification That A New Permit Will Not Be Issued Following Termination Of This Permit: At the end of the term of occupancy authorized by this permit, or upon abandonment, or revocation for cause, Act of God, catastrophic event, or in the public interest, the holder shall remove within a reasonable time all structures and improvements except those owned by the United States, and shall return the lot to a condition approved by the authorized officer unless otherwise agreed to in writing or in this permit. If the holder fails to remove all such structures or improvements within a reasonable period--not to exceed one hundred and eighty (180) days from the date the authorization of occupancy is ended--the improvements shall become the property of the United States, but in such event, the holder remains obligated and liable for the cost of their removal and the restoration of the lot.

B. In case of revocation or notification that a new permit will not be issued following termination of this permit, except if revocation is for cause, the authorized officer may offer an in-lieu lot to the permit holder for building or relocation of improvements. Such lots will be nonconflicting locations within the National Forest containing the residence being terminated or under notification that a new permit will not be issued or at nonconflicting locations in adjacent National Forests. Any in-lieu lot offered the holder must be accepted within 90 days of the offer or within 90 days of the final disposition of an appeal on the revocation or notification that a new permit will not be issued under the Secretary of Agriculture's administrative appeal regulations, whichever is later, or this opportunity will terminate.

XI. MISCELLANEOUS PROVISIONS.

A. This permit replaces a special use permit issued to: MARY ANN MOORE, Authorization ID BEN5596-01 on 02/13/1989.

B. The Forest Service reserves the right to enter upon the property to inspect for compliance with the terms of this permit. Reports on inspection for compliance will be furnished to the holder.

C. Issuance of this permit shall not be construed as an admission by the Government as to the title to any improvements. The Government disclaims any liability for the issuance of any permit in the event of disputed title.

D. If there is a conflict between the foregoing standard printed clauses and any special clauses added to the permit, the standard printed clauses shall control.

XII. FLOODPLAIN, E.O. 11988 (E17): The lands covered in this authorization have been determined to be in a floodplain (E.O. 11988). This authorization is issued with the specific understanding that if the improvements are

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substantially damaged and made uninhabitable by flood, the authorization shall terminate and the remaining improvements removed within 90 days. Should damage to the improvements not be substantial, they may be repaired and allowed to remain if they can be floodproofed without affecting flows in the floodway. No expansion of existing improvements or new improvements will be allowed in the floodway. No claim shall be made against the United States for damage, loss, or termination of authorization due to flood.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection on 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 is provided by the Organic Act of 1897 and the Federal Land Policy and Management Act of 1976, which authorize the Secretary of Agriculture to promulgate rules and regulations for authorizing and managing National Forest System lands. These statutes, along with the Term Permit Act, National Forest Ski Permit Act, Granger-Thye Act, Mineral Leasing Act, Alaska Term Permit Act, Act of September 3, 1954, Wildemess Act, National Forest Roads and Trails Act, Act of November 16, 1973, Archeological Resources Protection Act, and Alaska National Interest Lands Conservation 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 this collection of information, if requested, is estimated to average 1 hour per response for annual financial information; average 1 hour per response to prepare or update operation and/or maintenance plan; average 1 hour per response for inspection reports; and an average of 1 hour for each request that may include such things as reports, logs, facility and user information, sublease information, and other similar miscellaneous information requests. This includes 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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