



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](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

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## 1. APPLICANT INFORMATION

### A. Applicants

WATER RESOURCES DEPT  
SALEM, OREGON

Applicant: PAULA RINI  
First Last

Mailing Address: 2173 ESSEX LANE  
EUGENE OR 97403  
City State Zip

Phone: 541-485-0433 541-465-8138 541-554-6787  
Home Work Other cell

\*Fax: 541-465-8169 \*Email Address: prini@windermere.com

### B. Organizations

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

Name of Organization: USDA Forest Service - Middle Fork Ranger District  
Willamette N.F.

Name and Title of Person Applying: CHIP WEBER, District Ranger

Mailing Address or Organization: 46375 Hwy 58  
Westfir Oregon 97492  
City State Zip

Phone: 541-782-5320  
Day Evening

\*Fax: 541-782-5336 \*Email Address: <cweber@fs.fed.us>

\*Optional

For Department Use		
App. No. _____	Permit No. _____	Date _____

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: <u>SALT CREEK</u>	Tributary to: <u>MIDDLE FORK - WILLAMETTE</u>
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).

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**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
- 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.

**C. Property Ownership**

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

Yes (Please check appropriate box below then skip to section 3 'Water Use')

- There are no encumbrances
- This land is encumbered by easements, rights of way, roads or other encumbrances (please provide a copy of the recorded deed(s) )

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.

US FOREST SERVICE	SHARI MONSON SPECIAL USE ADMINISTRATOR MIDDLE FORK RANGER DISTRICT 46375 HWY 58 WEST FIR, OR 97492
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**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: 5
- 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
SALT CREEK	DOMESTIC	20.20 <input type="radio"/> cfs <input checked="" type="radio"/> gpm <input type="radio"/> af
		<input type="text"/> <input type="radio"/> cfs <input type="radio"/> gpm <input type="radio"/> af
		<input type="text"/> <input type="radio"/> cfs <input type="radio"/> gpm <input type="radio"/> af
		<input type="text"/> <input type="radio"/> cfs <input type="radio"/> gpm <input type="radio"/> af

**C. Period of Use**

Indicate the time of year you propose to use the water: YEAR ROUND  
*(For seasonal uses like irrigation give dates when water use would begin and end, e.g. March 1-October 31.)*

If you will be applying water to land, indicate the total number of acres where water will be applied or used: 0  
*(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): (5) POINTS OF DIVERSION W/ PUMPS OF VARIOUS SIZES + TYPES
- 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): \_\_\_\_\_

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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 *N/A*

Pipe (give diameter and total length):

Diameter *1 1/2" PVC (5) SYSTEMS* Length *150' to 250'*

other, describe: \_\_\_\_\_

**D. Application/Distribution Method**

What equipment will you use to apply water to your place of use?

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

**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.

*USE IS FOR HUMAN CONSUMPTION ONLY*

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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:

TO MEET OREGON DEPT OF FISH & WILDLIFE STANDARDS

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

SYSTEMS HAVE BEEN IN PLACE FOR APPROXIMATELY 50 YEARS. THE HABITAT HAS RECOVERED

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

NO CONSTRUCTION EQUIPMENT NEEDED

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

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: PROCESS BEGUN

Proposed date construction will be completed: 2014

Proposed date beneficial water use will begin: ASAP

## 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.*

CABINS HAVE BEEN IN PLACE SINCE THE 1950S.  
WELLS HAVE BEEN DUG OVER 300' AND HAVE  
PRODUCED VERY LITTLE WATER. SEE LOG LANE 23739.  
NO COMMUNITY SYSTEM TO HOOK UP TO.

## 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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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:

*Paula Rini*

*8/11/09*

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

Date

*Chip Weber*

*9/3/09*

CHIP WEBER, District Ranger

Date

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](http://www.wrd.state.or.us) or call (503) 986-0900.

**WRD on the web:**  
[www.wrd.state.or.us](http://www.wrd.state.or.us)

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NOTICE TO WATER WELL CONTRACTOR

The original and first copy of this report are to be filed with the

LANE

WATER WELL REPORT

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FEB 22 1973

State Well No.

215/3E-23

STATE ENGINEER, SALEM, OREGON 97302 within 30 days from the date of well completion.

STATE OF OREGON

(Please type or print)

STATE ENGINEER

SALEM, OREGON

State Permit No.

(1) OWNER:

Name C I Gilman Address Salt Creek Summer Home Rd Oakridge, Oregon

(2) TYPE OF WORK (check):

New Well [x] Deepening [ ] Reconditioning [ ] Abandon [ ] If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL: (4) PROPOSED USE (check):

Rotary [x] Driven [ ] Cable [ ] Jetted [ ] Bored [ ] Domestic [x] Industrial [ ] Municipal [ ] Irrigation [ ] Test Well [ ] Other [ ]

(5) CASING INSTALLED: 6" Diam. from 0 ft. to 18 1/2 ft. Gage .250 Threaded [ ] Welded [x]

(6) PERFORATIONS: Perforated? [ ] Yes [x] No.

Type of perforator used Size of perforations in. by in. perforations from ft. to ft.

(7) SCREENS: Well screen installed? [ ] Yes [x] No Manufacturer's Name Type Model No. Diam. Slot size Set from ft. to ft.

(8) WELL TESTS: Drawdown is amount water level is lowered below static level Was a pump test made? [ ] Yes [x] No If yes, by whom? tested with air; estimate could fluctuate

(9) CONSTRUCTION: Well seal-Material used cement grout Well sealed from land surface to 18 ft. Diameter of well bore to bottom of seal 10 in.

(10) LOCATION OF WELL:

County Lane Driller's well number 1/4 Section 23 T21S R3E W.M. Bearing and distance from section or subdivision corner

(11) WATER LEVEL: Completed well.

Depth at which water was first found 240 ft. Static level 186 ft. below land surface. Date 2-1-73 Artesian pressure lbs. per square inch. Date

(12) WELL LOG: Diameter of well below casing 6" Depth drilled 335 ft. Depth of completed well 335 ft.

Formation: Describe color, texture, grain size and structure of materials; and show thickness and nature of each stratum and aquifer penetrated, with at least one entry for each change of formation.

Table with columns: MATERIAL, From, To, SWL. Rows include sand gravel-boulders, boulders clay, black basalt, blue sandstone, blue basalt, black, red & blue cong.

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Work started 1-25-73 19 Completed 2-2-73 19 Date well drilling machine moved off of well 2-2-73 19

Drilling Machine Operator's Certification: This well was constructed under my direct supervision. Materials used and information reported above are true to my best knowledge and belief. [Signed] Casey J. Jones Date 2-13-73, 19... Drilling Machine Operator's License No. 521

Water Well Contractor's Certification: This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief. Name CASEY JONES WELL DRILLING CO INC (Person, firm or corporation) (Type or print) Rt 8 Box 695; Pleasant Hill, Ore Address [Signed] Casey J. Jones (Water Well Contractor) Contractor's License No. 559 Date 2-13-73, 19...



# Oregon

Theodore R. Kulongoski, Governor

**Water Resources Department**  
North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1266  
503-986-0900  
FAX 503-986-0904

## NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdictions where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you.

## NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.

*Note: ~~This is US Forest Service property~~*

*This is all Federal Land*

*Land use Forms are not required*

*M. Mattick*

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MAY 27 2009

WATER RESOURCES DEPT  
SALEM, OREGON

June 19, 2009

TO: Oregon Water Resources Department  
RE: Application for a Permit to Use Surface Water

This letter is serving as my authorization to have Paula Rini act on my behalf for the purpose of applying for a permit for surface rights to Salt Creek. I understand the initial permit application cost is a base fee of \$500 and \$200 for each point of diversion.

I am including an original signature and my mailing address along with my cabin number. I understand that a map will be included with the application showing my tax lot.

Thank you.

A handwritten signature in black ink, appearing to read "Kerry Krueger", with a long horizontal flourish extending to the right.

Kerry Krueger  
PO Box 789  
49011 Salt Creek Rd  
Lot #9  
Oakridge, OR 97463

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SEP 11 2009

WATER RESOURCES DEPT  
SALEM, OREGON

June 19, 2009

TO: Oregon Water Resources Department  
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I am including an original signature and my mailing address along with my cabin number. I understand that a map will be included with the application showing my tax lot.

Thank you.

*Jerri Adler*

JERENE F. ADLER  
2058 Olive Street  
Eugene OR 97405-2836

541-344-0534

Lot # 11  
Salt Creek Cabins  
49043 Salt Creek Road  
Cambridge OR

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SEP 11 2009  
WATER RESOURCES DEPT  
SALEM, OREGON

June 19, 2009

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I am including an original signature and my mailing address along with my cabin number. I understand that a map will be included with the application showing my tax lot.

Thank you.

*Duane Faulhaber*

*Duane Faulhaber , Salt Creek cabin owner  
2190 Law Lane lot #14  
Eugene OR 97401*

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WATER RESOURCES DEPT  
SALEM, OREGON

June 19, 2009

TO: Oregon Water Resources Department  
RE: Application for a Permit to Use Surface Water

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I am including an original signature and my mailing address along with my cabin number. I understand that a map will be included with the application showing my tax lot.

Thank you.

Mason Williams  
280 West 26<sup>th</sup> Street  
Eugene OR 97405  
541-345-7246  
541-345-6776

*Lot # 13*

A handwritten signature in black ink, appearing to read "Mason Williams". The signature is fluid and cursive, with a long horizontal stroke at the end.

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APPENDIX "A"

*Operation and Maintenance Plan*

Salt Creek Recreation Residence Tract  
Willamette National Forest  
Middle Fork Ranger District

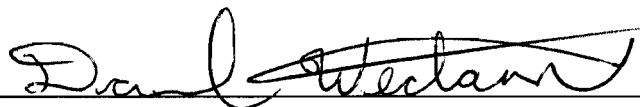
Contents:

- I. Region 6 Supplement to Forest Service Handbook (FSH) 2709.11, Chapter 40
- II. Operation and Maintenance Guidelines


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ACCEPTED:  7/9/09  
 Holders Signature Date

ACCEPTED:  7/9/09  
 Holders Signature Date

APPROVED:  7/24/09  
**CHIP WEBER** Date  
**DISTRICT RANGER**

## SECTION I:

2709.11 - SPECIAL USES HANDBOOK  
R6 SUPPLEMENT 2709.11-94-1  
EFFECTIVE 04/05/94

### CHAPTER 40 - SPECIAL USES ADMINISTRATION

#### 41 - RECREATION SPECIAL USES.

##### 41.2 - Individual Use.

##### 41.23 - Recreation Residence Use.

1. **Objectives.** Following are the Region 6 objectives for administration of recreation residences.
  - a. Provide recreation opportunities for families and guests.
  - b. Work in partnership with permit holders to maximize recreation benefits to the forests.
  - c. Be consistent with Forest Plans. Integrate administration and use of recreation residences with other resource programs.
  - d. Retain the natural environment.
  - e. Minimize alteration of the landform. Keep developments as unobtrusive as possible.
  - f. Provide for the safety of the permit holder and the public.
2. **Policy.** Authorized Officers shall use these standards and guidelines to administer recreation residence permits and evaluate proposals for modifications of permitted improvements.

The construction, reconstruction, and maintenance standards define the appearance and structure that represent the recreation cabin experience in the northwest forest environment. It is recognized that many cabins now exceed or deviate from these standards. Existing improvements that exceed these standards, unless otherwise directed here, can currently remain. As opportunities develop during replacement, maintenance, and change of ownership of improvements, forests should bring improvements into compliance with these standards.



### **3. Construction/Reconstruction Standards.**

#### **a. Plans and Procedures:**

- (1) All building plans must be approved by the Authorized Officer before the commencement of any work.
- (2) County and State building codes must be followed, and County building permits must be obtained when required.
- (3) In the event of new construction/reconstruction, the facility must be located within the lot boundary. If there is a question of the lot line locations, lot boundaries may be reestablished by a survey conducted by a licensed surveyor. If the Forest Service is unable to do this due to lack of funding or other contingency, the permit holder may complete the survey under approval and direction of the Forest Service.
- (4) Construction or reconstruction must begin within 1 year of the date of approval. Two years are allowed for the completion of projects such as a new cabin or additions to existing structures. If construction or reconstruction does not begin within the 1 or 2 year period from the approval date, the approval is void. The plan may be resubmitted, but approval must be subject to review under policies and guidelines in place at that time.

#### **b. Construction standards for all improvements:**

- (1) Architectural design of all buildings should aim at simplicity, good proportions, and compatibility of the natural setting. All additions and exterior building improvements must match the original buildings as much as practical.
- (2) Metal buildings shall not be permitted.
- (3) Mobile homes shall not be authorized for a dwelling or other building needs.
- (4) Exterior building colors shall harmonize with the surroundings without strong contrast between walls and trim. Earth tones and forest colors shall be used to blend with the natural environment. Darker greens and browns are recommended; subdued greys are also acceptable. Bright colors, such as white, red, blue, yellow, orange, turquoise, or purple, shall not be used for buildings or trim. When at all possible, an entire building should be painted one color with appropriate trim. All colors must be approved in advance by the Authorized Officer.

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SALEM, OREGON

- (5) All roofs shall be designed to support the local snow load. The entire roof shall be one material. Roll roofing is not acceptable. The roof shall have adequate pitch to support the roofing materials. Roof colors shall be darker tones. Approved colors may be required, preferably greens, browns, or greys, and should harmonize with the color of the building's finish. Metal roofs must be treated with a factory applied permanent coating in a color approved by the Authorized Officer.
- (6) The minimum setback from lot line boundaries is 5 feet. The Authorized Officer may require additional setbacks appropriate to the setting.
- (7) When feasible, all water, power, or other utility transmission lines shall be buried. Where practical, water systems, including wells, shall be incorporated into building design, and screened from public view or buried.
- (8) One sign may be permitted for each residence. Rustic, routed type signs on boards approximately 18 inches by 8 inches by 2 inches in thickness are recommended. The Authorized Officer may permit directional signing to residences as is considered appropriate and needed.
- (9) Yard lights that are desired for safety or security and are approved by the Authorized Officer shall be mounted on buildings. All yard light electrical lines shall be buried. No automatic safety lights are allowed.
- (10) Fences should not be permitted unless specifically included in management objectives for each area of recreation residences (tract). All fences must be approved by the Authorized Officer.
- (11) In general, gates are not acceptable. In unique situations identified in the tract objectives, and on a case-by-case basis, gates may be authorized by the Authorized Officer. Chain and cable gates are not permitted.
- (12) Where practical, propane tanks shall be incorporated into building design or screened from public view. The location and shielding of these tanks and fuel lines shall be in accordance with State and other agency laws and regulations. Encourage tank colors that blend with the natural environment.
- (13) Satellite dishes are not in keeping with the natural environment and should not be approved. The Authorized Officer can require removal of existing dishes upon issuance of a permit to a new owner of the facilities.

- (14) Whip antennas and wire antenna arrangements may be permitted when they can be emplaced inconspicuously. Large, visible installations must be removed upon transfer of the permit. Antennas should be located on outbuildings or the residence. One antenna may be allowed per dwelling.
- (15) Fire rings, normally of a temporary nature, may be permitted at the discretion of the Authorized Officer. No new, permanent, outdoor fireplaces should be allowed. Existing, permanent, outdoor fireplaces should be removed when they fall into disrepair or upon transfer of the permit.
- (16) Saunas may be permitted provided that they are installed in either the dwelling or in the storage utility building. Another structure to serve these uses must not be permitted.

**c. Construction standards for specific improvements:**

**1. Dwellings.**

- a. The following standards apply to existing and proposed dwellings:
  - No more than one dwelling per site shall be built.
  - Decks shall not be more than 400 square feet in total. They shall be designed for local snow load and to be visually pleasing. Decks may be left unpainted after initial construction, but once they are painted or stained, the finish must be maintained.
  - Porches and patios shall be limited to 25 percent of the total square footage of the building. They should not be enclosed without prior approval of the Authorized Officer. If enclosed, the porch is included in the square footage of the dwelling.
  - Nonconspicuous hot tubs may be approved within the residence or on a porch or deck attached to the residence. All electrical and plumbing lines must be hidden from view. Any request will include drainage proposals. If necessary, a dry well must be installed to prevent unacceptable drainage onto the ground or into surface water sources.

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- b. The following standards apply when construction is proposed for an addition to a dwelling, reconstruction of a dwelling, replacement, such as would result from a natural catastrophe that destroyed a structure, or from an owner's proposal to raze a structure and build a new one.
  - The maximum size dwelling allowed is 1,200 square feet measured on the outside of the foundation, plus a loft. The loft size shall not be included in the total square footage of the building, nor shall an open deck or porch. Square footage in a loft should be two thirds or less of the ground floor square footage. The loft shall be open without intervening partitions or bathroom. The area of an enclosed porch attached to a dwelling must be included in the maximum 1,200 square foot standard.
  - On reasonably level lots, homes shall be no more than 26 feet from the ground to the peak of the roof (no more than one story and a loft above ground level). A full second story is not permissible. A recreation residence on steeply sloping ground may be more than one story provided that it does not extend more than one floor above the highest elevation of the lot.

## 2. Guest Cabins.

- a. Construction of additional guest cabins or sleeping quarters is not permitted. In those cases where more than one dwelling currently occupies a single site, allow the use to continue in accordance with the authorization. However, correct such deficiencies built without prior approval, upon transfer of ownership of improvements outside of the family (husband and wife).
- b. Conversion of storage or other outbuildings to sleeping quarters or guest cabins is not permitted.

## 3. Outbuildings.

- a. Only one storage building and one outside toilet should be allowed.
- b. Permit only those structures identified in the authorization. Buildings in excess of one storage building and one outside toilet may be phased out as opportunity allows. Opportunities that will provide for removal of excess structures are: (1) change of ownership; (2) expiration of the permit; (3) a request for new construction; or (4) destruction of the structure.

- c. Authorized storage buildings should be low profile, one story structures, no more than 130 square feet measured on the exterior of the foundation.
- d. In addition to a storage building, an outdoor toilet may be permitted as long as it does not exceed 40 square feet measured on the exterior of the foundation. Toilet buildings no longer in use should be removed by the permit holder.

#### 4. Off-lot improvements.

- a. Generally, off-lot improvements should not be permitted. However, unique conditions in local situations may be considered by the Authorized Officer for allowing specific improvements.
- b. Docks should be authorized with a separate permit. Normally, and preferably, issue such permits to associations or groups of homeowners.

#### 5. Maintenance Standards.

- a. All roofs shall be kept reasonably clear of debris.
- b. Sheet plastic shall not be used on any buildings for walls, roofing, screening, or protection from the elements. Seasonal plastic storm windows are acceptable.
- c. Attachments or nails are not allowed on trees. Such attachments include, but are not limited to: gates, yard lights, powerlines, fences, benches, signs, clotheslines, and wires. Clotheslines should be temporary in nature and removed when the residence is not in use.
- d. Maintenance of roads providing access to recreation residence areas is normally the responsibility of the permit holders being served by the road.
- e. Lawns or planting of ornamental shrubs, trees, or flowers which are not native to the area are not compatible with goals for natural settings and therefore should not be permitted. It is permissible to plant a variety of native species as desired in natural arrangements. Existing lawns should be phased out as directed in the individual operation and maintenance plans.

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## 6. Occupancy Standards.

- a. Renting may be approved by the Authorized Officer, so long as the amount of rental income collected may equal but not exceed the holder's annual costs for the cabin. Annual costs include expenses for upkeep and maintenance that routinely occur on an annual basis. At a minimum, annual reports on rental use are required. Any use above this level would be considered commercial use in violation of permit terms and conditions. Rentals must be approved in advance by the Authorized Officer.
- b. No animals, other than common household pets, shall be kept upon the premises. Pets shall not be left unattended. No permanent pet enclosures shall be allowed.
- c. Tents and recreational vehicles (RV) may be used to expand the capacity of a residence on a short term basis, provided the vehicle or tent is kept on the lot. In these cases "short term" is defined as holiday weekends, family reunions, and other social occasions and should not exceed 2 weeks. Recreational vehicles could be the sole means of transportation to reach a recreational residence. In such cases, the RV should be utilized as a vehicle and not as additional sleeping quarters. No motorhomes, trailers, or similar items should be stored at the recreation cabin.
- d. Access and parking needs for cabin use and the goal to keep vehicles unobtrusive in the natural setting should be considered when developing Operation and Maintenance plans for individual permits and for tract planning.

7. **Site Plan Maps.** Site plan maps should be developed for each lot. All improvements should be identified and located on the map. Include below-ground and above-ground improvements, such as power lines and waterlines.

8. **Inspections.** Inspections shall be completed according to parent text direction. A standard form may be used.

Self inspection is a technique that may be used to meet the inspection requirements. Where possible, use associations to perform self inspections.

Inspections must be completed when a permit is issued to a new party. These inspections must be performed by the Authorized Officer or a designated representative of the Authorized Officer. Deficiencies should be corrected before issuance of the permit to the new party. Items requiring complex or time consuming work to correct may be completed after issuance of a permit to a new party, but must be scheduled for completion within a documented timeframe.

## SECTION II

### OPERATIONS AND MAINTENANCE PLAN

The following Operations and Maintenance Plan is made a part of the Holder's permit as provided in *Clause III.A.*

#### 1. Forest Service Regulation

- a. Existing improvements that exceed or deviate from the accepted standards and guidelines in Section I of this Operating Plan will be "conditionally accepted" in the new permit, to be brought into compliance during replacement, maintenance, or change of ownership of these improvements.

#### 2. Basic maintenance of vegetation and removal of dangerous trees and other unsafe conditions.

- a. The damaging of trees and shrubbery is prohibited. Trees may not be hacked, cut, or damaged in any manner, nor may signs, wires or other material be nailed to trees.
- b. The Holder will help protect designated wildlife logs or snags.
- c. Any corrective work to remove or minimize hazards, correct problems caused by runoff blow down etc., will be at the Holder's expense.

#### 3. Maintenance of the facilities.

- a. The Holder shall maintain the improvements in a reasonable state of repair. This includes painting or cleaning of exterior, installing /maintaining skirting, and repairing dry rot problems that cause structural problems or that visually detract from the structure. Paint or stain improvements need to be in colors acceptable to the Forest Service. Metal roofs may be used but the color needs to be approved in advance of installation. The Holder will assure hazards posed by improvements are removed (with prior approval by the authorized officer).
- b. **Historic preservation**: For historically significant properties, the Secretary of the Interior's Standards for Historic Preservation shall apply to historic residences and tracts determined to be eligible to the National Register of Historic Places. All modifications to the structures shall be reviewed and approved in advance by a Forest Heritage Specialist.
- c. Outhouse will be sealed. At the ground level, check your outhouse to see that it does not have any openings leading into the pit. Be sure that the door closes tightly, held in place by either a spring (door closer) or door latch; that all ventilation holes are covered with fine mesh screening; that the existing screening is in good repair; and there are no holes in the siding, door or roof. Repair those items that do not meet these standards.

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- d. Major projects proposals will need to be submitted for approval by January 1 of the calendar year for which work is planned and may require up to 6 months notice to obtain approval by the authorized officer.
- e. The Holder may perform minor pruning of limbs of trees or bushes that intrude upon driveways, trails adjacent to the cabin, woodshed or outhouse without Forest Service prior approval.
- f. Present policy allows a residence, a woodshed and an outhouse if needed. If a Holder presently has more than this number of structures, they may remain as long as they are well maintained and used for an appropriate purpose i.e. utility storage, wood storage and not converted to sleeping quarters.
- g. Driveways must be maintained in such a fashion that any resource damage (primarily erosion concerns) is kept to a minimal, acceptable level meeting Forest Service concerns.
- h. The Holder will maintain and update a current site plan map. A copy of this map shall be provided to the Forest Service and made a part of the official file.

**4. Size, placement and descriptions of signs.**

- a. All signs shall be of such color and design so they are unobtrusive to travelers in the area, new signs are limited to a maximum of 1' by 2'.
- b. The Holder will maintain a lot number and/or street number as required by the District, visible from the road. When the tract was established, a number was placed on each lot. The number should be similar in size and color to the original number. The number should be 3" to 4" reflective and be placed on a 4X4 post adjacent to the main road.

**5. Removal of garbage or trash.**

- a. The Holder shall dispose of refuse resulting from cabin usage, including waste materials, garbage, and rubbish of all kinds. Refuse shall be hauled from the site and disposed of at an approved dump site. Use of Forest Service garbage facilities, including those at campgrounds, is prohibited. Holder shall guard the purity of streams and living waters while storing and disposing of waste materials.

**6. Fire protection.**

- a. No fireworks shall be stored or USED on the land covered by this permit or in the structures thereon.
- b. Fireplaces and all wood burning appliances will be equipped with spark screens.
- c. The roof shall be kept reasonably clear of leaves, twigs and other debris.
- d. The Holder shall clear and keep cleared away from any structures all readily burnable vegetation such as dry grass, forest needles and dead vegetation.



- e. Yard debris needs to be removed from the lot or burned (with District approval) at least every two years. There will be a single burn pile per lot, placed in a fire-safe location, away from trees, overhanging branches and other burnable materials or vegetation. You must first obtain a burning permit from the Forest Service before burning.
- f. Wood/burnables shall not be stored under decks, cabins, or against cabin siding, around or against trees.

**7. Responsible person(s), other contact(s) and other owner(s).**

- a. The name, address, and phone number of the person responsible for implementing the provisions of the plan (if other than yourself) will be provided to the Forest Service by the Holder. The Forest Service will be notified immediately when a change of address occurs.
- b. The Holder will also provide the Forest Service with a list of names, addresses, and phone numbers of persons to contact in the event of an emergency.
- c. Names, addresses, and phone numbers of all owners will also be provided to the Forest Service.

**8. Maintenance and upkeep of the lot.**

- a. The permitted area will be maintained to present a clean, neat and orderly appearance. Trash, debris, unusable machinery, improvements, etc., will be disposed of in a timely manner.
- b. The lot will not be used to store building materials in excess of those needed for the next two years of work or repair.
- c. No motorhomes, trailers, boats, vehicles or other items will be stored on the lot.
- d. Firewood will normally be stored within a woodshed, if one is available. If no woodshed is available and other constraints do not limit firewood location, firewood stacks will be limited to two locations, one near the cabin for easy access and a larger single pile. Black, brown, green or gray colored tarp or plastic may be used to cover these piles.
- e. Established in-ground fire pits will be located away from trees, overhanging branches or other burnable materials or vegetation. An area no less than three feet around the perimeter of the in ground fire pit will be cleared of forest needles, duff and other vegetation. Only one in ground fire pit location will be allowed per residence, as approved by the authorized officer.
- f. The Holder will not establish lawns, plant flowers or ornamental shrubs. Indigenous or native plants may be used to enhance or restore a natural appearing forested setting.
- g. Permanent yard ornaments are prohibited. Temporary ornaments complimentary to a forest setting are permissible, unless specifically objected to by the Forest Service.

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- h. Maintenance of the landscape surrounding the residence shall include control of all Forest-designated noxious weed populations. At a minimum, residents will pull or cut down noxious weed species annually, or upon written request by the Forest service (within a reasonable amount of time - two weeks, or longer if requested by the holder).

**9. Resource Protection.**

- a. No waste or by-products shall be discharged if it contains any substance in concentrations which will result in substantial harm to fish and wildlife, human water supplies, or vegetation.
- b. Storage facilities for materials capable of causing water pollution if accidentally discharged, shall be located so as to prevent any spillage into waters or channels leading into water.
- c. All potentially ground disturbing activities must be reviewed and approved in advance by the Forest Service Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken. Unauthorized disturbance of such resources may constitute a violation of the Archaeological Resource Protection Act (ARPA) and may be subject to prosecution under federal law.

**10. Use of the facilities.**

- a. Upon placing the cabin on the market for sale the Holder will notify the Forest Service. Before the transfer occurs the cabin will need to be inspected if there is not a current inspection on file. A copy of the inspection will be shared with potential buyers and real estate agents, if any, handling the listing.
- b. Upon listing the residence for sale, a sign may be placed on the lot near the driveway so as to be visual if someone is driving through the tracts. Signs will not be permitted along Forest access roads.
- c. The Forest Service will not normally approve snow plowing of Forest Service roads. If plowing is desired it will first need to be approved by the summer home association, or the authorized officer in the absence of an association.
- d. No animals or fowl, other than household pets, shall be kept upon the premises. Animals being walked are to be kept on leashes and when at cabins should be kept inside or tied up.
- e. No discharging of firearms is allowed within the tract.

**11. Compliance inspections, Inspection Report.**

- a. The Holder will inspect the permitted area and structures when requested by the Forest Service. The Forest Service will provide the inspection forms and dates the inspections need to be completed. If you find something that needs to be done it will be indicated on the form when the work will be done. The Forest Service may perform spot checks at any time to verify the inspection report.

**12. Area Access.**

- a. The Holder agrees to permit the free and unrestricted access to and upon the premisses at all times for all lawful and proper purposes on National Forest by the public.
- b. The Forest Service may use driveways or lots to access National Forest lands adjacent to the lot provided that the Forest Service will protect the Holder's improvements or agree to restore improvements to original or better condition.

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Tract-Specific Requirements  
(Attach here)

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# ORIGINAL

Auth ID: MIF189  
Contact ID: ADLER  
Expiration Date: 12/31/2028  
Use Code: 123

FS-2700-5a (02/07)  
OMB No. 0596-0082

## U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE

### TERM SPECIAL USE PERMIT FOR RECREATION RESIDENCES AUTHORITY: Act of March 4, 1915, 16 U.S.C. 497

**JERENE F. ADLER & BYRON U. MUSA**, (the holders) of 2058 Olive Street, Eugene, OR 97405 are authorized to occupy a recreation residence on National Forest System lands for personal, noncommercial recreational use on the Willamette National Forest, subject to the terms and conditions of this permit and its appendices. This permit covers .21 acres, hereinafter referred to as "the permit area" and described as:

(1) Lot 11 of the Salt Creek Tract (49043 Salt Creek Road), a plat of which is on file in the office of the Forest Supervisor;

OR

(2) Sec. 23, T. 21 S., R. 3 E., Willamette Meridian, as shown on the attached map.

The following improvements, whether on or off the lot, are authorized in addition to the recreation residence:

#### Authorized Improvements:

1. Deck;
2. Driveway;
3. Electric lines;
4. Post with Lot number;

#### Conditionally Accepted:

1. Shed;
2. Surface water: Pump and waterlines;
3. Septic system

#### TERMS AND CONDITIONS

##### I. GENERAL TERMS

**A. AUTHORITY.** This permit is issued pursuant to the Act of March 4, 1915, 16 U.S.C. 497, 36 CFR Part 251, Subpart B, as amended, Forest Service Manual (FSM) 1920, 1950, 2340, 2720, and 5410, Forest Service Handbook (FSH) 2709.11, Chapters 10-50, and FSH 5409.12, Chapter 60, and is subject to their provisions. Copies of these regulations and directives shall be provided by the authorized officer to the holder at no charge upon request.

**B. AUTHORIZED OFFICER.** The authorized officer for this permit is the Forest or Grassland Supervisor or a subordinate officer with delegated authority.

**C. AUTHORIZED USE.** This permit authorizes only noncommercial recreational use by the holder's immediate family and the holder's non-paying guests, other than incidental rental that has prior written approval from the authorized officer pursuant to clause VII.A.

**D. PERMITS ISSUED TO A LIVING TRUST.** For permits issued to a living trust, if the grantor's immediate family will not be occupying the recreation residence, the trustee shall notify the authorized officer which immediate family will be occupying the recreation residence. The permanent address of this immediate family shall be provided to the Forest Service. The trustee shall update the identification and permanent address of this immediate family as necessary. The trustee warrants that the trustee has the authority to bind the trust to the terms and conditions of this permit. The trust is liable for compliance with all the terms and conditions of this permit.

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**E. TERM.** This permit shall expire at midnight on 12/31/2028.

**F. CHANGE IN ADDRESS, OWNERSHIP OF THE RECREATION RESIDENCE, OR THE TRUSTEE.** The holder or the holder's executor or personal representative shall immediately notify the authorized officer of a change in the holder's permanent address or a change in the ownership of the recreation residence. If the permit is issued to a trust, the trustee shall immediately notify the authorized officer of a change in the trustee or revocation or termination of the trust.

**G. 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, the applicable land management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

**H. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS.** In exercising the privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulations, 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.

**I. NON-EXCLUSIVE USE.** The use and occupancy authorized by this permit are not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area 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.

## **II. IMPROVEMENTS**

**A. LIMITATIONS ON USE.** This permit authorizes only occupancy of a recreation residence. Nothing in this permit gives or implies permission to build or maintain any structure or improvement or to conduct any activity, unless specifically authorized by this permit. Any use not specifically authorized by this permit must be proposed in accordance with 36 CFR 251.54. Approval of such a proposal through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer. Improvements requiring specific approval shall include but are not limited to signs, fences, name plates, mailboxes, newspaper boxes, boathouses, docks, pipelines, antennas, water and sewer facilities, and storage sheds.

**B. PLANS.** All plans and revisions to plans for development, layout, construction, reconstruction or alteration of improvements on the authorized lot must be prepared by a licensed engineer, architect, or landscape architect, in those states in which such licensing is required, or other qualified individual acceptable to the authorized officer. These plans and revisions to these plans must be approved by the authorized officer before commencement of any work.

## **III. OPERATIONS**

**A. OPERATING PLAN.** The holder shall prepare an operating plan in consultation with the authorized officer or the authorized officer's designated representative. The operating plan shall cover all activities authorized by this permit. The operating plan shall outline steps the holder will take to protect public health and safety and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor the holder's activities for compliance with the terms and conditions of this permit. The operating plan shall be submitted by the holder and approved by the authorized officer or the authorized officer's designated representative prior to commencement of authorized activities and shall be attached to this permit as an appendix. The operating plan shall, at a minimum, address requirements for the following:

1. Maintenance of vegetation, tree planting, and removal of dangerous trees and other unsafe conditions.
2. Maintenance of the authorized improvements.
3. Size, placement and description of authorized signs.
4. Removal of garbage.
5. Fire protection.
6. Identification of the person responsible for implementing the operating plan, if other than the holder, and a list of the name, address, and telephone numbers of persons to contact in the event of an emergency.

The operating plan shall be revised as necessary when changes to the authorized use are approved by the authorized

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officer.

**B. MINIMUM OCCUPANCY AND PROHIBITION ON FULL-TIME OCCUPANCY.** The permitted improvements shall be occupied at least 15 days each year, unless otherwise authorized in writing, but shall not be used as a full-time residence. Use of the permitted improvements as a principal place of residence is prohibited and shall be grounds for revocation of this permit.

**C. MAINTENANCE OF IMPROVEMENTS.** The holder shall maintain the authorized improvements and National Forest System lands to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer.

**D. INSPECTION OF THE PERMIT AREA.** The holder is responsible for inspecting the permit area, authorized rights-of-way, and adjoining areas for dangerous trees, hanging limbs, and other evidence of hazardous conditions that could affect the authorized improvements or pose a risk to public safety. After obtaining written approval from the authorized officer, the holder shall remove these hazards at the holder's expense.

**E. REMOVAL AND PLANTING OF VEGETATION.** This permit does not authorize the cutting of timber or other vegetation. Trees, shrubs, grasses, and other plants may be removed or destroyed only after the authorized officer or the authorized officer's designated representative has approved in writing and marked or otherwise identified 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, grasses, and other plants may be planted within the permit area with prior written approval of the authorized officer.

#### IV. RIGHTS AND LIABILITIES

**A. LEGAL EFFECT OF THE PERMIT.** This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR Part 251, Subpart C, and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

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

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

**D. RISK OF LOSS.** The holder assumes all risk of loss to the authorized improvements. Loss to the authorized improvements 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 authorized improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, the permit shall terminate.

**E. SERVICES NOT PROVIDED.** This permit is for the occupancy of land for the purposes stated in this permit and 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.

**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, 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 IV.F and section 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 laws or regulations.

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 permit area. If the environment or any government property covered by this permit becomes damaged during the holder's use and

occupancy of the permit area, 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 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 holder's use and occupancy of the permit area. Compensation shall include but is not 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 associated administrative, legal (including attorney's fees), and other costs.

3. The holder shall be liable for damage caused by use of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees to all roads and trails of the United States that are open to public use to the same extent as provided under clause IV.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, or 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 health or safety of the public or the holder's employees or agents or harm to the environment (including 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 these activities, events, or conditions. The holder has sole responsibility to protect the health and safety of all persons affected by the use and occupancy authorized by this permit. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.

**H. INDEMNIFICATION.** The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use and occupancy authorized by this permit. This indemnification and hold harmless provision includes but is not limited to acts and omissions of the holder or the holder's family, guests, invitees, heirs, assignees, agents, employees, contractors, or lessees in connection with the use and occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may become applicable, 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.

**I. FLOOD DAMAGE.** The lands covered by this permit are in a floodplain or floodway. This permit is issued with the specific understanding that if the authorized improvements are substantially damaged and made uninhabitable by a flood, the permit shall terminate and the remaining improvements shall be removed within 90 days. If damage to the improvements is not substantial, they may be repaired and allowed to remain if they can be flood-proofed without affecting flows in the floodplain or floodway. No expansion of existing improvements or new improvements will be allowed in the floodplain or floodway. No claim shall be made against the United States for loss, damage, or termination of the permit due to a flood.

## **V. RESOURCE 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 POLLUTION.** No waste or by-product shall be discharged into water if it contains any substance in concentrations which will result in harm to fish and wildlife, or to human water supplies. Storage facilities for materials capable of causing water pollution, if accidentally discharged, shall be located so as to prevent any spillage into waters or channels leading into water that would result in harm to fish and wildlife or to human water supplies.

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

**D. 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 to address these problems.

**E. PESTICIDE USE.** Pesticides may not be used outside of buildings to control undesirable woody and herbaceous vegetation (including aquatic plants), insects, rodents, or fish without the prior written approval of 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 require control measures which 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 authorized 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.

**F. ARCHAEOLOGICAL-PALEONTOLOGICAL DISCOVERIES.** The holder shall immediately notify the authorized officer of all antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall leave such discoveries intact and in place until directed otherwise by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the holder.

**G. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION.** If the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on federal or tribal lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall immediately notify the forest archaeologist by telephone of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the forest archaeologist certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, except that a recovery plan adopted as a binding agreement between the Forest Service and the affected Indian tribes may provide for earlier resumption of the activity.

**H. PROTECTION OF HABITAT OF THREATENED, ENDANGERED, AND SENSITIVE SPECIES.** The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA), 16 U.S.C. 531 et seq., as amended, or as sensitive by the Regional Forester under FSM 2670, pursuant to consultation conducted under section 7 of the ESA, may be identified on the ground or shown on a separate map. The map shall be attached to this permit as an appendix. The holder shall take any protective and mitigative measures specified by the authorized officer. If protective and mitigative measures prove inadequate, if other sites within the permit area containing threatened, endangered, or sensitive species are discovered, or if new species are listed as federally threatened or endangered under the ESA or as sensitive by the Regional Forester under the FSM, the authorized officer may specify additional protective and mitigative measures. Discovery of these sites by the holder or the Forest Service shall be promptly reported to the other party.

#### **I. CLEANUP AND REMEDIATION**

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

2. 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 in the permit area or in connection with the holder's activities in the permit area, regardless of whether 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 permit area to the Forest Service free and clear



of contamination.

## **VI. BASE CABIN USER FEES AND DEBT COLLECTION**

**A. BASE CABIN USER FEE.** The base cabin user fee shall be equal to 5% of the appraised market value of the recreation residence lot. The base cabin user fee for the first year of this permit shall be \$723.36 and shall be due on 04/08/2009. For purposes of determining the base cabin user fee after the first year of this permit, the initial and any subsequent appraised value of the recreation residence lot shall be adjusted by the percentage of change in the Implicit Price Deflator-Gross Domestic Product (IPD-GDP) from the second quarter of the previous year to the second quarter of the current year. An annual adjustment to the base cabin user fee shall be no more than 5% in any year. When the annual percentage of change in the IPD-GDP would result in an annual adjustment of more than 5%, apply the amount of the adjustment in excess of 5% to the annual fee payment for the next year in which the percentage of change in the IPD-GDP is less than 5%.

**B. NEW BASE CABIN USER FEE.** The authorized officer shall notify the holder in writing at least 1 year before implementing a new base cabin user fee based on a subsequent appraisal performed pursuant to clause VI.D. The holder shall be required to pay the full amount of the new base cabin user fee if it results in an increase of 100% or less from the amount of the most recent base cabin user fee assessed the holder. When the new base cabin user fee results in an increase of more than 100% from the amount of the most recent base cabin user fee assessed the holder, one-third of the increase will be added to the base cabin user fee for the next 3 years. Annual adjustments also shall be included in the base cabin user fee as appropriate pursuant to clause VI.A.

### **C. BASE CABIN USER FEE IF A DECISION IS MADE NOT TO RENEW THE USE UPON EXPIRATION OF THE PERMIT**

1. If a new recreation residence permit will not be issued upon expiration of this permit, the base cabin user fee for the 10th year prior to the date of converting the use and occupancy to an alternative public purpose will become the base fee for the remaining life of the use. The fee for each year during the last 10 years of the authorization shall be one-tenth of the base fee multiplied by the number of years remaining prior to the date of conversion.
2. When review of a decision to convert the recreation residence lot to an alternative public use shows that changed conditions warrant continuation of the recreation residence use beyond the conversion date and a new permit with a term of more than 10 years is issued, the holder shall pay the Forest Service the total amount of fees foregone for the 10-year period prior to the conversion date. This amount may be paid in equal annual installments over a 10-year period. Any unpaid portion of this amount shall be charged to a purchaser of the authorized improvements.
3. When review of a decision to convert the recreation residence lot to an alternative public use shows that changed conditions warrant continuation of the recreation residence use beyond the conversion date and a new permit with a term of 10 years or less is issued, the fee for the new permit will be computed as if notice had not been given that a new permit would not be issued, reduced by 10 percent for each year the permit term is extended less than 10 years. For example, a new permit with a 6-year term results in a land use fee of 60 percent of the base cabin user fee.
4. If the authorized officer determines that the recreation residence lot cannot be safely occupied because of an act of God or other catastrophic event, the base cabin user fee obligation of the holder shall terminate as of the date the act or event occurred. A prorated portion of the annual base cabin user fee reflecting the remainder of the current billing period from the date the act or event occurred shall be refunded to the holder, provided that if the holder is authorized to occupy an in-lieu lot, the prorated amount shall be credited to the annual base cabin user fee for the permit for the in-lieu lot.

### **D. APPRAISALS**

1. Appraisals to ascertain the market value of the recreation residence lot shall be conducted by the Forest Service at least every 10 years. The next appraisal shall be procured by the Forest Service in time to implement the base cabin user fee by 01/01/2011.
2. Appraisals shall be prepared consistent with FSM 5410 and FSH 5409.12, Chapter 60.
3. If dissatisfied with an appraisal report used by the Forest Service to determine the base cabin user fee, the holder must notify the authorized officer within 60 days of the holder's intent to obtain a second appraisal report. If a request for a second appraisal report is submitted, the holder has one year following receipt of the notice of the determination of a new base cabin user fee to obtain, at the holder's expense, a second appraisal report using the same typical lot and date of value as the original appraisal report and based on all other relevant factors. The appraiser selected by the holder shall

have qualifications equivalent to the appraiser who conducted the original appraisal and must be approved in advance by the assigned Forest Service review appraiser. The second appraisal report shall meet the appraisal guidelines enumerated in FSH 5409.12, Chapter 60. The holder's appraiser shall notify the Forest Service review appraiser of any material differences of fact or opinion between the initial and second appraisal reports. If the holder chooses to have the second appraisal report reviewed by the Forest Service, the holder shall submit a request for review by a Forest Service appraiser within 60 days of receipt of the second appraisal report. Within 60 days of receipt of the request, the authorized officer shall:

- a. Review the initial and second appraisal reports and their corresponding review reports;
- b. Determine a new base cabin user fee in an amount that is equal to the base cabin user fee determined by the initial or second appraisal or within the range of values, if any, between the initial and second appraisals; and
- c. Notify the holder of the new base cabin user fee.

#### **E. 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. Base cabin user fees are due and payable by the due date. Disputed fees must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

#### 3. Late Payments

(a) Interest Pursuant to 31 U.S.C. 3717 et seq., interest shall be charged on any base cabin user fee not paid within 30 days from the date it became due. The rate of interest assessed shall be the higher of the Prompt Payment Act rate or the rate of the current value of funds to the 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 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.

**F. NONPAYMENT.** Failure of the holder to make timely payments, pay interest charges, or any other charges when due shall be grounds for revocation of this permit.

**G. 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:

1. Administrative offset of payments due the holder from the Forest Service.
2. 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).
3. Offset by the Secretary of the Treasury of any amount due the holder, as provided by 31 U.S.C. 3720 et seq.
4. Disclosure to consumer or commercial credit reporting agencies.

#### **VII. RENTAL, NON-TRANSFERABILITY, AND SALE**

**A. INCIDENTAL RENTAL.** With prior written approval from the authorized officer, the holder may rent the recreation residence covered by this permit for a limited number of short, specific periods for recreational purposes, provided the rental does not change the character or use of the authorized improvements from noncommercial to commercial. The rental agreement must be in writing and must provide that the holder remains responsible for compliance with all the terms of this permit. A copy of the rental agreement shall be provided to the authorized officer.

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**B. NONTRANSFERABILITY.** This permit is not transferable. A purchaser or transferee of the recreation residence covered by this permit must apply for and obtain a new permit from the Forest Service.

**C. PROSPECTIVE PURCHASERS AND TRANSFEREES.** When the holder is contemplating a sale of the recreation residence authorized by this permit, the holder shall notify the authorized officer and provide a copy of this permit to the prospective purchaser or transferee. The holder shall not represent that the Forest Service will issue a new permit to the prospective purchaser or transferee. Any purchaser or transferee must apply for and obtain a new permit from the Forest Service.

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

**A. REVOCATION AND SUSPENSION.** The authorized officer may revoke or suspend this permit in whole or in part:

1. For noncompliance with federal, state or local law.
2. For noncompliance with the terms and conditions of this permit.
3. For abandonment or other failure of the holder to exercise the privileges granted.
4. With the consent of the holder.
5. For specific and compelling reasons in the public interest.

Prior to revocation or suspension, other than immediate suspension under clause VIII.C, the authorized officer shall give the holder written notice of the grounds for revocation or suspension. In the case of revocation or suspension based on clause VIII.A.1, 2, or 3, the authorized officer shall give the holder a reasonable period, not to exceed 90 days, to cure any noncompliance.

### **B. REVOCATION FOR SPECIFIC AND COMPELLING REASONS IN THE PUBLIC INTEREST**

1. If during the term of this permit the authorized officer determines that specific and compelling reasons in the public interest require revocation of this permit, this permit shall be revoked after 180 days written notice to the holder, provided that the authorized officer may prescribe a shorter notice period if justified by the public interest. The Forest Service shall then have the right to relocate the holder's improvements to another lot, to remove them, or to require the holder to relocate or remove them, and the Forest Service shall be obligated to pay an equitable amount for the improvements or for their relocation and damages resulting from their relocation that are caused by the Forest Service. If that amount is fixed by mutual agreement between the authorized officer and the holder, that amount shall be accepted by the holder in full satisfaction of all claims against the United States under this clause. If mutual agreement is not reached, the authorized officer shall determine the amount to be paid, which shall become part of the revocation decision.

2. If revocation in the public interest occurs after the holder has received notification that a new permit will not be issued following expiration of this permit, 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 in the term of the permit as of the date of revocation (measured from the date of the revocation notice) and as the denominator the total number of months in the original term of this permit.

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

**D. APPEALS AND REMEDIES.** Written decisions made by the authorized officer relating to administration of this permit are subject to appeal pursuant to 36 CFR Part 251, Subpart C, as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service, other than as provided in clause VIII.B.

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

1. Termination Upon Change in Ownership. If the holder through voluntary sale, transfer, enforcement of contract,

foreclosure, or other legal proceeding ceases to be the owner of the authorized improvements, this permit shall terminate. If the person who acquires title to the improvements is qualified to be a holder under applicable regulations and Forest Service directives, that person shall be granted a new permit for the remainder of the term of this permit.

## 2. Termination of a Permit Issued to a Husband and Wife or an Individual Upon Their Death

a. Married Couple. If the holder of this permit is a married couple and one spouse dies, the permit shall remain in effect, without amendment or revision, in the name of the surviving spouse.

b. Individual or Surviving Spouse. If the holder of this permit is an individual or a surviving spouse and the holder dies, this permit shall terminate. Pending settlement of the holder's estate, an annual renewable permit, using form FS-2700-4, shall be issued to the executor or personal representative of the holder's estate. Upon settlement of the estate, the authorized officer shall issue a new permit, updated as necessary to reflect Forest Service policy changes, to a qualified heir or devisee for the remainder of the term of this permit. To qualify, an heir or a devisee must be one individual 21 years of age or older or a husband and wife who have title to the recreation residence authorized by this permit, as shown by a court order, bill of sale, recorded will, or other legally sufficient documentation.

## IX. CONTINUATION OF THE AUTHORIZED USE UPON EXPIRATION OF THE PERMIT

**A. CONSISTENCY DETERMINATION.** A decision to issue a new permit or convert the permit area to an alternative public use upon expiration of this permit requires a determination of consistency with the applicable land management plan (the plan).

1. Where continued use is consistent with the plan, the authorized officer shall issue a new permit, in accordance with applicable requirements for environmental analysis.

2. If, as a result of an amendment or revision of the plan, the permit area is allocated to an alternative public use, the authorized officer shall conduct site-specific environmental analysis to determine the range and intensity of the alternative public use.

a. If the environmental analysis results in a decision that the authorized use may continue, the holder shall be notified in writing, this permit shall be modified as necessary, and a new permit shall be issued upon expiration of this permit.

b. If the environmental analysis results in a decision that the authorized use 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 environmental analysis and decision document.

c. If a land use decision relating to the permit area and its supporting environmental documentation are more than 5 years old, the decision and supporting documentation shall be reviewed at least 2 years prior to permit expiration. If the review indicates that the conditions resulting in the decision are unchanged, the decision may be implemented. If the review indicates that conditions have changed, new environmental analysis shall be conducted to determine the proper course of action.

**B. NEW TERMS AND CONDITIONS.** In issuing a new permit, the authorized officer shall include terms and conditions that reflect new requirements imposed by current federal and state land use plans, laws, regulations, or other management decisions.

**C. NEW PERMIT TO ACCOMMODATE 10-YEAR CONTINUED OCCUPANCY.** 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 TERMINATION WITHOUT RENEWAL

**A. REMOVAL OF IMPROVEMENTS.** Except as provided in clause VIII.B, upon revocation of this permit or termination of this permit without renewal of the authorized use, the authorized officer has the discretion to require the holder to sell or remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and to restore the site to the satisfaction of the authorized officer. If the holder fails to sell or remove all structures or improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the permit area.

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**B. OFFER OF AN IN-LIEU LOT.** Upon revocation (other than revocation for noncompliance) or upon notification that a new permit will not be issued after expiration of this permit, the authorized officer may offer an in-lieu lot, if available, to the holder for building or relocating a recreation residence. An in-lieu lot must be in a location that is consistent with the applicable land management plan in the same National Forest as the authorized improvements or in an adjacent National Forest. An offer of an in-lieu lot must be accepted within 90 days or within 90 days of final disposition of administrative appeal of the revocation decision, termination when rebuilding is not allowed, or notification that a new permit will not be issued upon permit expiration, whichever is later, or the offer will expire.

**XI. MISCELLANEOUS PROVISIONS**

**A. MEMBERS OF CONGRESS.** No member of or delegate to Congress or resident commissioner shall benefit from this permit either directly or indirectly, except to the extent the authorized use provides a general benefit to a corporation.

**B. SUPERSEDED PERMIT.** This permit replaces a special use permit issued to: ADLER, JERENE F., OAK510301, on 11/14/1988.

**C. DISCLAIMER REGARDING TITLE.** Issuance of this permit shall not be construed as an admission by the United States as to the title to any of the authorized improvements. The United States disclaims any liability for issuance of a permit in the event of disputed title.

**D. RULES OF CONSTRUCTION**

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

2. If this permit is issued to a trust and there is a conflict between any of the terms and conditions of this permit and the terms of the trust documents or state law applicable to the trust, the terms and conditions of this permit shall control.

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

ACCEPTED: **JERENE ADLER & BYRON U. MUSA**

**JERENE F. ADLER**

\_\_\_\_\_  
(Holder Name)

  
SIGNATURE

6/13/09  
DATE

**BYRON U. MUSA**

\_\_\_\_\_

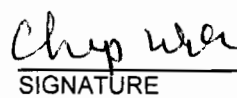
  
SIGNATURE

6/13/09  
DATE

APPROVED:

**CHIP WEBER**  
DISTRICT RANGER

\_\_\_\_\_  
(Name and Title Of Authorized Officer)

  
SIGNATURE

6/16/09  
DATE

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not 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. The time required to complete this information collection is estimated to average 1 hour per response, including 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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# ORIGINAL

Auth ID: MIF191  
Contact ID: WILLIAMS,M  
Expiration Date: 12/31/2028  
Use Code: 123

FS-2700-5a (02/07)  
OMB No. 0596-0082

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

**TERM SPECIAL USE PERMIT FOR RECREATION RESIDENCES  
AUTHORITY: Act of March 4, 1915, 16 U.S.C. 497**

**MASON D. WILLIAMS** (the holder), of 280 West 26<sup>th</sup> Avenue, Eugene, OR and P.O. BOX 5105, Eugene, OR 97405 is authorized to occupy a recreation residence on National Forest System lands for personal, noncommercial recreational use on the Middle Fork Ranger District, Willamette National Forest, subject to the terms and conditions of this permit and its appendices. This permit covers .43 acres, hereinafter referred to as "the permit area" and described as:

(1) Lot 13 (49065 Salt Creek Road) of the Salt Creek Tract, a plat of which is on file in the office of the Forest Supervisor;

OR

(2) Sec. 23, T. 21 S., R. 3 E., Willamette Meridian as shown on the attached map.

The following improvements, whether on or off the lot, are authorized in addition to the recreation residence:

**Authorized Improvements include:**

1. Waterlines from well located on Lot #12;
2. Driveway;
3. Electric transmission lines;
4. Post with Lot number;

**Conditionally Accepted:**

1. Carport: 24' x 24';
2. Shed: 13' x 14';
3. Septic system;
4. Surface water system: Pump and waterlines

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**TERMS AND CONDITIONS**

**I. GENERAL TERMS**

**A. AUTHORITY.** This permit is issued pursuant to the Act of March 4, 1915, 16 U.S.C. 497, 36 CFR Part 251, Subpart B, as amended, Forest Service Manual (FSM) 1920, 1950, 2340, 2720, and 5410, Forest Service Handbook (FSH) 2709.11, Chapters 10-50, and FSH 5409.12, Chapter 60, and is subject to their provisions. Copies of these regulations and directives shall be provided by the authorized officer to the holder at no charge upon request.

**B. AUTHORIZED OFFICER.** The authorized officer for this permit is the Forest or Grassland Supervisor or a subordinate officer with delegated authority.

**C. AUTHORIZED USE.** This permit authorizes only noncommercial recreational use by the holder's immediate family and the holder's non-paying guests, other than incidental rental that has prior written approval from the authorized officer pursuant to clause VII.A.

**D. PERMITS ISSUED TO A LIVING TRUST.** For permits issued to a living trust, if the grantor's immediate family will not be occupying the recreation residence, the trustee shall notify the authorized officer which immediate family will be occupying the recreation residence. The permanent address of this immediate family shall be provided to the Forest Service. The trustee shall update the identification and permanent address of this immediate family as necessary. The trustee warrants that the trustee has the authority to bind the trust to the terms and conditions of this permit. The trust is liable for compliance with all the terms and conditions of this permit.

**E. TERM.** This permit shall expire at midnight on 12/31/2028.

**F. CHANGE IN ADDRESS, OWNERSHIP OF THE RECREATION RESIDENCE, OR THE TRUSTEE.** The holder or the holder's executor or personal representative shall immediately notify the authorized officer of a change in the holder's permanent address or a change in the ownership of the recreation residence. If the permit is issued to a trust, the trustee shall immediately notify the authorized officer of a change in the trustee or revocation or termination of the trust.

**G. 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, the applicable land management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

**H. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS.** In exercising the privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulations, 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.

**I. NON-EXCLUSIVE USE.** The use and occupancy authorized by this permit are not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area 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.

## **II. IMPROVEMENTS**

**A. LIMITATIONS ON USE.** This permit authorizes only occupancy of a recreation residence. Nothing in this permit gives or implies permission to build or maintain any structure or improvement or to conduct any activity, unless specifically authorized by this permit. Any use not specifically authorized by this permit must be proposed in accordance with 36 CFR 251.54. Approval of such a proposal through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer. Improvements requiring specific approval shall include but are not limited to signs, fences, name plates, mailboxes, newspaper boxes, boathouses, docks, pipelines, antennas, water and sewer facilities, and storage sheds.

**B. PLANS.** All plans and revisions to plans for development, layout, construction, reconstruction or alteration of improvements on the authorized lot must be prepared by a licensed engineer, architect, or landscape architect, in those states in which such licensing is required, or other qualified individual acceptable to the authorized officer. These plans and revisions to these plans must be approved by the authorized officer before commencement of any work.

## **III. OPERATIONS**

**A. OPERATING PLAN.** The holder shall prepare an operating plan in consultation with the authorized officer or the authorized officer's designated representative. The operating plan shall cover all activities authorized by this permit. The operating plan shall outline steps the holder will take to protect public health and safety and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor the holder's activities for compliance with the terms and conditions of this permit. The operating plan shall be submitted by the holder and approved by the authorized officer or the authorized officer's designated representative prior to commencement of authorized activities and shall be attached to this permit as an appendix. The operating plan shall, at a minimum, address requirements for the following:

1. Maintenance of vegetation, tree planting, and removal of dangerous trees and other unsafe conditions.
2. Maintenance of the authorized improvements.
3. Size, placement and description of authorized signs.
4. Removal of garbage.
5. Fire protection.
6. Identification of the person responsible for implementing the operating plan, if other than the holder, and a list of the name, address, and telephone numbers of persons to contact in the event of an emergency.

The operating plan shall be revised as necessary when changes to the authorized use are approved by the authorized



officer.

**B. MINIMUM OCCUPANCY AND PROHIBITION ON FULL-TIME OCCUPANCY.** The permitted improvements shall be occupied at least 15 days each year, unless otherwise authorized in writing, but shall not be used as a full-time residence. Use of the permitted improvements as a principal place of residence is prohibited and shall be grounds for revocation of this permit.

**C. MAINTENANCE OF IMPROVEMENTS.** The holder shall maintain the authorized improvements and National Forest System lands to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer.

**D. INSPECTION OF THE PERMIT AREA.** The holder is responsible for inspecting the permit area, authorized rights-of-way, and adjoining areas for dangerous trees, hanging limbs, and other evidence of hazardous conditions that could affect the authorized improvements or pose a risk to public safety. After obtaining written approval from the authorized officer, the holder shall remove these hazards at the holder's expense.

**E. REMOVAL AND PLANTING OF VEGETATION.** This permit does not authorize the cutting of timber or other vegetation. Trees, shrubs, grasses, and other plants may be removed or destroyed only after the authorized officer or the authorized officer's designated representative has approved in writing and marked or otherwise identified 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, grasses, and other plants may be planted within the permit area with prior written approval of the authorized officer.

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

**A. LEGAL EFFECT OF THE PERMIT.** This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR Part 251, Subpart C, and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

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

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

**D. RISK OF LOSS.** The holder assumes all risk of loss to the authorized improvements. Loss to the authorized improvements 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 authorized improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, the permit shall terminate.

**E. SERVICES NOT PROVIDED.** This permit is for the occupancy of land for the purposes stated in this permit and 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.

**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, 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 IV.F and section 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 laws or regulations.

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 permit area. If the environment or any government property covered by this permit becomes damaged during the holder's use and

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occupancy of the permit area, 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 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 holder's use and occupancy of the permit area. Compensation shall include but is not 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 associated administrative, legal (including attorney's fees), and other costs.

3. The holder shall be liable for damage caused by use of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees to all roads and trails of the United States that are open to public use to the same extent as provided under clause IV.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, or 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 health or safety of the public or the holder's employees or agents or harm to the environment (including 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 these activities, events, or conditions. The holder has sole responsibility to protect the health and safety of all persons affected by the use and occupancy authorized by this permit. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.

**H. INDEMNIFICATION.** The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use and occupancy authorized by this permit. This indemnification and hold harmless provision includes but is not limited to acts and omissions of the holder or the holder's family, guests, invitees, heirs, assignees, agents, employees, contractors, or lessees in connection with the use and occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may become applicable, 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.

**I. FLOOD DAMAGE.** The lands covered by this permit are in a floodplain or floodway. This permit is issued with the specific understanding that if the authorized improvements are substantially damaged and made uninhabitable by a flood, the permit shall terminate and the remaining improvements shall be removed within 90 days. If damage to the improvements is not substantial, they may be repaired and allowed to remain if they can be flood-proofed without affecting flows in the floodplain or floodway. No expansion of existing improvements or new improvements will be allowed in the floodplain or floodway. No claim shall be made against the United States for loss, damage, or termination of the permit due to a flood.

## **V. RESOURCE 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 POLLUTION.** No waste or by-product shall be discharged into water if it contains any substance in concentrations which will result in harm to fish and wildlife, or to human water supplies. Storage facilities for materials capable of causing water pollution, if accidentally discharged, shall be located so as to prevent any spillage into waters or channels leading into water that would result in harm to fish and wildlife or to human water supplies.

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

**D. 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 to address these problems.

**E. PESTICIDE USE.** Pesticides may not be used outside of buildings to control undesirable woody and herbaceous vegetation (including aquatic plants), insects, rodents, or fish without the prior written approval of 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 require control measures which 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 authorized 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.

**F. ARCHAEOLOGICAL-PALEONTOLOGICAL DISCOVERIES.** The holder shall immediately notify the authorized officer of all antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall leave such discoveries intact and in place until directed otherwise by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the holder.

**G. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION.** If the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on federal or tribal lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall immediately notify the forest archaeologist by telephone of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the forest archaeologist certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, except that a recovery plan adopted as a binding agreement between the Forest Service and the affected Indian tribes may provide for earlier resumption of the activity.

**H. PROTECTION OF HABITAT OF THREATENED, ENDANGERED, AND SENSITIVE SPECIES.** The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA), 16 U.S.C. 531 et seq., as amended, or as sensitive by the Regional Forester under FSM 2670, pursuant to consultation conducted under section 7 of the ESA, may be identified on the ground or shown on a separate map. The map shall be attached to this permit as an appendix. The holder shall take any protective and mitigative measures specified by the authorized officer. If protective and mitigative measures prove inadequate, if other sites within the permit area containing threatened, endangered, or sensitive species are discovered, or if new species are listed as federally threatened or endangered under the ESA or as sensitive by the Regional Forester under the FSM, the authorized officer may specify additional protective and mitigative measures. Discovery of these sites by the holder or the Forest Service shall be promptly reported to the other party.

#### **I. CLEANUP AND REMEDIATION**

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

2. 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 in the permit area or in connection with the holder's activities in the permit area, regardless of whether 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 permit area to the Forest Service free and clear

of contamination.

## **VI. BASE CABIN USER FEES AND DEBT COLLECTION**

**A. BASE CABIN USER FEE.** The base cabin user fee shall be equal to 5% of the appraised market value of the recreation residence lot. The base cabin user fee for the first year of this permit shall be \$723.36 and shall be due on 04/08/2009. For purposes of determining the base cabin user fee after the first year of this permit, the initial and any subsequent appraised value of the recreation residence lot shall be adjusted by the percentage of change in the Implicit Price Deflator-Gross Domestic Product (IPD-GDP) from the second quarter of the previous year to the second quarter of the current year. An annual adjustment to the base cabin user fee shall be no more than 5% in any year. When the annual percentage of change in the IPD-GDP would result in an annual adjustment of more than 5%, apply the amount of the adjustment in excess of 5% to the annual fee payment for the next year in which the percentage of change in the IPD-GDP is less than 5%.

**B. NEW BASE CABIN USER FEE.** The authorized officer shall notify the holder in writing at least 1 year before implementing a new base cabin user fee based on a subsequent appraisal performed pursuant to clause VI.D. The holder shall be required to pay the full amount of the new base cabin user fee if it results in an increase of 100% or less from the amount of the most recent base cabin user fee assessed the holder. When the new base cabin user fee results in an increase of more than 100% from the amount of the most recent base cabin user fee assessed the holder, one-third of the increase will be added to the base cabin user fee for the next 3 years. Annual adjustments also shall be included in the base cabin user fee as appropriate pursuant to clause VI.A.

### **C. BASE CABIN USER FEE IF A DECISION IS MADE NOT TO RENEW THE USE UPON EXPIRATION OF THE PERMIT**

1. If a new recreation residence permit will not be issued upon expiration of this permit, the base cabin user fee for the 10th year prior to the date of converting the use and occupancy to an alternative public purpose will become the base fee for the remaining life of the use. The fee for each year during the last 10 years of the authorization shall be one-tenth of the base fee multiplied by the number of years remaining prior to the date of conversion.
2. When review of a decision to convert the recreation residence lot to an alternative public use shows that changed conditions warrant continuation of the recreation residence use beyond the conversion date and a new permit with a term of more than 10 years is issued, the holder shall pay the Forest Service the total amount of fees foregone for the 10-year period prior to the conversion date. This amount may be paid in equal annual installments over a 10-year period. Any unpaid portion of this amount shall be charged to a purchaser of the authorized improvements.
3. When review of a decision to convert the recreation residence lot to an alternative public use shows that changed conditions warrant continuation of the recreation residence use beyond the conversion date and a new permit with a term of 10 years or less is issued, the fee for the new permit will be computed as if notice had not been given that a new permit would not be issued, reduced by 10 percent for each year the permit term is extended less than 10 years. For example, a new permit with a 6-year term results in a land use fee of 60 percent of the base cabin user fee.
4. If the authorized officer determines that the recreation residence lot cannot be safely occupied because of an act of God or other catastrophic event, the base cabin user fee obligation of the holder shall terminate as of the date the act or event occurred. A prorated portion of the annual base cabin user fee reflecting the remainder of the current billing period from the date the act or event occurred shall be refunded to the holder, provided that if the holder is authorized to occupy an in-lieu lot, the prorated amount shall be credited to the annual base cabin user fee for the permit for the in-lieu lot.

### **D. APPRAISALS**

1. Appraisals to ascertain the market value of the recreation residence lot shall be conducted by the Forest Service at least every 10 years. The next appraisal shall be procured by the Forest Service in time to implement the base cabin user fee by 01/01/2011.
2. Appraisals shall be prepared consistent with FSM 5410 and FSH 5409.12, Chapter 60.
3. If dissatisfied with an appraisal report used by the Forest Service to determine the base cabin user fee, the holder must notify the authorized officer within 60 days of the holder's intent to obtain a second appraisal report. If a request for a second appraisal report is submitted, the holder has one year following receipt of the notice of the determination of a new base cabin user fee to obtain, at the holder's expense, a second appraisal report using the same typical lot and date of value as the original appraisal report and based on all other relevant factors. The appraiser selected by the holder shall

have qualifications equivalent to the appraiser who conducted the original appraisal and must be approved in advance by the assigned Forest Service review appraiser. The second appraisal report shall meet the appraisal guidelines enumerated in FSH 5409.12, Chapter 60. The holder's appraiser shall notify the Forest Service review appraiser of any material differences of fact or opinion between the initial and second appraisal reports. If the holder chooses to have the second appraisal report reviewed by the Forest Service, the holder shall submit a request for review by a Forest Service appraiser within 60 days of receipt of the second appraisal report. Within 60 days of receipt of the request, the authorized officer shall:

- a. Review the initial and second appraisal reports and their corresponding review reports;
- b. Determine a new base cabin user fee in an amount that is equal to the base cabin user fee determined by the initial or second appraisal or within the range of values, if any, between the initial and second appraisals; and
- c. Notify the holder of the new base cabin user fee.

#### **E. 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. Base cabin user fees are due and payable by the due date. Disputed fees must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

#### **3. Late Payments**

(a) Interest. Pursuant to 31 U.S.C. 3717 et seq., interest shall be charged on any base cabin user fee not paid within 30 days from the date it became due. The rate of interest assessed shall be the higher of the Prompt Payment Act rate or the rate of the current value of funds to the 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 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.

**F. NONPAYMENT**. Failure of the holder to make timely payments, pay interest charges, or any other charges when due shall be grounds for revocation of this permit.

**G. 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:

1. Administrative offset of payments due the holder from the Forest Service.
2. 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).
3. Offset by the Secretary of the Treasury of any amount due the holder, as provided by 31 U.S.C. 3720 et seq.
4. Disclosure to consumer or commercial credit reporting agencies.

#### **VII. RENTAL, NON-TRANSFERABILITY, AND SALE**

**A. INCIDENTAL RENTAL**. With prior written approval from the authorized officer, the holder may rent the recreation residence covered by this permit for a limited number of short, specific periods for recreational purposes, provided the rental does not change the character or use of the authorized improvements from noncommercial to commercial. The rental agreement must be in writing and must provide that the holder remains responsible for compliance with all the terms of this permit. A copy of the rental agreement shall be provided to the authorized officer.

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**B. NONTRANSFERABILITY.** This permit is not transferable. A purchaser or transferee of the recreation residence covered by this permit must apply for and obtain a new permit from the Forest Service.

**C. PROSPECTIVE PURCHASERS AND TRANSFEREES.** When the holder is contemplating a sale of the recreation residence authorized by this permit, the holder shall notify the authorized officer and provide a copy of this permit to the prospective purchaser or transferee. The holder shall not represent that the Forest Service will issue a new permit to the prospective purchaser or transferee. Any purchaser or transferee must apply for and obtain a new permit from the Forest Service.

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

**A. REVOCATION AND SUSPENSION.** The authorized officer may revoke or suspend this permit in whole or in part:

1. For noncompliance with federal, state or local law.
2. For noncompliance with the terms and conditions of this permit.
3. For abandonment or other failure of the holder to exercise the privileges granted.
4. With the consent of the holder.
5. For specific and compelling reasons in the public interest.

Prior to revocation or suspension, other than immediate suspension under clause VIII.C, the authorized officer shall give the holder written notice of the grounds for revocation or suspension. In the case of revocation or suspension based on clause VIII.A.1, 2, or 3, the authorized officer shall give the holder a reasonable period, not to exceed 90 days, to cure any noncompliance.

### **B. REVOCATION FOR SPECIFIC AND COMPELLING REASONS IN THE PUBLIC INTEREST**

1. If during the term of this permit the authorized officer determines that specific and compelling reasons in the public interest require revocation of this permit, this permit shall be revoked after 180 days written notice to the holder, provided that the authorized officer may prescribe a shorter notice period if justified by the public interest. The Forest Service shall then have the right to relocate the holder's improvements to another lot, to remove them, or to require the holder to relocate or remove them, and the Forest Service shall be obligated to pay an equitable amount for the improvements or for their relocation and damages resulting from their relocation that are caused by the Forest Service. If that amount is fixed by mutual agreement between the authorized officer and the holder, that amount shall be accepted by the holder in full satisfaction of all claims against the United States under this clause. If mutual agreement is not reached, the authorized officer shall determine the amount to be paid, which shall become part of the revocation decision.

2. If revocation in the public interest occurs after the holder has received notification that a new permit will not be issued following expiration of this permit, 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 in the term of the permit as of the date of revocation (measured from the date of the revocation notice) and as the denominator the total number of months in the original term of this permit.

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

**D. APPEALS AND REMEDIES.** Written decisions made by the authorized officer relating to administration of this permit are subject to appeal pursuant to 36 CFR Part 251, Subpart C, as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service, other than as provided in clause VIII.B.

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

1. Termination Upon Change in Ownership. If the holder through voluntary sale, transfer, enforcement of contract,

foreclosure, or other legal proceeding ceases to be the owner of the authorized improvements, this permit shall terminate. If the person who acquires title to the improvements is qualified to be a holder under applicable regulations and Forest Service directives, that person shall be granted a new permit for the remainder of the term of this permit.

## 2. Termination of a Permit Issued to a Husband and Wife or an Individual Upon Their Death

a. Married Couple. If the holder of this permit is a married couple and one spouse dies, the permit shall remain in effect, without amendment or revision, in the name of the surviving spouse.

b. Individual or Surviving Spouse. If the holder of this permit is an individual or a surviving spouse and the holder dies, this permit shall terminate. Pending settlement of the holder's estate, an annual renewable permit, using form FS-2700-4, shall be issued to the executor or personal representative of the holder's estate. Upon settlement of the estate, the authorized officer shall issue a new permit, updated as necessary to reflect Forest Service policy changes, to a qualified heir or devisee for the remainder of the term of this permit. To qualify, an heir or a devisee must be one individual 21 years of age or older or a husband and wife who have title to the recreation residence authorized by this permit, as shown by a court order, bill of sale, recorded will, or other legally sufficient documentation.

## **IX. CONTINUATION OF THE AUTHORIZED USE UPON EXPIRATION OF THE PERMIT**

**A. CONSISTENCY DETERMINATION.** A decision to issue a new permit or convert the permit area to an alternative public use upon expiration of this permit requires a determination of consistency with the applicable land management plan (the plan).

1. Where continued use is consistent with the plan, the authorized officer shall issue a new permit, in accordance with applicable requirements for environmental analysis.

2. If, as a result of an amendment or revision of the plan, the permit area is allocated to an alternative public use, the authorized officer shall conduct site-specific environmental analysis to determine the range and intensity of the alternative public use.

a. If the environmental analysis results in a decision that the authorized use may continue, the holder shall be notified in writing, this permit shall be modified as necessary, and a new permit shall be issued upon expiration of this permit.

b. If the environmental analysis results in a decision that the authorized use 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 environmental analysis and decision document.

c. If a land use decision relating to the permit area and its supporting environmental documentation are more than 5 years old, the decision and supporting documentation shall be reviewed at least 2 years prior to permit expiration. If the review indicates that the conditions resulting in the decision are unchanged, the decision may be implemented. If the review indicates that conditions have changed, new environmental analysis shall be conducted to determine the proper course of action.

**B. NEW TERMS AND CONDITIONS.** In issuing a new permit, the authorized officer shall include terms and conditions that reflect new requirements imposed by current federal and state land use plans, laws, regulations, or other management decisions.

**C. NEW PERMIT TO ACCOMMODATE 10-YEAR CONTINUED OCCUPANCY.** 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 TERMINATION WITHOUT RENEWAL**

**A. REMOVAL OF IMPROVEMENTS.** Except as provided in clause VIII.B, upon revocation of this permit or termination of this permit without renewal of the authorized use, the authorized officer has the discretion to require the holder to sell or remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and to restore the site to the satisfaction of the authorized officer. If the holder fails to sell or remove all structures or improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the permit area.

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**B. OFFER OF AN IN-LIEU LOT.** Upon revocation (other than revocation for noncompliance) or upon notification that a new permit will not be issued after expiration of this permit, the authorized officer may offer an in-lieu lot, if available, to the holder for building or relocating a recreation residence. An in-lieu lot must be in a location that is consistent with the applicable land management plan in the same National Forest as the authorized improvements or in an adjacent National Forest. An offer of an in-lieu lot must be accepted within 90 days or within 90 days of final disposition of administrative appeal of the revocation decision, termination when rebuilding is not allowed, or notification that a new permit will not be issued upon permit expiration, whichever is later, or the offer will expire.

**XI. MISCELLANEOUS PROVISIONS**

**A. MEMBERS OF CONGRESS.** No member of or delegate to Congress or resident commissioner shall benefit from this permit either directly or indirectly, except to the extent the authorized use provides a general benefit to a corporation.

**B. SUPERSEDED PERMIT.** This permit replaces a special use permit issued to: WILLIAMS, MASON D., OAK557901, on 11/17/1988.

**C. DISCLAIMER REGARDING TITLE.** Issuance of this permit shall not be construed as an admission by the United States as to the title to any of the authorized improvements. The United States disclaims any liability for issuance of a permit in the event of disputed title.

**D. RULES OF CONSTRUCTION**

1. If there is a conflict between the foregoing standard printed clauses and any clauses added to the permit, the standard printed clauses shall control.
2. If this permit is issued to a trust and there is a conflict between any of the terms and conditions of this permit and the terms of the trust documents or state law applicable to the trust, the terms and conditions of this permit shall control.

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

ACCEPTED:

**MASON D. WILLIAMS**

\_\_\_\_\_  
(Holder Name)

  
SIGNATURE

6.15.09  
DATE

APPROVED:

**CHIP WEBER**  
DISTRICT RANGER

\_\_\_\_\_  
(Name and Title Of Authorized Officer)

  
SIGNATURE

6/22/09  
DATE

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Auth ID: MIF187  
Contact ID: KRUEGER,K  
Expiration Date: 12/31/2009  
Use Code: 123

FS-2700-5a (02/07)  
OMB No. 0596-0082

U.S. DEPARTMENT OF AGRICULTURE  
FOREST SERVICE

TERM SPECIAL USE PERMIT FOR RECREATION RESIDENCES  
AUTHORITY: Act of March 4, 1915, 16 U.S.C. 497

KERRY KRUEGER of 46445 Walnut, Oakridge, and P O BOX 789, Oakridge, OR 97463 (the holder) is authorized to occupy a recreation residence on National Forest System lands for personal, noncommercial recreational use on the Willamette National Forest, subject to the terms and conditions of this permit and its appendices. This permit covers 0.43 acres, hereinafter referred to as "the permit area" and described as:

(1) Lot 9 (49011) of the Salt Creek Tract, a plat of which is on file in the office of the Forest Supervisor;

OR

(2) Sec. 23, T. 21 S., R. 3 E., Willamette Meridian as shown on the attached map.

The following improvements, whether on or off the lot, are authorized in addition to the recreation residence:

- Driveway
- Utility lines (telephone and electric)
- Septic system is conditionally accepted

TERMS AND CONDITIONS

I. GENERAL TERMS

**A. AUTHORITY.** This permit is issued pursuant to the Act of March 4, 1915, 16 U.S.C. 497, 36 CFR Part 251, Subpart B, as amended, Forest Service Manual (FSM) 1920, 1950, 2340, 2720, and 5410, Forest Service Handbook (FSH) 2709.11, Chapters 10-50, and FSH 5409.12, Chapter 60, and is subject to their provisions. Copies of these regulations and directives shall be provided by the authorized officer to the holder at no charge upon request.

**B. AUTHORIZED OFFICER.** The authorized officer for this permit is the Forest or Grassland Supervisor or a subordinate officer with delegated authority.

**C. AUTHORIZED USE.** This permit authorizes only noncommercial recreational use by the holder's immediate family and the holder's non-paying guests, other than incidental rental that has prior written approval from the authorized officer pursuant to clause VII.A. **D. PERMITS ISSUED TO A LIVING TRUST.** For permits issued to a living trust, if the grantor's immediate family will not be occupying the recreation residence, the trustee shall notify the authorized officer which immediate family will be occupying the recreation residence. The permanent address of this immediate family shall be provided to the Forest Service. The trustee shall update the identification and permanent address of this immediate family as necessary. The trustee warrants that the trustee has the authority to bind the trust to the terms and conditions of this permit. The trust is liable for compliance with all the terms and conditions of this permit.

**E. TERM.** This permit shall expire at midnight on 12/31/2009.

**F. CHANGE IN ADDRESS, OWNERSHIP OF THE RECREATION RESIDENCE, OR THE TRUSTEE.** The holder or the holder's executor or personal representative shall immediately notify the authorized officer of a change in the holder's permanent address or a change in the ownership of the recreation residence. If the permit is issued to a trust, the trustee shall immediately notify the authorized officer of a change in the trustee or revocation or termination of the trust.

**G. 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, the applicable land management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

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**H. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS.** In exercising the privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulations, 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.

**I. NON-EXCLUSIVE USE.** The use and occupancy authorized by this permit are not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area 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.

## **II. IMPROVEMENTS**

**A. LIMITATIONS ON USE.** This permit authorizes only occupancy of a recreation residence. Nothing in this permit gives or implies permission to build or maintain any structure or improvement or to conduct any activity, unless specifically authorized by this permit. Any use not specifically authorized by this permit must be proposed in accordance with 36 CFR 251.54. Approval of such a proposal through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer. Improvements requiring specific approval shall include but are not limited to signs, fences, name plates, mailboxes, newspaper boxes, boathouses, docks, pipelines, antennas, water and sewer facilities, and storage sheds.

**B. PLANS.** All plans and revisions to plans for development, layout, construction, reconstruction or alteration of improvements on the authorized lot must be prepared by a licensed engineer, architect, or landscape architect, in those states in which such licensing is required, or other qualified individual acceptable to the authorized officer. These plans and revisions to these plans must be approved by the authorized officer before commencement of any work.

## **III. OPERATIONS**

**A. OPERATING PLAN.** The holder shall prepare an operating plan in consultation with the authorized officer or the authorized officer's designated representative. The operating plan shall cover all activities authorized by this permit. The operating plan shall outline steps the holder will take to protect public health and safety and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor the holder's activities for compliance with the terms and conditions of this permit. The operating plan shall be submitted by the holder and approved by the authorized officer or the authorized officer's designated representative prior to commencement of authorized activities and shall be attached to this permit as an appendix. The operating plan shall, at a minimum, address requirements for the following:

1. Maintenance of vegetation, tree planting, and removal of dangerous trees and other unsafe conditions.
2. Maintenance of the authorized improvements.
3. Size, placement and description of authorized signs.
4. Removal of garbage.
5. Fire protection.
6. Identification of the person responsible for implementing the operating plan, if other than the holder, and a list of the name, address, and telephone numbers of persons to contact in the event of an emergency.

The operating plan shall be revised as necessary when changes to the authorized use are approved by the authorized officer.

**B. MINIMUM OCCUPANCY AND PROHIBITION ON FULL-TIME OCCUPANCY.** The permitted improvements shall be occupied at least 15 days each year, unless otherwise authorized in writing, but shall not be used as a full-time residence. Use of the permitted improvements as a principal place of residence is prohibited and shall be grounds for revocation of this permit.

**C. MAINTENANCE OF IMPROVEMENTS.** The holder shall maintain the authorized improvements and National Forest System lands to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer.

**D. INSPECTION OF THE PERMIT AREA.** The holder is responsible for inspecting the permit area, authorized rights-of-way, and adjoining areas for dangerous trees, hanging limbs, and other evidence of hazardous conditions that could affect the authorized improvements or pose a risk to public safety. After obtaining written approval from the authorized officer, the holder shall remove these hazards at the holder's expense.

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**E. REMOVAL AND PLANTING OF VEGETATION.** This permit does not authorize the cutting of timber or other vegetation. Trees, shrubs, grasses, and other plants may be removed or destroyed only after the authorized officer or the authorized officer's designated representative has approved in writing and marked or otherwise identified 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, grasses, and other plants may be planted within the permit area with prior written approval of the authorized officer.

#### IV. RIGHTS AND LIABILITIES

**A. LEGAL EFFECT OF THE PERMIT.** This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR Part 251, Subpart C, and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

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

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

**D. RISK OF LOSS.** The holder assumes all risk of loss to the authorized improvements. Loss to the authorized improvements 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 authorized improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, the permit shall terminate.

**E. SERVICES NOT PROVIDED.** This permit is for the occupancy of land for the purposes stated in this permit and 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.

**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, 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 IV.F and section 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 laws or regulations.

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 permit area. If the environment or any government property covered by this permit becomes damaged during the holder's use and occupancy of the permit area, 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 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 holder's use and occupancy of the permit area. Compensation shall include but is not 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 associated administrative, legal (including attorney's fees), and other costs.

3. The holder shall be liable for damage caused by use of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees to all roads and trails of the United States that are open to public use to the same extent as provided under clause IV.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, or 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 health or safety of the public or the holder's employees or agents or harm to the environment (including 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 these activities, events, or conditions. The holder has sole responsibility to protect the health and safety of all persons affected by the use and occupancy authorized by this permit. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.

**H. INDEMNIFICATION.** The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use and occupancy authorized by this permit. This indemnification and hold harmless provision includes but is not limited to acts and omissions of the holder or the holder's family, guests, invitees, heirs, assignees, agents, employees, contractors, or lessees in connection with the use and occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may become applicable, 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.

**I. FLOOD DAMAGE.** The lands covered by this permit are in a floodplain or floodway. This permit is issued with the specific understanding that if the authorized improvements are substantially damaged and made uninhabitable by a flood, the permit shall terminate and the remaining improvements shall be removed within 90 days. If damage to the improvements is not substantial, they may be repaired and allowed to remain if they can be flood-proofed without affecting flows in the floodplain or floodway. No expansion of existing improvements or new improvements will be allowed in the floodplain or floodway. No claim shall be made against the United States for loss, damage, or termination of the permit due to a flood.

## **V. RESOURCE 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 POLLUTION.** No waste or by-product shall be discharged into water if it contains any substance in concentrations which will result in harm to fish and wildlife, or to human water supplies. Storage facilities for materials capable of causing water pollution, if accidentally discharged, shall be located so as to prevent any spillage into waters or channels leading into water that would result in harm to fish and wildlife or to human water supplies.

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

**D. 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 to address these problems.

**E. PESTICIDE USE.** Pesticides may not be used outside of buildings to control undesirable woody and herbaceous vegetation (including aquatic plants), insects, rodents, or fish without the prior written approval of 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 require control measures which 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 authorized 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.

**F. ARCHAEOLOGICAL-PALEONTOLOGICAL DISCOVERIES.** The holder shall immediately notify the authorized officer of all antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall leave such discoveries intact and in place until directed otherwise by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the holder.

**G. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION.** If the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on federal or tribal lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall immediately notify the forest archaeologist by telephone of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the forest archaeologist certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, except that a recovery plan adopted as a binding agreement between the Forest Service and the affected Indian tribes may provide for earlier resumption of the activity.

**H. PROTECTION OF HABITAT OF THREATENED, ENDANGERED, AND SENSITIVE SPECIES.** The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA), 16 U.S.C. 531 et seq., as amended, or as sensitive by the Regional Forester under FSM 2670, pursuant to consultation conducted under section 7 of the ESA, may be identified on the ground or shown on a separate map. The map shall be attached to this permit as an appendix. The holder shall take any protective and mitigative measures specified by the authorized officer. If protective and mitigative measures prove inadequate, if other sites within the permit area containing threatened, endangered, or sensitive species are discovered, or if new species are listed as federally threatened or endangered under the ESA or as sensitive by the Regional Forester under the FSM, the authorized officer may specify additional protective and mitigative measures. Discovery of these sites by the holder or the Forest Service shall be promptly reported to the other party.

#### **I. CLEANUP AND REMEDIATION**

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

2. 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 in the permit area or in connection with the holder's activities in the permit area, regardless of whether 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 permit area to the Forest Service free and clear of contamination.

#### **VI. BASE CABIN USER FEES AND DEBT COLLECTION**

**A. BASE CABIN USER FEE.** The base cabin user fee shall be equal to 5% of the appraised market value of the recreation residence lot. The base cabin user fee for the first year of this permit shall be \$723.36 and shall be due on 04/08/2009. For purposes of determining the base cabin user fee after the first year of this permit, the initial and any subsequent appraised value of the recreation residence lot shall be adjusted by the percentage of change in the Implicit Price Deflator-Gross Domestic Product (IPD-GDP) from the second quarter of the previous year to the second quarter of the current year. An annual adjustment to the base cabin user fee shall be no more than 5% in any year. When the annual percentage of change in the IPD-GDP would result in an annual adjustment of more than 5%, apply the amount of the adjustment in excess of 5% to the annual fee payment for the next year in which the percentage of change in the IPD-GDP is less than 5%.

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**B. NEW BASE CABIN USER FEE.** The authorized officer shall notify the holder in writing at least 1 year before implementing a new base cabin user fee based on a subsequent appraisal performed pursuant to clause VI.D. The holder shall be required to pay the full amount of the new base cabin user fee if it results in an increase of 100% or less from the amount of the most recent base cabin user fee assessed the holder. When the new base cabin user fee results in an increase of more than 100% from the amount of the most recent base cabin user fee assessed the holder, one-third of the increase will be added to the base cabin user fee for the next 3 years. Annual adjustments also shall be included in the base cabin user fee as appropriate pursuant to clause VI.A.

**C. BASE CABIN USER FEE IF A DECISION IS MADE NOT TO RENEW THE USE UPON EXPIRATION OF THE PERMIT**

1. If a new recreation residence permit will not be issued upon expiration of this permit, the base cabin user fee for the 10th year prior to the date of converting the use and occupancy to an alternative public purpose will become the base fee for the remaining life of the use. The fee for each year during the last 10 years of the authorization shall be one-tenth of the base fee multiplied by the number of years remaining prior to the date of conversion.

2. When review of a decision to convert the recreation residence lot to an alternative public use shows that changed conditions warrant continuation of the recreation residence use beyond the conversion date and a new permit with a term of more than 10 years is issued, the holder shall pay the Forest Service the total amount of fees foregone for the 10-year period prior to the conversion date. This amount may be paid in equal annual installments over a 10-year period. Any unpaid portion of this amount shall be charged to a purchaser of the authorized improvements.

3. When review of a decision to convert the recreation residence lot to an alternative public use shows that changed conditions warrant continuation of the recreation residence use beyond the conversion date and a new permit with a term of 10 years or less is issued, the fee for the new permit will be computed as if notice had not been given that a new permit would not be issued, reduced by 10 percent for each year the permit term is extended less than 10 years. For example, a new permit with a 6-year term results in a land use fee of 60 percent of the base cabin user fee.

4. If the authorized officer determines that the recreation residence lot cannot be safely occupied because of an act of God or other catastrophic event, the base cabin user fee obligation of the holder shall terminate as of the date the act or event occurred. A prorated portion of the annual base cabin user fee reflecting the remainder of the current billing period from the date the act or event occurred shall be refunded to the holder, provided that if the holder is authorized to occupy an in-lieu lot, the prorated amount shall be credited to the annual base cabin user fee for the permit for the in-lieu lot.

**D. APPRAISALS**

1. Appraisals to ascertain the market value of the recreation residence lot shall be conducted by the Forest Service at least every 10 years. The next appraisal shall be procured by the Forest Service in time to implement the base cabin user fee by 01/01/2011.

2. Appraisals shall be prepared consistent with FSM 5410 and FSH 5409.12, Chapter 60.

3. If dissatisfied with an appraisal report used by the Forest Service to determine the base cabin user fee, the holder must notify the authorized officer within 60 days of the holder's intent to obtain a second appraisal report. If a request for a second appraisal report is submitted, the holder has one year following receipt of the notice of the determination of a new base cabin user fee to obtain, at the holder's expense, a second appraisal report using the same typical lot and date of value as the original appraisal report and based on all other relevant factors. The appraiser selected by the holder shall have qualifications equivalent to the appraiser who conducted the original appraisal and must be approved in advance by the assigned Forest Service review appraiser. The second appraisal report shall meet the appraisal guidelines enumerated in FSH 5409.12, Chapter 60. The holder's appraiser shall notify the Forest Service review appraiser of any material differences of fact or opinion between the initial and second appraisal reports. If the holder chooses to have the second appraisal report reviewed by the Forest Service, the holder shall submit a request for review by a Forest Service appraiser within 60 days of receipt of the second appraisal report. Within 60 days of receipt of the request, the authorized officer shall:

a. Review the initial and second appraisal reports and their corresponding review reports;

b. Determine a new base cabin user fee in an amount that is equal to the base cabin user fee determined by the initial or second appraisal or within the range of values, if any, between the initial and second appraisals; and

c. Notify the holder of the new base cabin user fee.

## E. 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. Base cabin user fees are due and payable by the due date. Disputed fees must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

### 3. Late Payments

(a) Interest. Pursuant to 31 U.S.C. 3717 et seq., interest shall be charged on any base cabin user fee not paid within 30 days from the date it became due. The rate of interest assessed shall be the higher of the Prompt Payment Act rate or the rate of the current value of funds to the 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 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.

**F. NONPAYMENT**. Failure of the holder to make timely payments, pay interest charges, or any other charges when due shall be grounds for revocation of this permit.

**G. 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:

1. Administrative offset of payments due the holder from the Forest Service.
2. 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).
3. Offset by the Secretary of the Treasury of any amount due the holder, as provided by 31 U.S.C. 3720 et seq.
4. Disclosure to consumer or commercial credit reporting agencies.

## VII. RENTAL, NON-TRANSFERABILITY, AND SALE

**A. INCIDENTAL RENTAL**. With prior written approval from the authorized officer, the holder may rent the recreation residence covered by this permit for a limited number of short, specific periods for recreational purposes, provided the rental does not change the character or use of the authorized improvements from noncommercial to commercial. The rental agreement must be in writing and must provide that the holder remains responsible for compliance with all the terms of this permit. A copy of the rental agreement shall be provided to the authorized officer.

**B. NONTRANSFERABILITY**. This permit is not transferable. A purchaser or transferee of the recreation residence covered by this permit must apply for and obtain a new permit from the Forest Service.

**C. PROSPECTIVE PURCHASERS AND TRANSFEREES**. When the holder is contemplating a sale of the recreation residence authorized by this permit, the holder shall notify the authorized officer and provide a copy of this permit to the prospective purchaser or transferee. The holder shall not represent that the Forest Service will issue a new permit to the prospective purchaser or transferee. Any purchaser or transferee must apply for and obtain a new permit from the Forest Service.

## VIII. REVOCATION, SUSPENSION, AND TERMINATION

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**A. REVOCATION AND SUSPENSION.** The authorized officer may revoke or suspend this permit in whole or in part:

1. For noncompliance with federal, state or local law.
2. For noncompliance with the terms and conditions of this permit.
3. For abandonment or other failure of the holder to exercise the privileges granted.
4. With the consent of the holder.
5. For specific and compelling reasons in the public interest.

Prior to revocation or suspension, other than immediate suspension under clause VIII.C, the authorized officer shall give the holder written notice of the grounds for revocation or suspension. In the case of revocation or suspension based on clause VIII.A.1, 2, or 3, the authorized officer shall give the holder a reasonable period, not to exceed 90 days, to cure any noncompliance.

**B. REVOCATION FOR SPECIFIC AND COMPELLING REASONS IN THE PUBLIC INTEREST**

1. If during the term of this permit the authorized officer determines that specific and compelling reasons in the public interest require revocation of this permit, this permit shall be revoked after 180 days written notice to the holder, provided that the authorized officer may prescribe a shorter notice period if justified by the public interest. The Forest Service shall then have the right to relocate the holder's improvements to another lot, to remove them, or to require the holder to relocate or remove them, and the Forest Service shall be obligated to pay an equitable amount for the improvements or for their relocation and damages resulting from their relocation that are caused by the Forest Service. If that amount is fixed by mutual agreement between the authorized officer and the holder, that amount shall be accepted by the holder in full satisfaction of all claims against the United States under this clause. If mutual agreement is not reached, the authorized officer shall determine the amount to be paid, which shall become part of the revocation decision.

2. If revocation in the public interest occurs after the holder has received notification that a new permit will not be issued following expiration of this permit, 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 in the term of the permit as of the date of revocation (measured from the date of the revocation notice) and as the denominator the total number of months in the original term of this permit.

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

**D. APPEALS AND REMEDIES.** Written decisions made by the authorized officer relating to administration of this permit are subject to appeal pursuant to 36 CFR Part 251, Subpart C, as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service, other than as provided in clause VIII.B.

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

1. Termination Upon Change in Ownership. If the holder through voluntary sale, transfer, enforcement of contract, foreclosure, or other legal proceeding ceases to be the owner of the authorized improvements, this permit shall terminate. If the person who acquires title to the improvements is qualified to be a holder under applicable regulations and Forest Service directives, that person shall be granted a new permit for the remainder of the term of this permit.

2. Termination of a Permit Issued to a Husband and Wife or an Individual Upon Their Death

a. Married Couple. If the holder of this permit is a married couple and one spouse dies, the permit shall remain in effect, without amendment or revision, in the name of the surviving spouse.

b. Individual or Surviving Spouse. If the holder of this permit is an individual or a surviving spouse and the holder dies, this permit shall terminate. Pending settlement of the holder's estate, an annual renewable permit, using form FS-2700-4, shall be issued to the executor or personal representative of the holder's estate. Upon settlement of the estate, the authorized

officer shall issue a new permit, updated as necessary to reflect Forest Service policy changes, to a qualified heir or devisee for the remainder of the term of this permit. To qualify, an heir or a devisee must be one individual 21 years of age or older or a husband and wife who have title to the recreation residence authorized by this permit, as shown by a court order, bill of sale, recorded will, or other legally sufficient documentation.

#### **IX. CONTINUATION OF THE AUTHORIZED USE UPON EXPIRATION OF THE PERMIT**

**A. CONSISTENCY DETERMINATION.** A decision to issue a new permit or convert the permit area to an alternative public use upon expiration of this permit requires a determination of consistency with the applicable land management plan (the plan).

1. Where continued use is consistent with the plan, the authorized officer shall issue a new permit, in accordance with applicable requirements for environmental analysis.

2. If, as a result of an amendment or revision of the plan, the permit area is allocated to an alternative public use, the authorized officer shall conduct site-specific environmental analysis to determine the range and intensity of the alternative public use.

a. If the environmental analysis results in a decision that the authorized use may continue, the holder shall be notified in writing, this permit shall be modified as necessary, and a new permit shall be issued upon expiration of this permit.

b. If the environmental analysis results in a decision that the authorized use 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 environmental analysis and decision document.

c. If a land use decision relating to the permit area and its supporting environmental documentation are more than 5 years old, the decision and supporting documentation shall be reviewed at least 2 years prior to permit expiration. If the review indicates that the conditions resulting in the decision are unchanged, the decision may be implemented. If the review indicates that conditions have changed, new environmental analysis shall be conducted to determine the proper course of action.

**B. NEW TERMS AND CONDITIONS.** In issuing a new permit, the authorized officer shall include terms and conditions that reflect new requirements imposed by current federal and state land use plans, laws, regulations, or other management decisions.

**C. NEW PERMIT TO ACCOMMODATE 10-YEAR CONTINUED OCCUPANCY.** 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 TERMINATION WITHOUT RENEWAL**

**A. REMOVAL OF IMPROVEMENTS.** Except as provided in clause VIII.B, upon revocation of this permit or termination of this permit without renewal of the authorized use, the authorized officer has the discretion to require the holder to sell or remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and to restore the site to the satisfaction of the authorized officer. If the holder fails to sell or remove all structures or improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the permit area.

**B. OFFER OF AN IN-LIEU LOT.** Upon revocation (other than revocation for noncompliance) or upon notification that a new permit will not be issued after expiration of this permit, the authorized officer may offer an in-lieu lot, if available, to the holder for building or relocating a recreation residence. An in-lieu lot must be in a location that is consistent with the applicable land management plan in the same National Forest as the authorized improvements or in an adjacent National Forest. An offer of an in-lieu lot must be accepted within 90 days or within 90 days of final disposition of administrative appeal of the revocation decision, termination when rebuilding is not allowed, or notification that a new permit will not be issued upon permit expiration, whichever is later, or the offer will expire.

#### **XI. MISCELLANEOUS PROVISIONS**

**A. MEMBERS OF CONGRESS.** No member of or delegate to Congress or resident commissioner shall benefit from this

permit either directly or indirectly, except to the extent the authorized use provides a general benefit to a corporation.

**B. SUPERSEDED PERMIT.** This permit replaces a special use permit issued to: CAMPBELL, BEVERLY J., OAK600501, on 07/13/1984.

**C. DISCLAIMER REGARDING TITLE.** Issuance of this permit shall not be construed as an admission by the United States as to the title to any of the authorized improvements. The United States disclaims any liability for issuance of a permit in the event of disputed title.

**D. RULES OF CONSTRUCTION**

- 1. If there is a conflict between the foregoing standard printed clauses and any clauses added to the permit, the standard printed clauses shall control.
- 2. If this permit is issued to a trust and there is a conflict between any of the terms and conditions of this permit and the terms of the trust documents or state law applicable to the trust, the terms and conditions of this permit shall control.

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

ACCEPTED:

KERRY KRUEGER KERRY KRUEGER  
[Signature]  
(Holder Name)

[Signature]  
SIGNATURE

7-14-09  
DATE

APPROVED:

CHIP WEBER  
District Ranger  
[Signature]  
(Name and Title Of Authorized Officer)

\_\_\_\_\_  
SIGNATURE

7/24/09  
DATE

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not 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. The time required to complete this information collection is estimated to average 1 hour per response, including 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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# ORIGINAL

Auth ID: MIF192  
Contact ID: FAULHABER, D.  
Expiration Date: 12/31/2028  
Use Code: 123

FS-2700-5a (02/07)  
OMB No. 0596-0082

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

**TERM SPECIAL USE PERMIT FOR RECREATION RESIDENCES  
AUTHORITY: Act of March 4, 1915, 16 U.S.C. 497**

**Duane Faulhaber and Wendy Patten** (the holder), of **2190 Law Lane** (the holder) **Eugene, OR 97401** are authorized to occupy a recreation residence on National Forest System lands for personal, noncommercial recreational use on the Willamette National Forest, subject to the terms and conditions of this permit and its appendices. This permit covers .34 acres, hereinafter referred to as "the permit area" and described as:

**(1) Lot 14 (49077 Salt Creek Road) of the Salt Creek Tract, a plat of which is on file in the office of the Forest Supervisor;**

**OR**

**(2) NW1/4SW1/4 Sec. 23, T. 21 S., R. 3 E., Willamette Meridian as shown on the attached map.**

The following improvements, whether on or off the lot, are authorized in addition to the recreation residence:

**Authorized Improvements:**

- 1. Shed;**
- 2. Electric lines;**
- 3. Driveway**

**Conditionally Accepted:**

- 1. Carport;**
- 2. Septic System;**
- 3. Pumphouse**

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**Appendix A (Operations and Maintenance Plan) and B (Tract map) are attached hereto.**

**TERMS AND CONDITIONS**

**I. GENERAL TERMS**

**A. AUTHORITY.** This permit is issued pursuant to the Act of March 4, 1915, 16 U.S.C. 497, 36 CFR Part 251, Subpart B, as amended, Forest Service Manual (FSM) 1920, 1950, 2340, 2720, and 5410, Forest Service Handbook (FSH) 2709.11, Chapters 10-50, and FSH 5409.12, Chapter 60, and is subject to their provisions. Copies of these regulations and directives shall be provided by the authorized officer to the holder at no charge upon request.

**B. AUTHORIZED OFFICER.** The authorized officer for this permit is the Forest or Grassland Supervisor or a subordinate officer with delegated authority.

**C. AUTHORIZED USE.** This permit authorizes only noncommercial recreational use by the holder's immediate family and the holder's non-paying guests, other than incidental rental that has prior written approval from the authorized officer pursuant to clause VII.A. **D. PERMITS ISSUED TO A LIVING TRUST.** For permits issued to a living trust, if the grantor's immediate family will not be occupying the recreation residence, the trustee shall notify the authorized officer which immediate family will be occupying the recreation residence. The permanent address of this immediate family shall be provided to the Forest Service. The trustee shall update the identification and permanent address of this immediate family as necessary. The trustee warrants that the trustee has the authority to bind the trust to the terms and conditions of this permit. The trust is liable for compliance with all the terms and conditions of this permit.

**E. TERM.** This permit shall expire at midnight on 12/31/2028.

**F. CHANGE IN ADDRESS, OWNERSHIP OF THE RECREATION RESIDENCE, OR THE TRUSTEE.** The holder or the

holder's executor or personal representative shall immediately notify the authorized officer of a change in the holder's permanent address or a change in the ownership of the recreation residence. If the permit is issued to a trust, the trustee shall immediately notify the authorized officer of a change in the trustee or revocation or termination of the trust.

**G. 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, the applicable land management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

**H. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS.** In exercising the privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulations, 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.

**I. NON-EXCLUSIVE USE.** The use and occupancy authorized by this permit are not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area 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.

## **II. IMPROVEMENTS**

**A. LIMITATIONS ON USE.** This permit authorizes only occupancy of a recreation residence. Nothing in this permit gives or implies permission to build or maintain any structure or improvement or to conduct any activity, unless specifically authorized by this permit. Any use not specifically authorized by this permit must be proposed in accordance with 36 CFR 251.54. Approval of such a proposal through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer. Improvements requiring specific approval shall include but are not limited to signs, fences, name plates, mailboxes, newspaper boxes, boathouses, docks, pipelines, antennas, water and sewer facilities, and storage sheds.

**B. PLANS.** All plans and revisions to plans for development, layout, construction, reconstruction or alteration of improvements on the authorized lot must be prepared by a licensed engineer, architect, or landscape architect, in those states in which such licensing is required, or other qualified individual acceptable to the authorized officer. These plans and revisions to these plans must be approved by the authorized officer before commencement of any work.

## **III. OPERATIONS**

**A. OPERATING PLAN.** The holder shall prepare an operating plan in consultation with the authorized officer or the authorized officer's designated representative. The operating plan shall cover all activities authorized by this permit. The operating plan shall outline steps the holder will take to protect public health and safety and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor the holder's activities for compliance with the terms and conditions of this permit. The operating plan shall be submitted by the holder and approved by the authorized officer or the authorized officer's designated representative prior to commencement of authorized activities and shall be attached to this permit as an appendix. The operating plan shall, at a minimum, address requirements for the following:

1. Maintenance of vegetation, tree planting, and removal of dangerous trees and other unsafe conditions.
2. Maintenance of the authorized improvements.
3. Size, placement and description of authorized signs.
4. Removal of garbage.
5. Fire protection.
6. Identification of the person responsible for implementing the operating plan, if other than the holder, and a list of the name, address, and telephone numbers of persons to contact in the event of an emergency.

The operating plan shall be revised as necessary when changes to the authorized use are approved by the authorized officer.

**B. MINIMUM OCCUPANCY AND PROHIBITION ON FULL-TIME OCCUPANCY.** The permitted improvements shall be occupied at least 15 days each year, unless otherwise authorized in writing, but shall not be used as a full-time residence. Use of the permitted improvements as a principal place of residence is prohibited and shall be grounds for revocation of

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this permit.

**C. MAINTENANCE OF IMPROVEMENTS.** The holder shall maintain the authorized improvements and National Forest System lands to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer.

**D. INSPECTION OF THE PERMIT AREA.** The holder is responsible for inspecting the permit area, authorized rights-of-way, and adjoining areas for dangerous trees, hanging limbs, and other evidence of hazardous conditions that could affect the authorized improvements or pose a risk to public safety. After obtaining written approval from the authorized officer, the holder shall remove these hazards at the holder's expense.

**E. REMOVAL AND PLANTING OF VEGETATION.** This permit does not authorize the cutting of timber or other vegetation. Trees, shrubs, grasses, and other plants may be removed or destroyed only after the authorized officer or the authorized officer's designated representative has approved in writing and marked or otherwise identified 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, grasses, and other plants may be planted within the permit area with prior written approval of the authorized officer.

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

**A. LEGAL EFFECT OF THE PERMIT.** This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR Part 251, Subpart C, and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

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

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

**D. RISK OF LOSS.** The holder assumes all risk of loss to the authorized improvements. Loss to the authorized improvements 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 authorized improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, the permit shall terminate.

**E. SERVICES NOT PROVIDED.** This permit is for the occupancy of land for the purposes stated in this permit and 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.

**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, 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 IV.F and section 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 laws or regulations.

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 permit area. If the environment or any government property covered by this permit becomes damaged during the holder's use and occupancy of the permit area, 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 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 holder's use and occupancy of the permit area.

Compensation shall include but is not 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 associated administrative, legal (including attorney's fees), and other costs.

3. The holder shall be liable for damage caused by use of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees to all roads and trails of the United States that are open to public use to the same extent as provided under clause IV.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, or 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 health or safety of the public or the holder's employees or agents or harm to the environment (including 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 these activities, events, or conditions. The holder has sole responsibility to protect the health and safety of all persons affected by the use and occupancy authorized by this permit. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.

**H. INDEMNIFICATION.** The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use and occupancy authorized by this permit. This indemnification and hold harmless provision includes but is not limited to acts and omissions of the holder or the holder's family, guests, invitees, heirs, assignees, agents, employees, contractors, or lessees in connection with the use and occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may become applicable, 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.

**I. FLOOD DAMAGE.** The lands covered by this permit are in a floodplain or floodway. This permit is issued with the specific understanding that if the authorized improvements are substantially damaged and made uninhabitable by a flood, the permit shall terminate and the remaining improvements shall be removed within 90 days. If damage to the improvements is not substantial, they may be repaired and allowed to remain if they can be flood-proofed without affecting flows in the floodplain or floodway. No expansion of existing improvements or new improvements will be allowed in the floodplain or floodway. No claim shall be made against the United States for loss, damage, or termination of the permit due to a flood.

## **V. RESOURCE 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 POLLUTION.** No waste or by-product shall be discharged into water if it contains any substance in concentrations which will result in harm to fish and wildlife, or to human water supplies. Storage facilities for materials capable of causing water pollution, if accidentally discharged, shall be located so as to prevent any spillage into waters or channels leading into water that would result in harm to fish and wildlife or to human water supplies.

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

**D. 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 to address these problems.

**E. PESTICIDE USE.** Pesticides may not be used outside of buildings to control undesirable woody and herbaceous vegetation (including aquatic plants), insects, rodents, or fish without the prior written approval of 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 require control measures which 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 authorized 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.

**F. ARCHAEOLOGICAL-PALEONTOLOGICAL DISCOVERIES.** The holder shall immediately notify the authorized officer of all antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall leave such discoveries intact and in place until directed otherwise by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the holder.

**G. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION.** If the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on federal or tribal lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall immediately notify the forest archaeologist by telephone of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the forest archaeologist certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, except that a recovery plan adopted as a binding agreement between the Forest Service and the affected Indian tribes may provide for earlier resumption of the activity.

**H. PROTECTION OF HABITAT OF THREATENED, ENDANGERED, AND SENSITIVE SPECIES.** The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA), 16 U.S.C. 531 et seq., as amended, or as sensitive by the Regional Forester under FSM 2670, pursuant to consultation conducted under section 7 of the ESA, may be identified on the ground or shown on a separate map. The map shall be attached to this permit as an appendix. The holder shall take any protective and mitigative measures specified by the authorized officer. If protective and mitigative measures prove inadequate, if other sites within the permit area containing threatened, endangered, or sensitive species are discovered, or if new species are listed as federally threatened or endangered under the ESA or as sensitive by the Regional Forester under the FSM, the authorized officer may specify additional protective and mitigative measures. Discovery of these sites by the holder or the Forest Service shall be promptly reported to the other party.

#### **I. CLEANUP AND REMEDIATION**

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

2. 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 in the permit area or in connection with the holder's activities in the permit area, regardless of whether 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 permit area to the Forest Service free and clear of contamination.

#### **VI. BASE CABIN USER FEES AND DEBT COLLECTION**

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**A. BASE CABIN USER FEE.** The base cabin user fee shall be equal to 5% of the appraised market value of the recreation residence lot. The base cabin user fee for the first year of this permit shall be \$723.36 and shall be due on 04/08/2009. For purposes of determining the base cabin user fee after the first year of this permit, the initial and any subsequent appraised value of the recreation residence lot shall be adjusted by the percentage of change in the Implicit Price Deflator-Gross Domestic Product (IPD-GDP) from the second quarter of the previous year to the second quarter of the current year. An annual adjustment to the base cabin user fee shall be no more than 5% in any year. When the annual percentage of change in the IPD-GDP would result in an annual adjustment of more than 5%, apply the amount of the adjustment in excess of 5% to the annual fee payment for the next year in which the percentage of change in the IPD-GDP is less than 5%.

**B. NEW BASE CABIN USER FEE.** The authorized officer shall notify the holder in writing at least 1 year before implementing a new base cabin user fee based on a subsequent appraisal performed pursuant to clause VI.D. The holder shall be required to pay the full amount of the new base cabin user fee if it results in an increase of 100% or less from the amount of the most recent base cabin user fee assessed the holder. When the new base cabin user fee results in an increase of more than 100% from the amount of the most recent base cabin user fee assessed the holder, one-third of the increase will be added to the base cabin user fee for the next 3 years. Annual adjustments also shall be included in the base cabin user fee as appropriate pursuant to clause VI.A.

**C. BASE CABIN USER FEE IF A DECISION IS MADE NOT TO RENEW THE USE UPON EXPIRATION OF THE PERMIT**

1. If a new recreation residence permit will not be issued upon expiration of this permit, the base cabin user fee for the 10th year prior to the date of converting the use and occupancy to an alternative public purpose will become the base fee for the remaining life of the use. The fee for each year during the last 10 years of the authorization shall be one-tenth of the base fee multiplied by the number of years remaining prior to the date of conversion.
2. When review of a decision to convert the recreation residence lot to an alternative public use shows that changed conditions warrant continuation of the recreation residence use beyond the conversion date and a new permit with a term of more than 10 years is issued, the holder shall pay the Forest Service the total amount of fees foregone for the 10-year period prior to the conversion date. This amount may be paid in equal annual installments over a 10-year period. Any unpaid portion of this amount shall be charged to a purchaser of the authorized improvements.
3. When review of a decision to convert the recreation residence lot to an alternative public use shows that changed conditions warrant continuation of the recreation residence use beyond the conversion date and a new permit with a term of 10 years or less is issued, the fee for the new permit will be computed as if notice had not been given that a new permit would not be issued, reduced by 10 percent for each year the permit term is extended less than 10 years. For example, a new permit with a 6-year term results in a land use fee of 60 percent of the base cabin user fee.
4. If the authorized officer determines that the recreation residence lot cannot be safely occupied because of an act of God or other catastrophic event, the base cabin user fee obligation of the holder shall terminate as of the date the act or event occurred. A prorated portion of the annual base cabin user fee reflecting the remainder of the current billing period from the date the act or event occurred shall be refunded to the holder, provided that if the holder is authorized to occupy an in-lieu lot, the prorated amount shall be credited to the annual base cabin user fee for the permit for the in-lieu lot.

**D. APPRAISALS**

1. Appraisals to ascertain the market value of the recreation residence lot shall be conducted by the Forest Service at least every 10 years. The next appraisal shall be procured by the Forest Service in time to implement the base cabin user fee by 01/01/2011.
2. Appraisals shall be prepared consistent with FSM 5410 and FSH 5409.12, Chapter 60.
3. If dissatisfied with an appraisal report used by the Forest Service to determine the base cabin user fee, the holder must notify the authorized officer within 60 days of the holder's intent to obtain a second appraisal report. If a request for a second appraisal report is submitted, the holder has one year following receipt of the notice of the determination of a new base cabin user fee to obtain, at the holder's expense, a second appraisal report using the same typical lot and date of value as the original appraisal report and based on all other relevant factors. The appraiser selected by the holder shall have qualifications equivalent to the appraiser who conducted the original appraisal and must be approved in advance by the assigned Forest Service review appraiser. The second appraisal report shall meet the appraisal guidelines enumerated in FSH 5409.12, Chapter 60. The holder's appraiser shall notify the Forest Service review appraiser of any material differences of fact or opinion between the initial and second appraisal reports. If the holder chooses to have the

second appraisal report reviewed by the Forest Service, the holder shall submit a request for review by a Forest Service appraiser within 60 days of receipt of the second appraisal report. Within 60 days of receipt of the request, the authorized officer shall:

- a. Review the initial and second appraisal reports and their corresponding review reports;
- b. Determine a new base cabin user fee in an amount that is equal to the base cabin user fee determined by the initial or second appraisal or within the range of values, if any, between the initial and second appraisals; and
- c. Notify the holder of the new base cabin user fee.

#### **E. 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. Base cabin user fees are due and payable by the due date. Disputed fees must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

#### 3. Late Payments

(a) Interest. Pursuant to 31 U.S.C. 3717 et seq., interest shall be charged on any base cabin user fee not paid within 30 days from the date it became due. The rate of interest assessed shall be the higher of the Prompt Payment Act rate or the rate of the current value of funds to the 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 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.

**F. NONPAYMENT**. Failure of the holder to make timely payments, pay interest charges, or any other charges when due shall be grounds for revocation of this permit.

**G. 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:

1. Administrative offset of payments due the holder from the Forest Service.
2. 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).
3. Offset by the Secretary of the Treasury of any amount due the holder, as provided by 31 U.S.C. 3720 et seq.
4. Disclosure to consumer or commercial credit reporting agencies.

#### **VII. RENTAL, NON-TRANSFERABILITY, AND SALE**

**A. INCIDENTAL RENTAL**. With prior written approval from the authorized officer, the holder may rent the recreation residence covered by this permit for a limited number of short, specific periods for recreational purposes, provided the rental does not change the character or use of the authorized improvements from noncommercial to commercial. The rental agreement must be in writing and must provide that the holder remains responsible for compliance with all the terms of this permit. A copy of the rental agreement shall be provided to the authorized officer.

**B. NONTRANSFERABILITY**. This permit is not transferable. A purchaser or transferee of the recreation residence covered by this permit must apply for and obtain a new permit from the Forest Service.

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**C. PROSPECTIVE PURCHASERS AND TRANSFEREES.** When the holder is contemplating a sale of the recreation residence authorized by this permit, the holder shall notify the authorized officer and provide a copy of this permit to the prospective purchaser or transferee. The holder shall not represent that the Forest Service will issue a new permit to the prospective purchaser or transferee. Any purchaser or transferee must apply for and obtain a new permit from the Forest Service.

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

**A. REVOCATION AND SUSPENSION.** The authorized officer may revoke or suspend this permit in whole or in part:

1. For noncompliance with federal, state or local law.
2. For noncompliance with the terms and conditions of this permit.
3. For abandonment or other failure of the holder to exercise the privileges granted.
4. With the consent of the holder.
5. For specific and compelling reasons in the public interest.

Prior to revocation or suspension, other than immediate suspension under clause VIII.C, the authorized officer shall give the holder written notice of the grounds for revocation or suspension. In the case of revocation or suspension based on clause VIII.A.1, 2, or 3, the authorized officer shall give the holder a reasonable period, not to exceed 90 days, to cure any noncompliance.

### **B. REVOCATION FOR SPECIFIC AND COMPELLING REASONS IN THE PUBLIC INTEREST**

1. If during the term of this permit the authorized officer determines that specific and compelling reasons in the public interest require revocation of this permit, this permit shall be revoked after 180 days written notice to the holder, provided that the authorized officer may prescribe a shorter notice period if justified by the public interest. The Forest Service shall then have the right to relocate the holder's improvements to another lot, to remove them, or to require the holder to relocate or remove them, and the Forest Service shall be obligated to pay an equitable amount for the improvements or for their relocation and damages resulting from their relocation that are caused by the Forest Service. If that amount is fixed by mutual agreement between the authorized officer and the holder, that amount shall be accepted by the holder in full satisfaction of all claims against the United States under this clause. If mutual agreement is not reached, the authorized officer shall determine the amount to be paid, which shall become part of the revocation decision.

2. If revocation in the public interest occurs after the holder has received notification that a new permit will not be issued following expiration of this permit, 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 in the term of the permit as of the date of revocation (measured from the date of the revocation notice) and as the denominator the total number of months in the original term of this permit.

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

**D. APPEALS AND REMEDIES.** Written decisions made by the authorized officer relating to administration of this permit are subject to appeal pursuant to 36 CFR Part 251, Subpart C, as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service, other than as provided in clause VIII.B.

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

1. Termination Upon Change in Ownership. If the holder through voluntary sale, transfer, enforcement of contract, foreclosure, or other legal proceeding ceases to be the owner of the authorized improvements, this permit shall terminate. If the person who acquires title to the improvements is qualified to be a holder under applicable regulations and Forest Service directives, that person shall be granted a new permit for the remainder of the term of this permit.

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2. Termination of a Permit Issued to a Husband and Wife or an Individual Upon Their Death

a. Married Couple. If the holder of this permit is a married couple and one spouse dies, the permit shall remain in effect, without amendment or revision, in the name of the surviving spouse.

b. Individual or Surviving Spouse. If the holder of this permit is an individual or a surviving spouse and the holder dies, this permit shall terminate. Pending settlement of the holder's estate, an annual renewable permit, using form FS-2700-4, shall be issued to the executor or personal representative of the holder's estate. Upon settlement of the estate, the authorized officer shall issue a new permit, updated as necessary to reflect Forest Service policy changes, to a qualified heir or devisee for the remainder of the term of this permit. To qualify, an heir or a devisee must be one individual 21 years of age or older or a husband and wife who have title to the recreation residence authorized by this permit, as shown by a court order, bill of sale, recorded will, or other legally sufficient documentation.

**IX. CONTINUATION OF THE AUTHORIZED USE UPON EXPIRATION OF THE PERMIT**

**A. CONSISTENCY DETERMINATION.** A decision to issue a new permit or convert the permit area to an alternative public use upon expiration of this permit requires a determination of consistency with the applicable land management plan (the plan).

1. Where continued use is consistent with the plan, the authorized officer shall issue a new permit, in accordance with applicable requirements for environmental analysis.

2. If, as a result of an amendment or revision of the plan, the permit area is allocated to an alternative public use, the authorized officer shall conduct site-specific environmental analysis to determine the range and intensity of the alternative public use.

a. If the environmental analysis results in a decision that the authorized use may continue, the holder shall be notified in writing, this permit shall be modified as necessary, and a new permit shall be issued upon expiration of this permit.

b. If the environmental analysis results in a decision that the authorized use 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 environmental analysis and decision document.

c. If a land use decision relating to the permit area and its supporting environmental documentation are more than 5 years old, the decision and supporting documentation shall be reviewed at least 2 years prior to permit expiration. If the review indicates that the conditions resulting in the decision are unchanged, the decision may be implemented. If the review indicates that conditions have changed, new environmental analysis shall be conducted to determine the proper course of action.

**B. NEW TERMS AND CONDITIONS.** In issuing a new permit, the authorized officer shall include terms and conditions that reflect new requirements imposed by current federal and state land use plans, laws, regulations, or other management decisions.

**C. NEW PERMIT TO ACCOMMODATE 10-YEAR CONTINUED OCCUPANCY.** 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 TERMINATION WITHOUT RENEWAL**

**A. REMOVAL OF IMPROVEMENTS.** Except as provided in clause VIII.B, upon revocation of this permit or termination of this permit without renewal of the authorized use, the authorized officer has the discretion to require the holder to sell or remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and to restore the site to the satisfaction of the authorized officer. If the holder fails to sell or remove all structures or improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the permit area.

**B. OFFER OF AN IN-LIEU LOT.** Upon revocation (other than revocation for noncompliance) or upon notification that a new permit will not be issued after expiration of this permit, the authorized officer may offer an in-lieu lot, if available, to the holder for building or relocating a recreation residence. An in-lieu lot must be in a location that is consistent with the

applicable land management plan in the same National Forest as the authorized improvements or in an adjacent National Forest. An offer of an in-lieu lot must be accepted within 90 days or within 90 days of final disposition of administrative appeal of the revocation decision, termination when rebuilding is not allowed, or notification that a new permit will not be issued upon permit expiration, whichever is later, or the offer will expire.

**XI. MISCELLANEOUS PROVISIONS**

**A. MEMBERS OF CONGRESS.** No member of or delegate to Congress or resident commissioner shall benefit from this permit either directly or indirectly, except to the extent the authorized use provides a general benefit to a corporation.

**B. SUPERSEDED PERMIT.** This permit replaces a special use permit issued to: Duane Faulhaber and Wendy Patten, MIF51, on 12/03/2002.

**C. DISCLAIMER REGARDING TITLE.** Issuance of this permit shall not be construed as an admission by the United States as to the title to any of the authorized improvements. The United States disclaims any liability for issuance of a permit in the event of disputed title.

**D. RULES OF CONSTRUCTION**

1. If there is a conflict between the foregoing standard printed clauses and any clauses added to the permit, the standard printed clauses shall control.
2. If this permit is issued to a trust and there is a conflict between any of the terms and conditions of this permit and the terms of the trust documents or state law applicable to the trust, the terms and conditions of this permit shall control.

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

ACCEPTED: **Duane Faulhaber & Wendy Patten**

**DUANE FAULHABER**  
(Holder Name)      *Duane Faulhaber*  
SIGNATURE      6-22-09  
DATE

**WENDY PATTEN**  
(Holder Name)      *Wendy Patten*  
SIGNATURE      6-21-09  
DATE

APPROVED:

**CHIP WEBER**  
District Ranger  
(Name and Title Of Authorized Officer)      *Chip Weber*  
SIGNATURE      7/10/09  
DATE

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