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Subject

H-2930-1 – RECREATION PERMIT ADMINISTRATION

1. Explanation of Material Transmitted: This release transmits a completely updated and reorganized Handbook, which replaces Handbook-8370-1. This Handbook is a how-to reference intended for use by BLM personnel who administer recreation permits. The contents have been reorganized to improve the readability and use of the guidance for issuing, administering, evaluating and monitoring all types of recreation permits. In addition the contents have been expanded to include Special Recreation Permits, Recreation Use Permits, Concession Leases, Decisions, Protests and Appeals, and Recordkeeping.

   This revised Handbook provides consistent, and explicit direction to supplement the Recreation Permit Administration Manual 2930 and regulations set forth in 43 CFR 2930 (replaces 8370).

2. Reports required: None

3. Material superseded: The material superseded by this release is listed under "REMOVE" below. No other directives are superseded.

4. Filing Information: File as directed below.

REMOVE	INSERT
H-8370-1	H-2930-1
(total 19 sheets)	(total 39 sheets)

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Acting Assistant Director, Renewable Resources and Planning

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Guidelines for Using this Handbook

This handbook contains a large volume of reference materials. Below are some guidelines to help you keep track of these materials:

This handbook consolidates the most current Recreation Permit Regulations, Manual/Policy Statement, Recreation Permit Handbook, and associated reference materials in one location for your use in administering the BLM's recreation permit program.

As pages and/or sections within this handbook are updated, you are encouraged to pull the outdated section and replace with the new section.

The Appendix sections are a major part of this handbook. Many of the appendix documents have been developed by BLM Field Offices for specific permit situations with special resource or procedural factors that are unique to their office. Some of the appendices are not official documents but are more aids for issuing and/or administering a permit. Therefore, be careful when you copy stipulations or State-specific material from these appendices. If you have questions, be sure to check with your Field Office or State Office Recreation Lead.

SUMMARY OF HANDBOOK

(Chapter 1) - Special Recreation Permits

Special Recreation Permits (SRPs) are authorizations which allow for recreational uses of the public lands and related waters. They are issued as a means to control visitor use, protect recreational and natural resources, provide for the health and safety of visitors. Commercial SRPs are also issued as a mechanism to provide a fair return for the commercial recreational use of public lands.

(Chapter 2) - Recreation Use Permits

Recreation Use Permits (RUPs) are authorizations for the use of developed facilities which meet the fee criteria established by the Land and Water Conservation Fund Act (LWCFA) of 1964, as amended or subsequent authority. RUPs are issued to ensure that the people of the United States receive a fair and equitable return for the use of these facilities to help recover the cost of construction, operation, maintenance, administration, and management of the permits. This Chapter also covers entrance permits for fee areas and administering a recreation fee program.

(Chapter 3) - Concession Leases

Concession leases authorize the operation of recreation oriented services and facilities by the private sector, on BLM public lands, in support of BLM recreation programs. The concessionaire is authorized through a concession lease which is administered on a regular basis and which requires the concessionaire to pay fees to the BLM in exchange for the opportunity to carry out business activities.

(Chapter 4) – Decisions, Protests and Appeals

The decisions of the authorized officer regarding special recreation permits may be protested to the authorized officer and/or appealed to the Interior Board of Land Appeals (IBLA).

(Chapter 5) – Recordkeeping

Documents related to the issuance and administration of SRPs and RUPs are official Government records. This chapter provides the guidance for creating, maintaining, and safeguarding recreation permit related records.

Chapter 1. Special Recreation Permits

I. TYPES OF PERMITS

Special Recreation Permits (SRPs) are authorizations which allow specified recreational uses of the public lands and related waters. They are issued as a means to manage visitor use, protect natural and cultural resources, and as a mechanism to authorize the types of recreational uses described below.

A. Commercial Use: Commercial use is defined as recreational use of the public lands and related waters for business or financial gain.

When any person, group, or organization makes or attempts to make a profit, receive money, amortize equipment, or obtain goods or services, as compensation from participants in recreational activities occurring on public lands, the use is considered commercial.

An activity, service, or use is commercial if anyone collects a fee or receives other compensation that is not strictly a sharing of, or is in excess of, actual expenses incurred for the purposes of the activity, service, or use.

Commercial use may also be characterized by public advertising for participants or situations where a duty of care or expectation of safety is owed participants by service providers as a result of compensation.

Use by scientific, educational, and therapeutic institutions or non-profit organizations are considered commercial when the above criteria are met and are subject to permit requirements when the above conditions exist. Non-profit status of any group or organization does not, in itself, determine whether an event or activity arranged by such a group or organization is noncommercial. Profit-making organizations are automatically classified as commercial, even if that part of their activity covered by the permit is not profit making.

Examples of commercial activities include outfitters and guides, jeep tours, horse trail and wagon train rides, cattle drives, and photography associated with a recreational activity, i.e., when images are taken of recreation participants for sale to participants or filming of recreational activities to be sold to the public.

Note: Commercial photography or filming can be issued under the SRP guidelines; however, the filming fee schedule will be used as outlined under the 2920 regulations under commercial filming. In the event that commercial filming or photography is permitted under another authorization (2920), that authorization may take precedent over and remove the need for a

permit under the SRP regulations. This will be determined on a case-by-case basis for each Field Office. See the commercial film fee schedules found in the 2920 regulations and handbook.

B. Competitive Use: Competitive use means any organized, sanctioned, or structured use, event, or activity on public land in which two or more contestants compete and either of the following elements apply:

(1) Participants register, enter, or complete an application for the event; or
(2) A predetermined course or area is designated.

One or more individuals contesting an established record such as speed or endurance is also considered to be a competitive use.

Examples of competitive events include off-highway vehicle races, horse endurance rides, mountain bike races, rodeos, orienteering, land speed records, Eco-Challenge events, etc.

C. Vending: Vendor permits are temporary, short-term, non-exclusive, revocable authorizations to sell goods or services on public lands in conjunction with a recreation activity. Vendor permits do not authorize permanent structures, and do not grant preferential rights for renewal or any possessor interests in real property on the public lands or related waters. The authorized office shall place stipulations on the SRP to provide for the health and safety of visitors and protection of natural resources.

1. Vending in association with permitted event. In most cases, vending is associated with a commercial event. Examples of vendor permits include T-shirt sales in conjunction with a raft race, a food or souvenir stand at a motocross event, firewood or ice sales in a BLM campground, vehicle fuel or vehicle repair at an OHV event. If the permittee for the event will control the vending, the vending may be included in the SRP for the event. In this case, revenue from vending would be included in the permittee's gross receipts. If the permittee is not responsible for the vending, each vendor must acquire their own permit and provide their own insurance, if required.

2. Vending not associated with permitted events. Vendors may apply to vend at recreation attraction sites, not in conjunction with an event. In such cases, you should consider the application carefully. The vending should directly support or enhance the recreation experience and be appropriate for the Recreation Opportunity Spectrum (ROS) class of the area. Examples might be equipment rentals and repairs, shuttle services, firewood sales, etc. Sales of food, souvenirs, clothing, and convenience items are usually not appropriate since they are not necessary for most outdoor recreation experience. It is also important to consider the impact of vending on established business in nearby gateway communities.

3. Other considerations for vending permits. To support the application, all vendors must provide a complete list of all the goods and services to be sold. Review these lists carefully and assure all the items are appropriate and legal. Do not allow sales of single use, disposable items that translate into litter or other management problems. Confetti poppers/blowers, *Silly String*, fireworks, and similar products would fall into this category. If the items sold would generate waste (napkins, wrapping, packaging etc.), the vendor must provide and maintain adequate waste containers and be responsible for clean up of a reasonable area around the vending site. Vending is almost always regulated by state and local, commercial laws and regulations. Vendors should be able to demonstrate compliance with these requirements.

4. Insurance requirements for vendors. Insurance may be waived where the opportunity for injury and property damage is particularly low. Examples might be T-shirt sales and sales of commercially prepackaged food items. Sales of food items prepared by the vendor, either on or off site always require insurance. Equipment rental and repair services must also meet insurance requirements. Shuttle services may or may not require insurance depending upon the nature of the services provided and the insurance laws of the state.

D. Special Area Use: Permits may be required for individual (private, noncommercial) recreation use in Special Areas. Special Areas are areas officially designated by statute or Secretarial order including: components of the National Trails System; the National Wild and Scenic Rivers System; the National Wilderness System; National Conservation Areas, National Monuments, or National Recreation Areas; an area covered by joint agreement between the BLM and a State Government as provided for in Title II of the Sikes Act (16 U.S.C. 670a et seq.); or any area where the authorized officer determines that the resources require special management and control measures for their protection and a permit system for individual use would achieve management objectives. Requirements for Special Areas can be found in 43 CFR 2932.5. Special areas can be designated by the State Director through Supplementary rules 43 CFR 2932.3. Examples of individual permits for Special Areas include camping in Long Term Visitor Areas (LTVA) in California and Arizona, floating many BLM-managed rivers, backpacking in Grand Gulch Primitive Area, hiking in the Aravaipa Canyon Wilderness Area, and recreational mining in designated areas in California.

E. Organized Group Activity and Event Use: Organized group/event permits are for group outdoor recreation activities or events which are neither commercial nor competitive. The authorized officer determines when a permit is required based on planning decisions, resource concerns, potential user conflicts, or public health and safety issues. A group is loosely defined as more than one person participating in a recreation activity or event. The threshold size of a group requiring a permit would be impossible to establish on a national basis. The threshold, if any, must be determined for each area (for example, 10 people in a sensitive riparian area may constitute an organized group, but a less sensitive upland area may be able to handle 200 people without the need for special management). Thresholds must be based upon planning, resource

concerns, potential user conflicts, or public health and safety. Field Offices are encouraged to develop thresholds through land use planning for when permits are required for organized groups and events for specific types of recreation activities, land areas, or resource settings.

Other examples of groups or events that may require a permit include a large scout camp out, a fraternity activity, a large family reunion held at a BLM recreation site or participating in recreation activities on public lands, or a dual sport event. Before issuing a SRP for an activity or group event, consider if it is primarily recreational in nature. If not, it may be more appropriate to authorize the activity or event as a land use permit.

II. WHEN PERMITS ARE NOT NEEDED

(**Note**: The following exceptions may not apply for special areas where permits are required or in areas where carrying capacity has been reached and use is allocated.)

The authorized officer may waive permit requirements when:

A. The use or event begins and ends on non-public lands or related waters, traverses less than a total of 1 mile of public lands or 1 shoreline mile, and poses no threat of significant damage to public land or water resource values. Example: An outfitter crosses 40 acres of BLM on an existing trail to access his/her hunting camp on State land.

B. The use is sponsored or co-sponsored by the BLM.

A decision to sponsor an event should directly support management objectives. Sponsorship may increase agency liability and should not be taken lightly or used as a means to avoid issuing a permit. If a decision is made to sponsor an activity or event, then a written agreement must be developed that spells out the terms and conditions of the sponsorship, and the responsibilities of each party, e.g., insurance requirements, health and safety requirements, or environmental stipulations. Examples: Service work associated with a National Public Lands Day Event, National Trails Day, National River Cleanup Week, or a Girl Scout or Boy Scout camp-out that the local BLM office sponsors in exchange for volunteer service on a project; or a university group that BLM has asked to do scientific or social studies for a project.

C. A competitive event is not commercial, complies with land use plan decisions and designations, does not award cash prizes, is not publicly advertised, poses no risk for damage to public land or related water resource values, and requires no management and monitoring. Examples: A fun run, which is held on county roads crossing BLM lands, when the participants do not leave the road right of way; a scout troop challenges another troop in an orienteering event.

D. An organized group activity or event is not commercial, is not publicly advertised, poses no appreciable risk for damage to public land or related water resource values, and requires no specific management or monitoring. Examples: A family reunion held in a non-fee BLM recreation site; a bird watching outing on BLM lands sponsored by the local Audubon Society.

In special areas where individual SRPs are required, participants or individuals within the group are still subject to individual permit requirements, even though the permit requirement for a group activity or event may be waived.

E. Non-recreation uses such as research projects requested by BLM, or administrative use by other Federal or state agencies, e.g., fish sampling, bird counts, boating safety patrols, law enforcement patrols, etc., do not generally require special recreation permits as such uses are not managed under these regulations. However, individual permits in special areas may still be required.

III. RECREATION PERMIT ADMINISTRATION

A. Permit Availability

1. Issuing a SRP is a discretionary action. Applications for a SRP may be denied based upon factors such as non-compliance with land use plans or designations; a moratorium on permits issued as part of a planning process; the results of an environmental analysis; other resource values; an allocation system; public health and safety concerns; the applicant's past performance; or the inability of the managing office to issue, manage, and monitor the proposed use. The authorized officer may also consider previous convictions for violating Federal or State laws or regulations concerning the conservation or protection of natural resources, the environment, endangered species or antiquities or other related or germane uses to the proposed permit

2. Other factors that the authorized officer may consider when deciding whether or not to accept a SRP application include: existing recreation conflicts in the proposed area of operations, diversity of services provided to the public, number of similar services already offered, and whether the public land area available is sufficient to accommodate the proposed use. If an application for a SRP is denied, the applicant must be notified in writing stating the reason(s) for denial. The decision to not issue a permit is appealable.

3. SRPs may be issued on a first-come, first-served basis until the affected area's desired use level is reached. The desired use level is determined in resource management plans (RMP), recreation area management plans (RAMP), or in their absence, through analysis of

resources and visitor use for each area using the ROS, limits of acceptable change (LAC) or other valid methods. When an area's desired use level has been reached, no additional permits will be issued. New permits may become available when:

a. An area's desired use level is increased; for example, by changing management objectives to increase the number of allowable users within a use season or by lengthening the use season.

b. A permit is revoked or not renewed because of noncompliance.

c. A permittee voluntarily relinquishes a permit.

d. New areas for use become available.

4. In some situations, commercial or competitive SRPs may be issued on a competitive basis. When new opportunities for obtaining a permit become available and the authorized officer determines there is enough interest, interested parties may be invited to submit proposals for obtaining the available permits. Field Offices should develop their own SRP award criteria; however, revenue to the Government is not a consideration in the outfitter bid submission. Criteria shall be developed to award the permit to the applicant serving the public needs and resource management objectives.

5. No competitive event or motorized event will be authorized in a Designated Wilderness Area.

B. Processing the Application

1. **Application Processing -** Applications for commercial use (including vending), competitive use, and organized group event or activity permits should be submitted using the standard BLM SRP form. State offices may use locally developed application forms for Special Area Permits. BLM offices may also use application forms used by other agencies where permits are jointly administered. Applications must be submitted at least 180 days before the intended use, except where the authorized officer approves a shorter time period. In addition, BLM may, with public notice in the local media and on-site posting as necessary, require that applications for specific types of activities be submitted in advance of 180 days if more time is needed for environmental assessments, threatened and endangered species consultation, event coordination, etc. For example, the Moab Field Office requires event applications for the coming year to be filed by September 1 of the current year so that they may work with applicants to avoid having multiple events in the same area at a scheduled time. Applications must be received early enough for the authorized officer to complete the processing, environmental analysis, consultation with other agencies, and determine whether or not cost recovery fees apply prior to

the start of the event or use. The applicant must include maps or legal descriptions of the area to be used in sufficient detail for the authorized officer to evaluate the proposed use. See Illustration 1 for the step-by-step process for issuing a SRP.

2. **Supplemental Information** - For any permit application (other than Special Area Permits issued to individuals), the authorized officer may require the applicant to submit supplemental information in sufficient detail to evaluate the extent and impact of the proposed activity. Examples include:

a. Statements of financial capability

b. Signed operating plan (see Appendices C-13 and 14)

c. Certificates of safety training

d. List and condition of equipment or livestock that will be used

e. Layout and description of facilities (site plan) that will be used at requested sites

f. Samples of proposed advertising, brochures, entrance fees, prizes, and customer rates

g. A letter or permit granting permission to use private or other agency land in conjunction with public land

h. Experience relating to the activity, and references

i. Identification of other required Federal, State, or local licenses

j. Documentation of business agreements or contracts such as names of owners, partnership agreements, or articles of incorporation

k. Demonstration of ability to obtain insurance or bonding

3. **National Environmental Policy Act (NEPA) Requirements for Permit** - The issuance of an SRP is a Federal action and subject to NEPA analysis. Some permitted activities may qualify as a categorical exclusion (CX). A list of categorically excluded items may

be found in the Department Manual at 516 DM (see Appendix B-1). If existing NEPA documentation is adequate to describe the impacts of issuing the SRP, then a Determination of NEPA Adequacy (DNA) may be prepared.

If neither the CX nor DNA is available, most often, an Environmental Assessment (EA) will be prepared. An applicant may prepare an EA, to accompany their application. If the applicant furnishes the EA it must be approved by the BLM using current Council on Environmental Quality guidelines.

a. **Commercial Permits** - The review of commercial applications must include an appropriate environmental analysis.

1. If desired use levels are set in land use or recreation management plans, issuance of permits should have been analyzed in the related environmental document and no further environmental assessment of individual permits would normally be required.

2. Programmatic environmental assessments may be prepared for a geographic area to cover similar uses. For example, a programmatic EA might cover land tours and campsites for jeep and mountain bike tour operations or river running within a recreation area. Programmatic EAs eliminate the need for redundant analysis. A separate new EA need not be prepared for applications where the proposed activities are within the range of uses and impacts analyzed in the programmatic EA.

3. If the permit is to be issued for new or additional use beyond that covered in a management plan, or if the permit is for a use or area not covered in a land use plan, then an environmental analysis commensurate with the amount of use and anticipated impact must be completed. The level of analysis may range from a categorical exclusion to an environmental impact statement.

b. **Competitive Permits** - Unless an event is recurring and covered in a land use plan, a competitive permit will require an environmental assessment commensurate with the level of use and potential environmental and social impact. The level of analysis may range from a categorical exclusion to an environmental impact statement (EIS). For areas where competitive uses take place on a recurring basis, development of a programmatic EA should be considered.

c. **Vending Permits** - The analysis required for vending permits should be covered in the analysis for the recreation event or use with which the vending is associated. For vending use not associated with another permitted use, the level of analysis may range from a categorical exclusion to a full environmental analysis.

d. **Special Area Permits** - The analysis for issuing Special Area Permits is normally completed through the Bureau planning process. In circumstances where control measures are needed immediately, an environmental assessment can be completed and the requirement to obtain a permit under this circumstance may be published in the Federal Register.

e. **Organized Group/Event Permits** - See requirements for competitive permits. If group use or events are recurring, a programmatic EA should be considered. Recurrent group use or events should also be covered to the extent possible in land use plans or recreation area management plans.

C. Award of Permits - After processing the application and completing the necessary environmental analysis, the authorized officer will make a final decision to approve or disapprove the permit application and so notify the applicant. A SRP will not be issued for an area larger than the authorized officer determines is necessary for the contemplated use. The authorized officer may also approve an activity under different conditions or terms than those proposed in the application. In the case of corporations and limited liability companies, the permit should be issued in the name of the organization, not to a specific individual. When issuing a permit to a sole proprietorship company a partnership or an incorporated organized group, the SRP must show the name of the individual responsible for the permit e.g., Jane Doe d.b.a. Far Western Adventures, meets this requirement.

Prior to issuing a commercial or competitive permit the authorized officer must ensure the applicant has:

1. Submitted a signed operating plan.

2. Provided a copy of an appropriate insurance policy for new permits or a valid certificate of insurance. (See N. Insurance and Liability section.)

3. Financial capacity to complete and maintain the proposed project or carry out the activity.

4. Complied with terms or stipulations of previous permits issued by the BLM or other land managing agencies or State agencies for similar activities.

5. Paid estimated fees in advance.

6. Obtained necessary Federal, State, or local licenses.

7. Obtained bonds or cash deposit, if required.

8. Submitted other information required by the authorized officer in advance of issuing the permit. This may include a list of names authorized to do business on behalf of the applicant and any limitations upon their authority.

For vending uses and organized group activities and event permits, the above items may be required as appropriate. In the case of permits that authorize vending, it may be appropriate to request and approve a list of items to be sold. For example, a vendor may anticipate selling fireworks during a time period or at a location where fireworks are prohibited by fire orders or regulation. In other cases, the nature of items sold or their packaging may require that special site clean up provisions be added to the permit.

D. Permit Duration

1. Commercial SRPs may be issued for a term not to exceed 5 years. The authorized officer may consider issuing 1-year permits prior to issuing multi-year permits to become familiar with operators and activities and to assure that the terms and stipulations of the permits are appropriate. Criteria used to determine appropriate permit length include management objectives, resource management planning time frames, environmental risks involved, public need for the intended use, and a permittees past or current performance rating.

A multi-year permit must be validated annually; the permittee must have paid annual fees, forwarded post-use reports, submitted bonds if required, provided copies of any necessary insurance policies, licenses, etc., and received an acceptable or probationary annual performance rating before the permit will be validated. The authorized officer may modify a multi-year permit during the term of the permit. The permittee may also request changes to a multi-year permit through submission of an updated plan of operation or other material.

2. Special Area Permits may be issued for a single trip or other specified length of time up to 1 year as appropriate to achieve management objectives and public service. Examples include a weekly or seasonal permit for camping in a LTVA, one trip through Westwater Canyon, and/or an annual permit to use Little Sahara Recreation Area.

3. Vending, Competitive, Event, or Organized Group SRPs should be issued for the period of time required to complete the use or event (including set-up and break-down time). If an event recurs annually, with no changes in use, area, or participants, the authorized officer may issue a permit for up to 5 years with annual validation.

Illustration 1
Steps Required in Issuing Special Recreation Permits
(for other than individuals using Special Areas)

Step	**Responsible Person**	**When** (Unless Otherwise Approved**)**	**Action**
1	Authorized Officer	As appropriate.	Notifies potentially affected users of permit requirements.
2	Authorized Officer	180 days or more prior to the desired use date.	Mails or hands out SRP application forms and other information (maps, pamphlets, stipulations) and requirements for supplemental information on request.
3	Applicant	180 days prior to the desired use date, unless a shorter period is approved or a longer period is required.	Contacts local BLM office regarding requirement for and availability of permits prior to making use of the public lands and related waters. Submits completed application and required supplemental information to appropriate BLM office.
4	Authorized Officer	Within 30 working days of receipt of application.	Checks application for completeness, reviews proposed operating plan for consistency with planning, checks on past performance or bills due. May reject application at this stage or require additional materials.
5	Authorized Officer	Within 30 working days of receipt of all required application materials.	Notifies applicant if substantial processing work is involved due to extensive NEPA, consultation, or other requirements and if cost recovery charges may apply.
6	Authorized Officer and Applicant	As appropriate.	Discuss and coordinate with the applicant any problems with the application, and ensure that permittee has coordinated with other landowners and managers. Conducts environmental analysis, if necessary.

7	Authorized Officer	Upon completion of permit processing or 31 days before desired use date.	Provides written notification of disapproval, or requests: insurance policy, certificate of insurance, or bonds if not submitted in Step 3, and requests full or partial payment, if applicable, of estimated fees.
8	Applicant	At least 10 working days before desired use date.	Provides to BLM: policy or certificate of insurance (as appropriate), bond (if required), other requested information, and full or partial payment of fees.
9	Authorized Officer	As appropriate before desired use date.	Issues approved permit with stipulations signed by the authorized officer, also issues required reporting forms (daily trip logs and post-use report).

E. Renewal of Permits

1. The authorized officer should consider the following factors when determining if a permit may be renewed:

a. The permittee has satisfactorily met the requirements of the previous permit, including an acceptable performance evaluation. The authorized officer may also consider conformance with applicable laws and regulations on all other Federal, State, or county administered lands or related waters.

b. The continued use is consistent with the RMP, RAMP, or other plans, including the desired use level.

c. The amount of use available in allocated areas.

2. Processing a Renewal. The application procedures for renewals are similar to those for a new permit. The authorized officer may establish application deadlines for permit renewal. Multi-year permits should not be issued until the permittee has demonstrated the ability to meet annual permit terms.

In allocated areas, the authorized officer should generally show preference to a permittee seeking renewal when the permittee is in full compliance under the current permit. When expired permits are renewed or reissued, the amount of use allocated in the new permit is at the discretion of the authorized officer, and in accordance with resource planning or recreation management

plans. The objective is to allocate an amount consistent with available capacity and/or the level of use the holder was able to effectively use under the former permit.

F. Transfer of Permits

1. Commercial Permits: If an existing commercial permittee wishes to sell or otherwise terminate his or her business and desires that permit privileges be transferred to a new owner, the permittee must notify the authorized officer in advance, in writing, and receive advance written approval for the permit transfer from the authorized officer. Failure to do so can lead to denial of the requested transfer. The existing permittee must advise the authorized officer in advance of any action that would ultimately result in a change in ownership or controlling business interest. The proposed permittee must apply for the permit following standard application procedures. The approval of a transfer is discretionary with the authorized officer. The authorized officer must consider the following items in determining whether to allow the permit transfer:

a. Adequate documentation must be provided to the authorized officer that a bona fide business transfer or sale is intended. The transfer or sale must include a substantial portion of the equipment and other tangible assets needed to conduct the business. No value may be attached to a permit. Any attempted transfer or sale of authorized use alone shall not be allowed.

b. The current permittee must have operated at an acceptable standard for at least 1 full year prior to the transfer request. The permit must be in good standing with all fees paid and no unresolved issues or concerns.

c. The proposed permittee must provide a written operating plan to the authorized officer, including any anticipated operational changes from the present permittee.

d. A permit that is transferred may contain terms and conditions, and/or allocations which are different from the original permit.

e. If the permittee's business enters bankruptcy under the provisions of Chapter Eleven (11) of the Federal bankruptcy laws for the purpose of reorganizing, the permittee may make use of the permit during the period the company is under the protection of the bankruptcy court--provided that all terms of the permit continue to be met. During this period, the permit may not be transferred to the control of a new individual or business entity. However, if ownership of the business returns to the control of the former owner(s), from whom the permit was transferred, BLM may transfer the permit back to the previous owner. The previous owner(s) must bring the permit into good standing before the BLM will consider an application for a future permit transfer. If the permittee's business enters bankruptcy under

Chapter Seven (7) of the Bankruptcy Laws, the SRP will automatically be terminated. No permit transfers will be approved for permittees entering Chapter Seven Bankruptcy.

2. Non-Commercial Permits: Permits issued for noncommercial use of special areas where use is allocated may only be transferred with the approval of the issuing BLM office. Non-commercial permits or individual permits for special areas cannot be sold or transferred. The specific procedures for transfer of permits for commercial use described above are not required for transfer of individual special area permits. Field Offices anticipating permit transfers should establish a transfer policy consistent with this section.

G. Fees

Fees associated with commercial use, competitive use, and organized group activities or events, are established by the Director and published in the Federal Register. Fees associated with individual use of Special Areas are set by State Directors. Fees may be adjusted from time to time to reflect changes in costs and to ensure a fair return for the use of the public lands. See Appendix A-8 for the current "Automatic Fee Adjustment for Special Recreation Permits (SRP), Instruction Memorandum. The cost recovery charge is based upon the actual personnel, vehicle, travel and materials costs required to issue, administer and monitor the SRP.

1. **Cost Recovery:** If more than 50 hours of staff time is required for processing a permit, cost recovery of direct expenses related to the permit will be charged. If the 50-hour cost recovery threshold is anticipated to be exceeded then recovery of costs begins with the first hour.

For commercial users, cost recovery charges are in addition to the fees in the national recreation fee schedule. For competitive or organized group permits, which exceed the 50 hour threshold, cost recovery will be charged unless anticipated fees exceed the cost recovery charge. In that case, use fees will be charged rather than cost recovery. When cost recovery is necessary, the authorized officer shall notify the applicant of potential charges in writing within 30 days of receipt of the application. Further work on the project, e.g., starting on an environmental assessment, should not take place until the cost recovery fees are received by the BLM.

Cost recovery charges will generally be associated with new or substantially different activities or events and shall be levied to compensate the Government for the costs of authorizing and administering the new use. Cost recovery fees are most likely to be applicable to large, short-term uses that require extensive environmental analysis and monitoring. For example, a long-distance, multi-mode, cross country race involving large numbers of participants, that traverses sensitive areas may require formation of an environmental analysis team, field trips to assess the potential for site damage, a major law enforcement element, and monitoring at specific sites along the route. The cost of administering such a large-scale event would likely exceed revenues

from the fee schedule. Cost recovery charges should not be assessed for conducting routine business with permittees or for long term monitoring.

Cost recovery has some limitations. The intent of the authority for guiding cost recovery is to make it clear that agencies cannot recover costs associated with services that benefit the general public. The guiding language can be found in Circular A-25, which states in part, "...When a service (or privilege) provides special benefits to an identifiable recipient, beyond those that accrue to the general public, a charge will be imposed (to recover the full cost to the Federal Government for providing this specific benefit, or the market price)." No charge should be made for a service when the identification of the specific beneficiary is obscure, and the service can be considered primarily as benefiting broadly the general public.

Cost recovery, including application fees, may also be charged when necessary to cover the costs of a permit lottery system, site reservation systems, or other special services for use of Special Areas. In these cases, fees should be based upon an analysis of the direct cost of the entire service and spread across the estimated number of beneficiaries. Such a charge may be implemented as a cost recovery application fee.

2. Recreation Fees: Fees for recreation use of public lands and related waters are charged to (1) commercial users, (2) competitive event participants and spectators, (3) vendors, and (4) participants in organized group activities and events which require a permit. Fees can also be charged for individual use of Special Areas, reservation/assignment of sites, and livestock grazing when associated with recreational use.

a. Commercial Use Fees (also referred to as "franchise fees"). Use fees due in excess of the minimum fee based upon a percentage of the adjusted gross revenue derived from use authorized under the SRP. Fees for commercial use permits are intended to provide a fair return to the government for the opportunity to make a profit for using public lands. Although commercial permittees normally pass this cost of doing business on to their guests, they are not use fees on guests.

The minimum annual fee for any commercial SRP is established by the Director ($80 from 3/2002 till 3/2005) and is updated every 3 years based on the Implicit Price Deflator Index. All commercial permittees will pay at least the amount established as the minimum fee plus any fees due in excess of the minimum fee.

When use takes place in a Special Area where special area fees are required, the special area fee will be due in addition to the commercial use fee.

b. Competitive Use Fees. Competitive use fees, including minimum fees, are set by the Director and published in the national fee schedule. Fees are charged on a per

user day basis for participants ($4.00/person/day in 2002); as a percentage of gross receipts; or the minimum fee, whichever is greater. When use is both commercial and competitive, the higher fee should be charged.

c. Vendor Use Fees are the same as commercial use fees, including the minimum fee, and are calculated using gross receipts of onsite sales associated with the permitted activity. Vender fees may also include an assigned site fee ($160 in FY2002) and/or exclusive use fee, both in addition to the percentage of gross income.

d. Organized Groups/Events Fees are set by the Director in the form of a minimum fee ($4.00/person/day in 2002). State Directors may establish a higher fee when warranted by circumstances. Factors to be considered for setting fees may include such factors as: costs of operating permit systems, special management costs related to the area, and comparability with what other agencies charge.

e. Special Area Permit Fees for individuals shall be set by the State Director. Factors to be considered for setting fees include: costs of operating the permit system, special management costs related to the Special Area, comparability with other agencies or similar Special Areas, and fairness and equity among all users. Special Area fees shall not be imposed or changed without appropriate public notice. Fees charged in a Special Area shall apply to all users of the area including private, non-commercial visitors, clients or guests of commercial permittees, and/or participants or spectators in a competitive event. Fees collected for the use of Special Areas are credited to the collecting office and are available to cover management costs.

The authorized officer may require commercial operators or the holder of a competitive permit to collect Special Area fees from their guests, spectators, or participants. When Special Area fees are applicable, commercial permittees may list that fee as a separate item assessed by BLM on trip invoices. At the end of each use season, the permittees using a Special Area must include a trip by trip accounting of the number of guests using the Special Areas in their year-end report. BLM must reconcile its records with the permittee's records and include the Special Area fee payment as a separate line item in its post season billing statement for the permittee. The Special Area fees collected by commercial permittees will only be due BLM at the end of the use or permit season. When calculating the standard commercial use fee, commercial permittees should not count collected Special Area fee revenues as part of their regular total customer payments.

f. Other Fees Associated with SRPs

1. Application Fees. Application fees are set by the State Director and are used to offset the cost of processing SRP applications. Application fees may be

charged in addition to the fees set in the Director's national recreation fee schedule. These fees might be assessed for processing permit renewals or transfers, lottery or reservation systems, or any other special service rendered to process the SRP.

2. Assigned Site Fees The BLM may charge an assigned site fee for exclusive commercial use of a site. Assignment of a site for commercial use does not preclude public use. The fee for assigned sites is specified in the BLM Director's national recreation fee schedule ($160 from 3/2002 till 3/2005) and is revised every 3 years using the Implicit Price Deflator Index. Assigned site fees are in addition to commercial use fees. Use of assigned sites shall be temporary in nature, and any temporary structures or improvements shall be removed immediately upon the conclusion of the event or activity.

3. Exclusive Use Fees. Normally, SRPs are issued for nonexclusive use of an area. On occasion, the authorized officer may determine that to protect public health or safety or to eliminate user and resource conflicts, organized groups, event organizers, commercial permittees, or competitive permittees require exclusive recreation use of a site to conduct their activity. In that case, an annual or per occurrence exclusive use fee, established by the State Director, will be charged in addition to other permit fees. State Directors will base fees upon fair market value for exclusive use. The exclusive use fee must be equal to or higher than the assigned site fee in the Director's national recreation fee schedule.

Exclusive use fees are in addition to commercial, competitive, Special Area, or organized group use fees. Exclusive use of sites related to a SRP shall be temporary in nature, and any temporary structures or improvements shall be removed immediately upon the conclusion of the event or activity.

4. Grazing Fees. Fees charged for livestock grazing or trailing associated with a SRP will be calculated based on the grazing fee formula in effect at the time the SRP is issued. The authorized officer will consider impacts to existing grazing leases before issuing a permit for recreational stock use of a lease area; livestock use associated with a SRP does not supersede an existing grazing lease.

H. Fee Payment and Calculation

Recreation fees due the Government must be paid in advance of any authorized use to ensure that the Government receives payment.

1. Cost Recovery Procedures. The recreation program uses the same cost recovery procedures as the Lands and Realty Program. The billing and collections procedures, as well as other direction can be found in BLM Manual 1323. It is important to remember the correct term is "cost recovery," not "cost reimbursable." We should not be processing a cost

recovery project unless and until sufficient funds are on deposit in the cost recovery account. In the event a balance remains in the account at the end of the project, that amount will be returned to the applicant.

a. Factors to consider in estimating costs. Guides to estimating direct and indirect costs are found in BLM Manual 1323. In considering costs, you have considerable discretion to allow the applicant to provide products rather than having the agency provide them. For example, on a cost recovery OHV event, the applicant could choose to provide global positioning system (GPS) or graphic information system (GIS) products rather than the agency gathering the information. Cultural resources surveys could be conducted by qualified contractors hired by the applicant rather than by BLM archaeologists.

1. Direct costs. Examples of direct costs may include personnel costs in the form of wages paid to BLM personnel working on the project, with allowances provided for fringe benefits and BLM's leave surcharge rate and any overtime associated with processing the application; travel expenses; purchased services if necessary, such as printing, automated data products (ADP) services, copies; and any miscellaneous supplies and equipment of a specialized nature, the use of which is directly applicable to processing the application.

2. Indirect costs. Indirect costs are those costs that cannot be specifically identified with the application. These represent those administrative and program costs which can be attributed to processing the application. Indirect costs include a portion of the costs of equipment, space rental, telephone services, postage, personnel transfer costs, administrative and clerical support, training, safety, public information, cartography and basic series mapping, aviation management, telecommunications, equipment maintenance, and systems design and implementation. Excluded from indirect costs are management overhead, managerial work, evaluations of office activities, program coordination, technical program direction, environmental education and interpretation, interagency planning, studies and research, preparation of NEPA documents relating to general program planning, law enforcement and firefighting.

b. Establishing the cost recovery account. Once you have determined a proposal will take more than 50 hours of staff time, and you prepared an estimate of direct and indirect costs, it is time to contact the applicant. Advise the applicant of estimated cost recovery. At this point, the applicant may choose to abandon the project or participate in cost recovery. If the applicant wishes to proceed, you will draft a Cost Recovery Agreement outlining the terms and conditions, estimated costs and any revenue sharing with other agencies. Next you will establish a cost recovery account and obtain a project code from the National Business Center. Use the account number and project code on any items charged to the project. The applicant will deposit the estimated amount into the project account.

c. Monitoring the Cost Recovery. The applicant is entitled to a thorough accounting of the use of cost recovery funds. Staff charging time to the project must maintain a log of the time spent on the project and a description of what they were doing during that time. Time logs, copies of receipts, vehicle reports, and any other documentation that reflects charges to the project must be maintained by the project manager.

2. Estimated Fees. For commercial use, fee estimates should be based on either the amount of fees paid the previous year, or an annual revenue estimate agreed to by both the permittee and the authorized officer before any use occurs. When revenues are uncertain, e.g., for the first year of a new operation, the minimum fee or an estimate agreed to by both parties is appropriate. For competitive use, fee estimates will be based on projected gross revenues or numbers of participants and spectators as agreed upon by the applicant and the authorized officer. In any case, the prepaid fee cannot be less than the minimum fee.

3. Periodic Payments. For commercial use, periodic payments may be allowed as long as 25 percent of the estimated fee or the minimum, whichever is greater, is paid up front. For example, a permittee whose estimated annual fee is $1,000 may pay $250 at the beginning of the season, and schedule the remainder of the payments over the rest of the season. Specific payment dates should be established before issuing the permit. For multi-year permits, Field Offices may find it useful to schedule a final payment after the end of the use season to provide an opportunity to reconcile the estimated payment with the final total of payments due for the season. This reduces the need to carry over payments to the following season through a year-end settlement process.

4. Deductions. Deductions shall be allowed for actual transportation and lodging costs incurred before a guest's arrival at the beginning of a trip, and after departure at the end of a trip. For example, airplane travel from gateway airport to permittee's headquarters and lodging in a motel the night prior to the start of the trip are allowable deductions. Costs incurred between the permittee's headquarters or local community and the public lands, or costs incurred during the permitted activity or trip, regardless of public or private land status, cannot be deducted. Costs incurred for lodging on non-public land during the trip shall not be deducted; however, the time spent on non-public land may be applied to the discount for non-public land use. (See Table 1, Non-Public Land Use). Pre-trip and post-trip requests for lodging deductions may need to be supported with lodging receipts as specified by the authorized officer. Transportation and lodging deductions are not allowed for competitive uses, vendors, or organized groups.

Transportation Costs. Deductions are allowed to provide transportation for clients to the local community or permittee's headquarters. The intent is to allow adjustments for costs paid or borne by commercial permittees in bringing their clients to local communities or the permittee's headquarters prior to the trip, or returning them from such points after the trip. Enter either the actual amount paid to others or the current mileage rate allowance that the

General Services Administration (GSA) allows for advantageous use of a privately owned vehicle (or aircraft) for Government travel. The reason for using the GSA privately owned vehicle rate is for consistency purposes.

The intent is to not allow deductions for transportation costs between the local community or permittee's headquarters and the public lands.

The transportation cost adjustment is to be used for pre-trip and post-trip transportation only. Adjustments for the percent of time spent off public lands discussed below (Discounts) does not apply to pre-trip and post-trip transportation, as this would create a double deduction. Allowable transportation adjustments apply to both single day and multiple-day trips.

For further clarification for calculating the percent of time off public lands use fee adjustment a trip is defined as: The time the client or participant spent with the permittee that starts either after the first night's lodging or when the clients begins participating in the advertised use. For example, the trip is usually advertised by the permittee as a 5-day hunt or a 3-day river trip. Each day or permitted service is not considered a trip. A trip is usually the culmination of several consecutive days. A trip ends when the client returns to the permittee's headquarters or lodge for the last nights lodging.

5. Discounts. A discount will be allowed for time spent off public land from the time and date of entry to the time and date of exit from public lands (see Table 1). For time spent on non-public lands, the authorized officer may require the permittee to submit a signed Trip Log or Operating Plan specifying this nonpublic land use. Commercial permittees who rent equipment, deliver, and pick-up customers on public lands or related waters are not eligible for this non-public land use discount. The discount fee adjustment will be based on the percent of total time on public lands from the following table:

Table 1 – DISCOUNT FOR NON-PUBLIC LAND USE

Percent of Total Time on Public Lands or Related Waters	Fee Reduction	Multiplication Factor
Less than 6%	80%	.20
6 - 60%	40%	.60
61 - 100%	None	None

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Eligible Deductions and Discounts

6. Fee Calculation. Fees should be calculated as follows:

a. Total all payments received by the permittee, their employees, or agents for goods or services provided in connection with commercial activities authorized by the SRP on public lands or related waters.

b. Multiply all customer payments by the commercial use fee percentage from the national recreation fee schedule (3 percent in 2002).

c. Adjust the total customer payments by subtracting allowable deductions for transportation and lodging, if any.

d. Adjust the total customer payments by applying applicable discounts for non-public land use, if any.

A deduction may be allowed for time spent off public land or related waters which occurs between the time when a customer leaves a permittee's headquarters or local community at the beginning of a trip, and when they return at the end of a trip. (See Table 1 - Non-Public Land Use.) Make sure there is no overlap or double deduction with transportation costs in number 3 above.

e. Multiply the adjusted total by .03 (2002 fee is 3 percent of adjusted gross revenue).

f. Subtract any prepaid fees from the total of amount of fees due. This is the balance due BLM.

Illustrations 2-6 provide examples of fee calculations for commercial fees.

ILLUSTRATION 2--EXAMPLE OF MINIMUM FEE

Prior to the start of its use season, Petite Tours informed BLM that it expected to have total customer payments (see glossary) of $2,200 for commercial activities authorized by its Special Recreation Permit. Based upon this estimate of total customer payments, BLM first calculated an estimated fee by following the percentage of customer payment method and arrived at an estimated payment of $66 ($2,200 x 0.03 = $66). BLM then determined that the appropriate amount due prior to permit authorization was the $80 minimum annual fee as the minimum annual fee was larger than the calculated fee.

Petite Tours paid the minimum annual fee. At year-end, in its post use report, Petite Tours reported its actual total of all customer payments as $1,710. As part of its closeout procedure for the year for the permit, BLM found that no additional fees were due.

FEE CALCULATION

Step 1 Total all customer payments received by the permittee = $1,710

Step 2 Multiply the total customer payments received by the commercial use fee percentage (3 percent).

$1,710.
x .03
$ 51.30 fee due based upon commercial use percentage

$80 minimum fee prepaid
$ 0 balance due BLM
$80 amount retained by BLM

Note: If the product of the total customer payments received and the commercial use percentage is less than the minimum fee, then no additional payments are due and no further calculations are necessary.

ILLUSTRATION 3--EXAMPLE OF NO DEDUCTIONS OR DISCOUNTS

Prior to the start of its use season, Bigger Tours, an established land tour company with a multi-year permit, informed BLM that it expected to have total customer payments of $10,000 for a series of one-day commercial trips authorized by its Special Recreation Permit. In its discussions with the permittee and its review of Bigger Tours' operations plan and brochure, BLM

determined that all authorized trips were planned to begin and end at Bigger Tours' office in County Seat, Utah and that 85 percent of the time spent on the trips would be on public land. Based upon the estimated amount for total customer payments and the likelihood of no allowable deductions for transportation and lodging or a discount for non-public land use, the BLM calculated the pre-payment of fees to be $300 ($10,000 x .03). In its post-season use report, the company reported its actual total of all customer payments as $8,850 and did not claim any discounts or deductions. At the end of the year, the owner of Bigger Tours informed the BLM that he intended to continue operations the following year. As part of its post use closeout procedure, BLM reviewed the post use report submitted by the company and credited Bigger Tours $34.50 towards the next seasons use fee.

FEE CALCULATION

Step 1 Total all customer payments received by the permittee = $8,850

Step 2 Multiply the total customer payments received by the commercial use fee percentage (3 percent).

$8,850.
X .03
$ 265.50 fee due based upon commercial use percentage

Step 3 Subtract the fees pre-paid.

$ 265.50
- 300.00 pre-paid

Step 4 $ (34.50) over payment, credited to Bigger Tours towards next seasons fees.

Note: “All customer payments” means the total of all customer payments received by the permittee, their employees, or agents for goods or services provided in connection with commercial activities authorized by the SRP occurring on BLM public lands.

ILLUSTRATION 4--EXAMPLE OF ELIGIBLE DEDUCTIONS AND DISCOUNTS

Big Joe Outfitter and Guide Company have a hunting guide business. They had 90 customers that paid $1,000 each for the guide-hunting trip. They also rented camping supplies and equipment to their customers, charged them game processing fees, and sold them souvenir clothes. Total receipts came to $100,000. They paid an estimated fee prior to the season of $1,600. Part of the $90,000 collected in trip fees were costs associated with transportation and lodging at the

beginning and ending of the trip ($5,000). They traversed public lands 55 percent of the time and the remainder of the trip was on private land.

FEE CALCULATION

Step 1 Total all customer payments received by the permittee = $100,000.

Step 2 Subtract from the total customer payments determined in Step 1, all allowable transportation and lodging deductions claimed by the permittee and reported as part of total payments.

$ 100,000
$- 5,000 (transportation and lodging deductions)
$ 95,000

Step 3 To the amount derived in Step 2, apply any applicable discounts for non- public land and related water use.

$ 95,000
x.60 (permittee used public lands
$ 57,000 and waters 55 percent of the trip)

Step 4 Multiply the amount derived in Step 3 by the current commercial use fee percentage (3 percent in 2002) to derive the amount due BLM.

$ 57,000.
x.03
$ 1,710 = total fees due for permitted activity

Step 5 Subtract any prepaid fees from the amount due BLM derived in Step 4 to determine the balance due.

$ 1,710
-$1,600 (amount prepaid)
$ 110 balance due BLM

Note: Deductions and discounts must be documented by the permittee and approved by the BLM in advance of use occurring. Permittees are required to provide trip duration, itinerary, or other such information as may be specified by BLM to support requests for fee reductions based on use of non-public lands or related waters.

ILLUSTRATION 5--EXAMPLE OF DEDUCTIONS, DISCOUNTS, AND PERIODIC PAYMENTS

Mega River Tours, Inc. runs trips on the Green, San Juan, and Colorado Rivers in areas administered by the BLM. Over the past several seasons, Mega Tours has averaged $100,000 in total customer payments for activities authorized under its permit. Considering this past use, the company's past use of deductions, and the non-public land discount, BLM determined that since the estimated fee was greater than $250, a periodic payment could be made. BLM and Mega Tours agreed that Mega would pay 50 percent of their estimated use fee before the season, and the remaining 50 percent at mid season.

River flows were good and Mega River Tours, Inc. had a better than expected year. In its post use report, the company showed total customer payments of $110,650. As part of its close-out procedure for the year for the permit, BLM allowed documented deductions of $5,150 for pre and post trip transportation and lodging expenses that had been included as part of total customer payments. Mega River Tours also showed with trip itineraries that customers spent an average of 55 percent of their time on public lands and related waters during their trips. Using the Discount for Non-public Land Use Table, BLM determined that 55 percent use on public lands or related waters entitled Mega River Tours to a 40 percent discount for non-public land use.

EXAMPLE OF FEE CALCULATION

Step 1 Total all customer payments received by the permittee = $110,650.

Step 2 Subtract all documented allowable transportation and lodging deductions claimed by the permittee and reported as part of total payments.

$110,650
$ 5,150 (subtract transportation and lodging deductions)
$105,500

Step 3 Apply any applicable discounts for non-public land and related water use.

$105,500
x.60 (reflects 40 percent discount)
$ 63,300 (permittee used public lands and related waters 55 percent of trip)

Step 4 Multiply the amount derived in Step 3 by 3% to derive the amount due BLM.

$63,300
x.03
$ 1,899 = total fees due for permitted activity

Step 5 Subtract prepaid fees from total due (Step 4) to determine balance due.

$1,899 total fee for season
- 855 amount prepaid, beginning of season
- 855 periodic payment, mid season
$ 189 = balance due BLM

Illustration 6 provides an example of fee calculation for a competitive event.

ILLUSTRATION 6--COST RECOVERY FOR A COMPETITIVE EVENT

Soaring Cliffs Resource Area has received an application for a new permit for a rim-to-rim competitive race across Gravel Gulch Canyon from the local Chapter of Iron Men. The Iron Men estimate that 100 individuals will enter the contest, and that the event will last 3 days. The Canyon is a known habitat for the six-toe lizard and an endangered species of the toad flax genus. The local office will need a team of six individuals for an interdisciplinary team to conduct field surveys and write the environmental assessment. The team estimates that they will need about 40 hours apiece to complete the assessment and complete the documentation for the race (6 x 50 = 300 hours of total staff time for analysis and issuance). As part of calculating the direct cost of administering the permit, the team also estimated that it will take 3 employees 10 hours each to provide supervision and monitor the event (3 x 10 = 30 hours staff time for monitoring and supervision). The average State recreation management work month cost is $4400 per work month, or $25 per hour. Other direct costs include the use one vehicle 4 days for the field trips and monitoring (4 days x $30/day = $120 considering both monthly and mileage charges).

FEE CALCULATION

Step 1 Determine the number of direct staff hours required to process the application and monitor the event.

330 hours

Step 2 Multiply the number of direct staff hours by the recreation management program average work month cost (AWMC) for the office issuing the permit (contact your budget officer to get current work month cost information)

330 hours
x .25 $/hr (AWMC = 4400, divided by 176 hours/work month)
$ 8,250 (Total labor costs)

Step 3 Add other direct costs (vehicles, per diem, etc.)

$8,250 Total cost recovery costs for labor
+ $120 Other direct costs (vehicles, per diem, etc.)
$8,370 Total fee using the Cost Recovery guidelines

Step 4 Estimate use fees at the current rate for competitive events ($4 per participant per day in 2002)

$1,200 ($4 x 300 participant days)

Step 6 Compare the results of Step 3 and Step 4. Step 3 would result in a higher fee.

Step 7 Notify the applicant that cost recovery applies and that a total payment of $8,370 will be necessary for BLM to process the application and monitor the event.

I. Fee Collections

Fee Revenue Deposits - Beginning in FY 2003, all recreation fees will be collected under the authority of the "Recreational Fee Demonstration Program." All funds collected under this authority, including any cost recovery collections, are deposited into a separate 1232 Treasury account for your recreation site or area for immediate use on that site or area only.
Note: Permanent employee labor costs should not be paid for from this account.

J. Refunds

1. Application and/or minimum annual commercial fees are not refundable.

2. For multi-year commercial permits, over-payment of fees should be applied to the following year's use. Refunds should be granted for overpayment of commercial fees for single year or one time permits.

3. Commercial use fees and fees for vending, competitive use, and organized group event use may be refunded less the direct cost of processing the permit, if the estimated use is less than calculated or the event or activity is canceled. If the event or activity is in a fully allocated area, and the cancellation occurs without sufficient time for the authorized officer to reallocate the use, the fees will not be refundable. The standard for a refund in this case is – did

the permittee notify BLM in sufficient time for the use to be reallocated regardless of whether or not it actually was reallocated. This time frame shall be established by the local Field Office.

4. Refunds are not made for Special Area permits issued to individuals in allocated use areas except when BLM actions prevent the permittees use of the permit. Credit towards future use may be authorized where use was canceled in sufficient time to reallocate it to others.

5. When cost recovery is charged, all costs incurred up to the time of cancellation will not be refundable.

K. Approval to Vary or Waive Fees

1. Approval must be obtained in writing from the Director or State Director to vary fees, or the method to determine them, from those prescribed in the respective national or State recreation fee schedules.

2. The authorized officer may waive fees only for Special Recreation Permits issued for research and/or scientific, therapeutic, or administrative use directly related to management of the permit area or if the event or activity is co-sponsored by the BLM. Although fees may be waived, applicants on this basis must compete for use allocations where applicable. Non-profit, educational, or public agency status is not, on its own, a basis for waiving fees.

L. Terms and Stipulations

1. General Terms - In addition to the terms included on Special Recreation Application and Permit (currently BLM form 8370-1), the following general terms should be applicable to and made a part of all special recreation permits except permits for individual use of Special Areas. State Directors should develop stipulations for Special Area permits.

a. The permittee shall comply with all Federal, State, and local laws; ordinances; regulations; orders; postings; or written requirements applicable to the area or operations covered by the SRP. The permittee shall ensure that all persons operating under the authorization have obtained all required Federal, State, and local licenses or registrations. The permittee shall make every reasonable effort to ensure compliance with these requirements by all agents of the permittee and by all clients, customers, participants, or spectators under the permittee's supervision.

b. A SRP authorizes special uses of the public lands and related waters and, should circumstances warrant, the permit may be modified by the BLM at any time, including modification of the amount of use. The authorized officer may suspend or terminate a

SRP if necessary to protect public resources, health, safety, the environment, or because of noncompliance with permit stipulations. Actions by the BLM to suspend or terminate a SRP are appealable.

c. No value shall be assigned to or claimed for the permit, or for the occupancy or use of Federal lands or related waters granted thereupon. The permit privileges are not to be considered property on which the permittee shall be entitled to earn or receive any return, income, price, or compensation. The use of a permit as collateral is not recognized by the BLM.

d. Unless expressly stated, the SRP does not create an exclusive right of use of an area by the permittee. The permittee shall not interfere with other valid uses of the Federal land by other users. The United States reserves the right to use any part of the area for any purpose.

e. The permittee or permittee's representative may not assign, contract, or sublease any portion of the permit authorization or interest therein, directly or indirectly, voluntarily or involuntarily. However, contracting of equipment or services may be approved by the authorized officer in advance, if necessary to supplement a permittee's operations. Such contracting should not constitute more than half the required equipment or services for any one trip and the permittee must retain operational control of the permitted activity. If equipment or services are contracted, the permittee shall continue to be responsible for compliance with all stipulations and conditions of the permit.

f. All advertising and representations made to the public and the authorized officer must be accurate. Although the addresses and telephone numbers of the BLM may be included in advertising materials, official agency symbols may not be used. The permittee shall not use advertising that attempts to portray or represent the activities as being conducted by the BLM. The permittee may not portray or represent the permit fee as a special Federal user's tax. The permittee must furnish the authorized officer with any current brochure and price list if requested by the authorized officer.

g. The permittee must assume responsibility for inspecting the permitted area for any existing or new hazardous conditions, e.g., trail and route conditions, land slides, avalanches, rocks, changing water or weather conditions, falling limbs or trees, submerged objects, hazardous wildlife, or other hazards that present risks for which the permittee assumes responsibility.

h. In the event of default on any mortgage or other indebtedness, such as bankruptcy, creditors shall not succeed to the operating rights or privileges of the permittee's SRP.

i. The permittee cannot, unless specifically authorized, erect, construct, or place any building, structure, or other fixture on public lands. Upon leaving, the lands must be restored as nearly as possible to pre-existing conditions.

j. The permittee must present or display a copy of the SRP to an authorized officer's representative, or law enforcement personnel upon request. If required, the permittee must display a copy of the permit or other identification tag on equipment used during the period of authorized use.

k. The authorized officer, or other duly authorized representative of the BLM, may examine any of the records or other documents related to the permit, the permittee or the permittee's operator, employee, or agent for up to 3 years after expiration of the permit.

l. The permittee must submit a Post Use Report to the authorized officer for every year the permit is in effect. If the post use report is not received by the established deadline, the permit will be suspended and/or fines assessed. (**Note**: State Directors are encouraged to establish a statewide late fee schedule, for consistency between Field Offices.)

m. The permittee shall notify the authorized officer of any accident that occurs while involved in activities authorized by this permit which result in: death, personal injury requiring hospitalization or emergency evacuation, or in property damage greater than $2,500 (lesser amounts if established by State law). Reports should be submitted within 48 hours in the case of death or injury, or 10 days in accidents involving property damage. (**Note:** The authorized officer shall report accidents to the Bureau safety officer.)

2. Special Stipulations - in addition to the general terms listed in (1) above, the authorized officer may require the permittee to comply with any reasonable stipulations or conditions necessary to protect the lands or resources involved (e.g., compliance with applicable Leave No Trace, Tread Lightly! and other practices), reduce user conflicts, or minimize health and safety hazards. The permit terms and conditions are developed by the authorized officer in consultation with the permittee(s), and others as appropriate, including State and Federal land managing agencies, State outfitter licensing boards, outfitter/guide associations, State fish and game agencies, and advisory councils. Any such stipulations will also be made part of the permit and used in the evaluation process. The BLM shall not additionally stipulate or otherwise regulate matters that are the responsibility of other Federal, State, or local agencies. The BLM stipulations should not conflict with other agency regulations and requirements where other agencies have clear jurisdiction.

M. Bonds

Bonding is a type of guarantee that protects the United States against financial loss resulting from defaulted obligations associated with special use authorizations. A bond ensures obligations or payments associated with these authorizations.

Do not use bonds to enforce general terms of an SRP. Rather, use bonds to enforce readily identifiable requirements that are specified in an authorization. In particular, use bonding if it is necessary to protect the United States from a complete default under the authorization. A bond is not a substitute for proper and timely administration of a SRP's terms and conditions. The holder must fulfill the requirements of the authorization, and the BLM must monitor, document, and enforce compliance, regardless of whether there is a bond. Do not use bonds as a substitute for suspension or revocation of an authorization or for recreation use fee requirements, as recreation use fees should be paid in advance of the authorized use and occupancy. Inconsistent or lax administration may prejudice the ability of the BLM to obtain recourse from the bonding company.

1. Types of Bonds

a. Cash Bond - amount of money deposited with the Government that can be drawn upon to defray costs of restoration and rehabilitation of the lands affected by a permitted use.

b. Payment Bond - amount of money deposited or a promissory arrangement entered into to guarantee payment of fees associated with an SRP.

c. Surety Bond - promissory note of a financial institution that guarantees payments of an amount of money to defray the costs of restoration of the lands affected by the permitted use.

2. Acceptable Securities for Bonds

The following are acceptable forms of security for bonds:

1. Cash deposits
2. Corporate Security
3. Irrevocable letters of credit
4. U.S. Treasury Bills
5. Notes, Bonds, or other negotiable securities
6. Certificates of Deposits.

3. Bond Requirements. The authorized officer may require the posting of any of the above types of securities for bonds or guarantees in such form and in such amount as the authorized officer determines to be sufficient to defray the costs of restoration, reclamation, or rehabilitation of the lands affected by the permitted use. Base the amount of the bond on the estimated cost to the United States to perform or have others perform the defaulted obligations of the holder. In addition, consider inflation, availability of BLM personnel and other resources, technical aspects and other characteristics of the site and improvements, and the cost to the holder. If multiple authorizations are covered by a blanket bond ensure that the amount of the bond is sufficient to cover the anticipated loss under all authorizations covered by the bond.

Ensure that the bond provides that, at the BLM's option, the surety must pay the United States for any loss covered by the bond or, in the event of a complete default under the SRP, must pay a third party (not the BLM) to operate under the authorization. Ensuring that the bond also provides the selection of a third party to operate under the authorizations is subject to authorized officer's approval.

Failure to provide adequate bonding as required is grounds for denying an SRP application. If, after sufficient notice and opportunity to comply, the holder of an SRP fails to provide adequate bonding as required, consider suspending or revoking the authorization.

Require bonding only for the period and in the amount needed to satisfy the SRP requirements. When a bond is no longer necessary or the amount of the bond may be reduced, provide a statement to the SRP holder and the bonding company that the bonding requirement has been met or is being reduced, and release or reduce the amount of the bond. Return the bond only upon satisfactory compliance with all permit stipulations, including any reclamation and/or rehabilitation requirements.

If approved by the authorized officer and SRP holder in advance, a payment bond or other guarantee may be used to pay estimated advance fee payments in excess of the minimum annual permit fee.

N. Insurance and Liability - A property damage, personal injury, and comprehensive public liability insurance policy is required of all commercial and competitive permittees and may be required for vending or organized group activities and events (depending upon the kind of activity and risk to the Government). The policy will provide restitution for damage or injury to participants, spectators or both, or to privately owned resources, and protect the United States from litigation resulting from actions taken or caused by the permittee or participants in a permitted use. The reviewing office should consult with the State Government insurance authority in determining the acceptability of standard or unique policy provisions, clauses and industry practices.

The BLM shall require that all commercial and competitive use authorization holders indemnify the United States for all liability for third-party property damage (damage to property other than that owned by the holder or the United States) and for all personal injury, loss of life, or property damage that arises in any way from activities connected with the authorized use and occupancy. To meet this obligation, the permittee must secure liability insurance in an amount adequate to protect the interests of the United States, unless the insurance requirement is waived. Furthermore, the BLM may require liability insurance for other types of uses based on a risk assessment.

At a minimum, the permittee shall have in force public liability insurance covering:

(1) Damage to property in the amount of $30,000;

(2) Damage per occurrence (persons, bodily injury, or death) in the amount of (minimum) $300,000; and

(3) A minimum annual aggregate limit of $600,000. The coverage shall extend to property damage, bodily injury, or death arising out of the permittee's operations under the permit, including, but not limited to, the occupancy or use of the lands, structures, facilities, or equipment authorized by the permit.

(4) The insurance shall name the United States as additional insured (not co-insured) and provide for specific coverage for the permittee's contractually assumed obligation to indemnify the United States.

(5) The policy shall also contain a specific provision or rider to the effect that the policy will not be canceled or its provisions changed or deleted before thirty (30) days written notice by the insurance company to the BLM.

Table 2 provides guidelines and minimums for Per Occurrence and Per Annual Aggregates only. Additional coverage should be required if it is determined that the activity or event is an unusually high risk or for other compelling reason.

Table 2 - General Guidelines for Minimum Insurance Requirements

SRP Event or Activity	Per Occurrence	Per Annual Aggregate
Low Risk: general non-competitive and non-commercial activities such as group camping, group activities, mounted orienteering, backpacking, or dog trials.	$300,000	$600,000
Moderate Risk: whitewater boating, horse endurance rides, OHV events, mountain bike races, rock climbing (with ropes), ultra-light outings, rodeos	$500,000	$1,000,000
High Risk: bungee jumping, speed record events, unaided rock climbing	$1,000,000	$2,000,000 - $10,000,000

Authorized uses are considered low risk when injuries generally associated with authorized activities are not likely to result in death or permanent disability. Authorized uses are considered high risk when injuries generally associated with authorized activities may result in death or permanent disability.

The permittee must submit a valid certificate of insurance covering the authorized activity prior to initiating operations. The authorized officer may require the permittee to furnish a copy of the insurance policy. The policy should stipulate the authorized officer will be notified 30 days in advance of the termination or modification of the policy. The name on the insurance policy or certificate of insurance must be the same as the name on the permit. Those permittees holding insurance policies which only insure the permittee and not the permittee's employees must ensure that their employees also have the required insurance in effect, and that a certificate of insurance is furnished to the authorized officer. The insurance need only be valid during periods of actual use. Because of the importance of the time factor in filing claims, protection of the permittee, and visitors, permittees should be encouraged to immediately report to their insurance company any incident that could possibly result into a claim at a later date.

O. Permit Monitoring, Evaluation, and Compliance

1. **Monitoring for Compliance** - Permits are monitored for compliance with stipulations, terms, and conditions. The amount of such monitoring is commensurate with the

resource values at risk, the permittee's past record of compliance, and the ability to obtain monitoring services through other means such as local police, other permittees, the public, and other factors. The Bureau's capability to monitor terms and conditions may be a determining factor in deciding whether or not to issue a permit. Failure to comply with stipulations or conditions may result in administrative penalties, civil suit, or criminal sanctions (see Chapter 4).

Consideration should be given to having the permittee or one of his representatives present during informal compliance evaluations. Permittees will be contacted prior to formal compliance inspections and invited to be present during formal inspections of operations or facilities. Inspections will be limited to the business records, operations, and facilities related to the permittees use of public lands or related waters.

The permittee will be given a written notice of conduct or conditions that, if not corrected, might lead to an unacceptable or probationary performance rating. The notice will be documented in the permittee's file and include an explanation of needed corrections and provide a reasonable time period in which the corrections may be made without penalty. Severe permit deficiencies may require immediate suspension, termination, or other disciplinary action.

2. **Performance Evaluation** - A performance evaluation is required of all commercial and competitive permittees and may be required for other types of permits. The purpose of a performance evaluation is to evaluate a permittee's performance and compliance with the stipulations and terms of the permit. At a minimum, an annual evaluation must be completed. Performance evaluations may also be conducted at the end of the permit term, when there are changes in operating plans or procedures, when violations of the permit occur, prior to the issuance of a new use authorization to an existing permittee, or prior to permit renewal.

The permittee will be given written notice of results of annual performance evaluations not later than 90 days after the conclusion of the permittees operating season, including the level of performance and the status of corrections that may be required to retain the multi-year permit.

Compliance with other Federal, State, local laws, or regulations is a key consideration in performance evaluations. However, BLM shall not conduct detailed inspections or evaluations to ensure compliance with other agency's regulations as part of the SRP administration process. BLM's role is to request or arrange for, as necessary, the other agency to carry out its responsibility. Certain exceptions may be outlined and provided for in cooperative agreements or memoranda of understanding.

Important considerations in the development of the evaluations are the degree of compliance with conditions of the permit and operating plans, the protection of resource values, and quality of services rendered to the public. The authorized officer should attempt to develop consistency in evaluation formats with other BLM offices whenever possible.

Three different performance levels are recognized: acceptable, probationary, and unacceptable. An opportunity to address probationary or unacceptable performance items may be given to the permittee consistent with other stipulations in the permit, and prior to any decision regarding cancellation or other disciplinary measures. Ratings are confidential between the BLM and the permittee, to the extent allowable by law or regulation. If a permittee receives a probationary or unacceptable summary rating, notification of such rating may be forwarded to the State outfitter licensing board, and/or related outfitter/guide associations. A copy of the completed evaluation will be maintained in the permittee's file.

Acceptable Performance means that the permittee has generally operated in accordance with the terms and conditions established for the permit. This may include some minor deficiencies that need correction. If deficiencies persist after a reasonable time period following notification, they may result in a probationary rating.

Permittees with acceptable ratings are generally eligible for permit renewal and transfer where continued use is consistent with planning and other appropriate factors.

Probationary Performance means that the permittee has not operated in full accordance with the terms and conditions of the permit. Performance does not pose an immediate threat to the safety of guests or others, is not in violation of law and doesn't pose a threat of significant resource damage. Corrective action by the holder is mandatory and continued operation at this level of performance is unacceptable. Examples of items that could lead to a probationary rating include: required reports and fee payments are repeatedly delinquent, approved itineraries and/or schedules are not followed, changes to camp layout or operating plans are made without communicating with the authorized officer, or allocation limits are exceeded. The basis for the rating will be clearly documented on the rating form or attachments.

A permittee given a probationary performance rating will only qualify for a permit not to exceed 1 year, and permits with remaining periods of more than one year will be amended. If the permittee receives a probationary level 2 years in a row, the authorized officer may suspend or terminate the permit and/or deny future permit applications. Permits in probationary status shall not be transferred.

Unacceptable Performance means that the permittee has not operated in accordance with the terms and conditions of the permit and cannot be allowed to continue. The level of performance is a threat to the safety of guests or others or involves a serious violation of law, significant resource damage, or major violation of administrative or financial obligations. Examples include failure to obtain necessary licenses or registration; recurrent or serious violations of fish and game laws, outfitter-guide laws and regulations; failure to pay fees, failure to comply with insurance requirements, falsification of records, and public endangerment.

An unacceptable performance rating will result in suspension, termination, or revocation of permit privileges as appropriate to the circumstances.

3. Compliance

a. **Reporting Requirements** - The authorized officer will establish reasonable reporting requirements for permittees. Post use reports should include all information necessary for the authorized officer to calculate use numbers and permit fees. Information may be requested on the number of clients served, number of participants or spectators, entrance fees collected, gross revenue per trip or client, and related matters. The authorized officer will establish reasonable time requirements for the submission of these reports such as on a daily basis, within 10 working days after an event, monthly, seasonally, or annually. For competitive events, vendors, and individual commercial events, the post use questionnaire contained in BLM's Special Recreation Permit and Application (currently Form 8370-1) may be sufficient.

The authorized officer should ensure that the information collected from permittees is of sufficient detail to allow for the preparation and submission of the BLM's Recreation Management Information System (RMIS) annual reports.

The permittee shall notify the authorized officer of any accident that occurs while involved in activities authorized by this permit which resulted in: death, personal injury requiring hospitalization or emergency evacuation, or in property damage greater than $2,500 (lesser amounts if established by State law). Reports should be submitted within 48 hours in the case of death or injury, or 10 days in accidents involving property damage. The authorized officer shall report accidents on Form DI 134 to the Bureau safety officer.

b. **Inspection of Records and Audits** - The authorized officer, or other duly authorized representative of the BLM, may examine any of the records or other documents related to the permit, of the permittee or the permittee's operator, employee, or agent for up to 3 years after expiration of the permit. Random audits of a sample of permittees should be conducted regularly on a statewide level. Such reviews should, at a minimum, include an audit of revenues and visitor use. Independent auditors may be contracted to conduct such work. If payment or other discrepancies are found, BLM will make an effort to ensure proper payment or permit compliance.

c. **Violations and Penalties** -

1. Violation of the operating plan requirements, permit terms, and stipulations, or other Federal, State, or local regulations by a permittee or a permittee's employees or agents on any Federally administered lands or related waters can result in penalties issued against the permittee(s) by the authorized officer.

a. Minor administrative penalties in the form of service charges may be identified as part of the terms and conditions of the permit. States may establish their own recreation fee schedules for charging service fees for late payments, late reports, failure to cancel reservations etc. through State recreation fee schedules. In addition, interest is also charged at the current Federal Reserve Prime Interest rate. These administrative penalties may be in addition to civil and criminal charges, which may be brought against a permittee by the BLM.

b. Other administrative penalties may include probation, suspension, or termination actions for violations of Federal, State, or local laws, regulations, or permit stipulations. See Glossary for definitions. A permittee who loses permit privileges on other Federal or State land due to permit violations may also be denied permit privileges on BLM-administered land. Administrative penalties should be reciprocal, whenever possible, between BLM offices or other Federal, State, or local administering agencies.

c. Criminal penalties, as provided for in 43 Code of Federal Regulations 9268, are a third type of action that may be taken by the authorized officer to rectify violations of the terms and conditions of the permit. Administrative remedies should normally be pursued prior to using criminal penalties. Permittees serving court ordered probation for violation of Federal regulations pertaining to public lands and resources may have permit privileges denied for the duration of the probation period.

2. Alleged violations will be brought to the attention of the involved permittee(s) by the authorized officer, either by telephone, personal contact, or in writing. Based upon available information, the authorized officer will notify the involved permittee(s), in writing (by registered mail if necessary), explaining the nature of the violation and any steps the permittee(s) must take to remedy the situation. If an adverse administrative penalty is to be assessed a permittee, the authorized officer should follow the procedures outlined in Chapter 4, Decisions, Protests, and Appeals.

The permittee must take immediate steps to rectify the situation to the satisfaction of the authorized officer. Depending upon the severity of the violation and/or the permittee's ability to rectify the violation, the authorized officer reserves the discretionary authority to impose specific penalties upon the permittee, including, but not limited to: permit privilege denial, probation, suspension, or revocation, in whole or in part, and without compensation.

All communications should be documented in the permittees' file. Information on violations shall be made part of a permittees' annual performance evaluation.

P. Coordination and Joint Permits

Commercial recreation activities involving more than one jurisdiction (i.e., two BLM offices, other agency lands, private lands, etc.) may require the development of joint permits. Local, State governing bodies, or private property owners may require separate permits or authorizations. However, the BLM State Director and/or authorized officer should consider the development of policy, memoranda of understanding, joint decision documents, or cooperative agreements to improve overall efficiency and effectiveness between managing agencies and/or the private sector. Should separate authorizations be necessary, the permittee is responsible for securing appropriate agency or private property owner clearances and/or permits, and provide proof on demand by BLM.

1. Coordination between BLM Field Offices/States - The authorized officer should give consideration to improved public service through issuance of a single permit, and reduction in administrative costs both for the BLM and the permittee. Normally, the office/State having the most significant portion of the activity (i.e., river mileage or acreage) should issue the permit. The BLM Field Office issuing the permit will contact the other affected Field Offices to ensure that the SRP may be issued for areas outside of their jurisdiction.

2. Coordination with other Federal Agencies - Commercial or competitive activities involving multiple agencies (e.g., BLM/United States Forest Service) may require the development of interagency agreements and/or joint permits. The agency having the greatest amount of the proposed use will generally process the application and issue the permit. Additionally, fee revenues should be distributed in accordance with agreed upon criteria (e.g., percent of use area, staff time involved in permit processing, and administration) and deposited/reported in accordance with applicable agency procedures. One stop shopping and fee collection is encouraged where joint agencies are involved. Interagency transfer of permit processing fees can be avoided by requesting the permittee to issue separate checks to each administering office or offices can agree which agency will collect and retain the fee.

Chapter 2. Recreation Use Permits

I. Issuance of Permits

A. Purpose

1. Recreation Use Permits (RUPs) are issued for the short-term recreational use of specialized sites, facilities, equipment, or services furnished at Federal expense.

2. RUPs are most frequently used in BLM to authorize individual and group recreational use of Designated Recreation Use Facilities, commonly known as "fee sites". At such sites, RUPs are the fee envelopes (BLM Form 1370-036) used at campgrounds for the collection of daily use fees. RUPs may also be used for collections at facilities such as group shelters, boat launch areas where daily use fees are charged or designated entrance fee areas. Fees are always collected in conjunction with RUPs.

3. RUPs should not be confused with SRPs which are issued under a different provision of the Land and Water Conservation Fund Act. RUPs and SRPs are reported separately in the BLM's RMIS.

B. Availability of Recreation Use Permits

RUPs are normally available on a first-come, first-served basis from fee envelope dispensers at fee stations. In some cases, it may be appropriate to distribute permit envelopes directly to visitors or from an off-site location. Where advance reservation systems are in place, such as for the use of group sites, visitors may be required to reserve a site and pay in advance of their arrival. Visitors should be informed about the location of any off-site distribution facility by means appropriate to the situation.

C. Permit Procedures

1. Standard procedures are described on the fee envelope for the RUP and may be supplemented by instructions posted at the fee station. Examples of supplementary instructions are where site managers request that permittees clip the envelope stub on a site number post instead of on their vehicle or pay camp hosts or employees in person.

2. If alternate procedures for obtaining a permit are available, the RUP should be posted onsite or made available to the public via other appropriate means.

D. Duration of Recreation Use Permits

1. RUPs may be issued for a day, season of use, year, or any other time period that BLM deems appropriate for the particular use. Most RUPs are short term in nature. For example, many offices limit use of developed sites to 14 days. Sites and facilities in high demand may have much shorter use limits, e.g., use of a day use picnic shelter might be limited to 1 day. Information about allowed length of stay should be posted at sites where appropriate.

2. The requirement to obtain a RUP and pay fees for use of a Designated Recreation Use Facility may be suspended during times of low public use, when certain services such as water systems and garbage collection are not provided, or for other reasons approved by the authorized officer.

II. Fees

A. General Fee Policy and Guiding Parameters

1. Policy and Purpose. It is BLM's policy to collect fees at all recreation sites where the BLM provides special facilities, equipment, or services, at Federal expense, in connection with outdoor recreation use. The collection of recreation fees should support BLM's Mission and Corporate Agenda and be in conformance with the BLM's national recreation strategic plan. Fee programs should support protection of natural resources, provide for public health and safety, and facilitate access to public lands.

The intent of the fee program is not to maximize revenue, but rather to provide needed public services while protecting and enhancing public lands and recreation opportunities. Fees should be balanced and affordable for all members of the public, and should not be an impediment to visiting public lands. Fees should not be used as a means to allocate recreation opportunities. Those who actively utilize recreation opportunities should make a greater but reasonable contribution to protect and enhance those opportunities than those who do not make use of such opportunities.

The BLM supports creative and innovative use of fees to accomplish desired goals of the recreation program. Different types of fees and methods of collection are encouraged to meet management objectives.

2. Use of Fees. It is BLM policy that recreation fee revenues should not be offset by a reduction in the overall recreation budget. Fee revenue should be spent in the following priority (1) at the site of collection, (2) within the Field Office of collection, and (3) to other high priority recreation sites within the State of collection. Fees should first be spent on reducing the maintenance backlog and on improving operations and user experience with existing facilities and programs, before being used to fund expansion of further developments.

Fees should be used to provide tangible services to the public, and should not be used to fund a permanent workforce. Examples of tangible services include:

Increased site or area maintenance.
Safety services such as search and rescue and hazard reduction.
Interpretive signing or information brochures and maps.
Visitor contact stations and/or increased management and enforcement presence.
New or improved facilities such as restrooms, water, parking areas, etc.

B. Establishing Fee Collection Sites

1. Each State Director is responsible for implementing a recreation fee policy that includes:

a. A review of recreation areas to identify those areas that can be designated as fee sites and to analyze the potential for permits and/or fees at those sites.

b. A biennial review of all current recreation fee sites and services for fee comparability.

c. An assurance that there is accountability for cash collected from recreation sites.

d. The establishment of a program to conduct periodic Special Recreation Permit financial audits or reviews.

2. The following procedures should be followed when establishing a fee site or charging fees for specialized services:

a. Ensure that site development and/or service fees are in conformance with Land Use Plans and Recreation Activity Plans.

b. Involve user groups and surrounding communities when designating fee areas and developing fees.

c. Prepare a business plan addressing, at a minimum, the following points:

1. Resource management objectives to be served;

2. A general financial analysis, including projected development, operation, and maintenance costs, and projected income;

3. Analysis of existing private and public facilities in the area that may be in direct competition.

4. Strategy for outreach, marketing, and general publicity. Develop a marketing effort that encourages public support, builds appreciation for public lands, reinforces responsible use, fosters increased financial and personal involvement in recreation issues, and improves overall management.

5. Projected expenditure of fee revenue, including operations, capital improvements, and labor.

c. Provide users with annual feedback on how their fees were spent.

C. Recreation Fee Decision Matrix

Recreation Fee Decision Matrix	
Maximum Potential For Fees	Minimum Potential For Fees
- Site contributes to achieving management Goals and objectives. - Fee collection is cost effective. - High volume, concentrated recreation use. - Limited point(s) of entry point. - Significant public attraction with unique/natural values. - Facilities are needed to provide protection of natural resources and provide for public health and safety of visitors. - Minimal local/regional opposition. - Area can sustain continued use. - Recreation fee site is not in serious competition with existing similar facilities. - The site improves and enhances visitor access, service, and experience. -Fee collection discourages inappropriate uses and vandalism.	- Cost of collection exceeds receipts. - Minimal tangible services or minimal potential for development because of remoteness or low use. - There is no product or service provided. - Unlimited points of entry make fee collection extremely difficult and/or cost prohibitive. - Fee collection would preclude volunteer contributions or other sources of revenue. -High opposition to fees for public land use. - The project creates double or multiple charges for any particular recreation group. -There are similar existing facilities on private or other public lands which provide adequate services for the area. -The fee would be economically prohibitive to a segment of the user population.

D. Establishing Fee Rates for Recreation Use Permits

1. RUP fees are set considering the following six criteria established by the Land and Water Conservation Fund Act as amended. New or proposed fee sites should be developed in the context of a business plan to analyze the proposed site.

a. Criterion No. 1--Direct and Indirect Cost to the Government

(1.) Most public agencies use cost information (*cost of operations*) as a factor in setting fees. The Office of Management and Budget (OMB) in Circular A-25 encourages cost recovery. Cost information allows managers to present the public with a clear statement of the financial resources necessary to support services delivered.

(2.) *Direct costs* include those costs that would not exist if the program was not offered such as: salaries and benefits for time actually involved in fee collection, patrol, maintenance, and resource management of the site and/or activity; equipment such as pipe safes, honor vaults, lock boxes, safes, money bags, etc., used in the collection of fees; transportation costs and vehicle mileage charges required for travel to and from the collection sites and banks or post offices; supplies and materials necessary to operate a fee collection program, including tickets, forms, collection boxes, etc.; maintenance and utilities for the site and capital improvements such as signs and roads.

(3.) *Indirect costs* are sometimes referred to as overhead. These costs, normally much less than direct costs, are not directly incurred by the program or facility, but may be charged to it. Indirect costs usually benefit a number of programs or services in the area and a portion may be charged to each program. Indirect costs include an estimated percentage of expendable materials and administrative staff time needed for supervising, accounting, reporting, and auditing functions and for simply employing additional personnel.

b. Criterion No. 2--Benefit to the Recipient

The concept of recipient benefits, as it relates to recreation user fees in the BLM is a simple “Yes” or “No” determination. If a visitor is able to camp, the benefit is tangible. If the visitor takes a guided tour, rides a shuttle bus, or receives a Special Recreation Permit to drive an off-highway vehicle there is also a clear benefit. If it is obvious that the recipient benefits from a recreation activity, service, or facility, etc., this criterion is satisfied.

c. Criterion No. 3--Public Policy or Interest Served

The assessment of the public policy or interest served by fees should consider who receives the current or proposed services and what their share of the cost should be.

It should also evaluate the appropriateness of the level and kind of service to be maintained or provided. The LWCFA established that persons taking advantage of Federal facilities and services should pay a greater share of the associated costs than the public as a whole.

d. Criterion No. 4--Comparable Recreation Fees Charged by Other Federal Agencies, Non-Federal Public Agencies, and the Private Sector Located Within the Service Area

(1.) Since the passage of the LWCFA, comparability has been the primary criteria in setting recreation use fees. When setting a Federal recreation fee, BLM must consider charges being made for the use of similar sites, services, facilities, and equipment made by other Federal agencies, non-Federal public agencies, and the private sector within the service area so that public facilities do not impose unfair competition with the private sector.

(2.) The comparability analysis is the primary basis for any proposed changes in fee rates or the implementation of a fee program. In conducting this analysis, the basic objective is to determine whether or not differences exist in an area's current or proposed recreation fee schedule when compared to those of similar facilities and programs in the area or region. Comparability studies should attempt to compare like facilities and activities and make adjustments for differences in the quality and kind of sites, services, equipment, and facilities. The analysis need not be complicated or time-consuming. A few phone calls to nearby areas usually provides the information needed. To ensure a reasonable degree of comparability, consistent criteria should be applied. When available within the service area, a minimum of three comparable services should be evaluated.

e. Criterion No. 5--Economic and Administrative Feasibility of Fee Collection

Fee collection is administratively feasible if the collection method is workable and cost effective. At a minimum, it is economically feasible if the anticipated revenue is greater than the cost of collection. Determining the feasibility and cost effectiveness of initiating or raising fees should consider factors such as the effect on visitation, collection procedures, enforcement capability, availability of staff, and overall revenue potential. The question of feasibility should be decided after all reasonable methods of collection have been considered. The feasibility of more than one method of collection, such as closing entrance stations during the off-season and directing visitors to pay their fees at a center or a pipe-safe should be considered. Common collection methods include: staffed fee stations, various honor systems, reservation systems, permit systems, and automated devices such as toll gates or coin-operated ticketing machines. The collection method chosen should be tied to the type of fee being collected. Individual activity fees or use fees are usually seen as fair, since actual users support the special facilities or activities they enjoy. On the other hand, entrance fees are often favored because they are easier and usually cheaper to collect than individual activity fees.

f. Criterion No. 6--Other Pertinent Factors

(1.) Apart from cost recovery, fee collection may achieve other management objectives such as: improving security for all visitors through controlled access; reducing crime, vandalism, wildlife poaching, and other unauthorized or undesirable activities; spreading usage more evenly over time and place so the resource is better protected; and increasing visitor contact at staffed fee stations. Fee collection can also prevent problems before they occur. Collection stations are convenient places to remind visitors about area rules and may discourage visits for unauthorized uses or purposes.

(2.) Fees should be re-evaluated at least every 2 years to determine appropriate rates. Public notification and coordination, as appropriate, regarding the establishment and subsequent modification of fee rates is an integral part of the evaluation process. Particular attention should be given to reviewing the cost of providing the service or facility and to charges assessed elsewhere within the service area by other public and private providers for similar services or facilities. The assessment of comparable charges should take into account differences in amenities provided, e.g., a site with a paved access road could have a higher fee than one with a graveled access road where other features are similar.

E. Golden Passports

1. Holders of Golden Age and Golden Access Passports are entitled to a 50 percent discount on fees charged for the use of Designated Recreation Use Facilities. For example, if the regular fee for the use of a campground is $8, persons with these passports pay $4. Golden Eagle Passports do not apply to RUP fees and none of the Golden Passport discounts apply to SRP fees.

2. Additional information about Golden Passports is contained in the Federal Recreation Pass Programs brochure (stock number p-333) available through BLM's Printed Materials Distribution Service (PMDS).

F. Specialized Sites, Facilities, Equipment and Services for Which Fees May be Charged

1. The 1993 amendments to the Land and Water Conservation Fund Act revised the conditions under which fees may be assessed for the use of campgrounds. Fees may now be charged at sites that meet at least five of the following nine factors: (a) tent or trailer spaces, (b) picnic tables, (c) drinking water, (d) access road, (e) refuse containers, (f) toilet facilities, (g) personal collection of the fee by an employee or agent, (h) reasonable visitor protection, and (i) simple devices for containing a campfire -- where campfires are permitted. The use of pipe-safes for fee collection under an honor system of payment and the use of volunteers both satisfy the "personal collection by an employee or agent" criterion.

2. Specialized sites include, but are not limited to, swimming pools, developed hot springs, overnight cabins and shelters, managed parking lot, and vehicle, boat, and/or trailer storage. An example of a managed parking lot would be one that is staffed, has controlled access, may or may not be lighted, has trash collection, where vehicles may be left unattended while visitors pursue recreational activities off-site.

3. Facilities include, but are not limited to, boat launching facilities, group shelters and pavilions, showers, bathhouses, and electrical hook-ups. The decision to charge a fee and the amount of the fee depend on the services and facilities provided. For example, a group shelter may contain propane grills, picnic tables, restrooms, drinking water, garbage collection, landscaping, etc. which clearly justify a fee.

4. Equipment includes, but is not limited to, rental of boats or any Government-owned equipment.

5. Services include, but are not limited to, guided tours, shuttle services, reservation services, trailer waste dumping facilities, human waste disposal stations, and providing firewood.

6. Except where authorized under special authority, fees cannot be charged either singly or in any combination for the use of drinking water, wayside exhibits, roads, overlook sites, visitor centers, scenic drives, toilet facilities, or for the sole use of picnic tables.

G. Entrance Fees

1. The BLM was given the authority to charge entrance fees for National Conservation Areas (NCA) as part of the 1993 amendments to the Land and Water Conservation Fund Act. Entrance fees are charged either on an annual or single-visit basis for admission to any Designated Entrance Fee Area. An area or closely related group of areas administered by the BLM may be designated as an entrance fee area if the area is included within the boundary of a NCA.

2. Entrance fees for approved pilot program areas may be considered under the provisions of the Omnibus Budget Reconciliation Act of 1996 as part of the Recreation Demonstration Fee Program.

3. Lands under consideration for designation as entrance fee areas should also be administered primarily for scenic, scientific, historical, cultural, or recreational purposes; include recreation facilities or services provided at Federal expense; and be configured in such a way that entrance fee collection is administratively and economically practical.

4. Annual and Single-Visit Passes

Annual passes allow entry to one NCA for the holder and accompanying individuals traveling together in one non-commercial vehicle. Annual passes are valid for 12 months from the date of purchase. Single-visit passes allow entry to one NCA for the holder and accompanying individuals traveling together in one non-commercial vehicle for a specific period of days from the date of purchase.

5. Establishment of Fee Rates for Annual and Single-Visit Passes and Golden Passports

a. The annual and single-visit entrance fee rates for NCAs are established by the authorized officer using the same analysis factors discussed under recreation use permits (direct and indirect cost to the Government, benefit to the recipient, etc.). In addition, implementation of NCA entrance fees must be accompanied by public notification requirements described in 36 CFR 71.14.

b. Golden Eagle, Golden Age, and Golden Access Passports are accepted by the BLM in lieu of full or partial payment for an entrance fee to Designated Entrance Fee Areas.

H. Payment for Recreation Use Permits

1. Permittees may pay on-site by cash, check, or money order. Payment by credit card may be made where arrangement for such payments have been established. Offices operating advance reservation systems or collecting for other services may also take payment by credit card either in person or over the telephone.

2. Fees must be paid upon occupying a Designated Recreation Use Facility, when services are received, or as participation in a reservation system may require.

I. Refunds

RUP fees may be refunded when a fee site is closed to public use after fees have been paid.

J. Posting of Sites

Offices collecting recreation use fees for the use of fee sites are required to identify designated recreation use facilities by posting signs notifying the public that Federal recreation fees are charged. The specifications for U.S. Fee Area signs are provided in 36 CFR Part 71. These "U. S. Fee Area" signs are available from the BLM's National Sign Center located in Rawlins, Wyoming, phone 307-328-4312. The standard form poster can be obtained from PMDS.

III. Allocation of Use

A. Establishment of Fee Site Capacity

Capacities for number of people, vehicles, tents, etc. may be established to protect resources, facilities, or other values. For example, campsite use may be limited to 2 vehicles and 10 people to keep vehicles from parking on campground roads and prevent overcrowding at sites. Restrictions of this type must be posted at entrance stations or other appropriate areas.

B. Reservation Systems

Offices may establish or participate in advance reservation systems for the use of Designated Recreation Use Facilities. Separate non-refundable fees may be charged for reservation services, e.g., a site reservation fee may be assessed in addition to site use fees.

IV. Terms and Conditions of Use

A. Holders of RUPs must abide by the standard rules for the use of developed sites as published in 43 CFR 8365.1-6. These standard rules of conduct will be posted at developed recreation sites.

B. Permit holders may also be subject to published supplementary rules applicable to the site. Procedures for publishing special rules are covered in 43 CFR 8365.1-6. Supplementary rules must also be posted at the developed recreation site.

V. Renewal and Transfer of Permits

RUPs may not be transferred or renewed.

VI. Permit Suspension and Revocation

A. RUPs may be suspended to protect public health, public safety, the environment, or permit holders.

B. RUPs may be revoked if permit holders violate any of the acts prohibited in 43 CFR 8365/9268.

VII. Recordkeeping and Storage of RUPs

Prior to disposal, visitor use and fee information such as number of visitors, length of stay, and fees collected should be extracted from the RUP envelopes and summarized for reporting

through the Recreation Management Information System (RMIS). RUP envelopes must be kept until the end of the fiscal year, at which time all fee and visitor use information should have been recorded. The total fees collected for each fee area are also recorded on the Recreation Fee Collection Affidavit (see Illustration 7) each time funds are collected and counted.

VIII. Financial Controls.

It is critical that controls are used in the collection and depositing of fee collections. When possible the use of double fee boxes, two individuals to collect fees, or persons bonded should be used in handling fees. The procedures in the Collections Handbook and other collections instruction memoranda must be followed.

A. Designation of Collection Personnel

1. BLM employees (including seasonal and volunteer employees.)

a. Any employee who collects funds as a routine part of their job must be designated as a Collection Officer. Collection Officers are designated by the State Director following a request by employee's supervisor. See Illustration 8 for sample memorandum.

b. Any employee who has the responsibility to accept money and make change, must be designated as a Class D Cashier (must also be designated as a Collection Officer). Supervisors must submit a memorandum to the National Business Center (NBC) requesting that an employee be designated as a Cashier. A memorandum authorizing the designation will be returned to the supervisor to be counter-signed by the employee.

2. Other Federal Employees - If another agency employee is designated as a Collection Officer with their own agency, they do not need to be designated as a Collection Officer with BLM. However, if they are to have a BLM change making fund, they need to be designated as a Collection Officer and Class D Cashier with BLM. Collection duties must be addressed in intra- or interagency agreements. The agreement must include who is designated and who is responsible for collections for each agency.

3. Volunteers

a. Bonding. Volunteers collecting Federal fees are covered by a surety bond contracted for by the Washington Office on a yearly basis. The bond covers a loss of $10,000 per incident with a $250 deductible. BLM may grant relief to volunteer Collection Officers. Losses in excess of $750 must be referred to the Comptroller General for decision. The office to which the volunteer is assigned shall be responsible for providing a funding source for relieved losses. In the event that a claim is filed for loss, follow the instructions of

Administrative Officers who retain responsibilities for the collection of Government fees. (See BLM Manual 1114-Volunteers.)

b. Designations of Volunteers to Collect Fees - Volunteer Agreement. The designation of a volunteer to collect fees will be authorized in the Volunteer Agreement ("Individual Volunteer Agreement," BLM Form 1114-4). Volunteer who collect fees must be given a notice of liability, clearly informing the volunteer of the risk they assume for Federal funds when they assume the duties of collection agents. The notice must be signed by the volunteer and a copy retained in the office files with the following clause:

"I certify that I have received adequate training on the proper handling and safeguarding of Government funds in my possession and understand that I am automatically liable for any loss or shortage of such funds. However, I may be relieved of such liability if the loss occurred without fault or negligence on may part and while I was acting in the discharge of my official duties."

A list of all volunteers authorized to collect Federal fees must be maintained at each State Office. Volunteers may not make deposits of Federal funds.

c. Designation of Volunteers as Cashiers. Volunteers must be designated as Cashiers through the NBC. (See Designations of Class D Cashiers above for procedures.)

4. Contractors. Procedures and responsibilities for Federal fees collected by contractors must be detailed in the contract. The contractor must purchase a bond and show proof of bonding. Contractors who collect fees must be given a notice of liability, clearly informing the contractors of the risk they assume for Federal funds when they assume the duties of collection agents. The notice must be signed by the Contractor and a copy retained in the office files with the following clause:

> "I certify that I have received adequate training on the proper handling and safeguarding of Government funds in my possession and understand that I am automatically liable for any loss or shortage of such funds."

5. Associations. Procedures and responsibilities for Federal fees collected by associations must be detailed in the agreement. The association must be bonded. Associations which collect fees must be given a notice of liability, clearly informing the association of the risk they assume for Federal funds when they assume the duties of collection agents. The notice must be signed by the association and a copy retained in the office files with the following clause:

> "I certify that I have received adequate training on the proper handling and safeguarding of Government funds in my possession and understand that I am automatically liable for any loss or shortage of such funds."

B. Collections from Recreation Sites. Every effort should be made to handle money in the field as little as possible. This can be accomplished through the use of replaceable locked box fee tubes, collection of permit fees through the mail, acceptance of payment by credit cards, such as the automated pay stations, or collection of permit fees through the Internet (contact the Washington Office recreation lead concerning E-Commerce opportunities, and how to set up a secure web site).

1. Treasury regulations require that deposits be made every Thursday or when collections reach $5,000, which ever comes first.

2. Replaceable locked box fee tubes should be used at fee stations. If double lock box is not available, two people must be present to collect fees. No one should have sole access to funds collected.

3. Money must be transmitted to the office in a locked bag or locked box. Receipts, log, or register tape from direct collections from the public must be included with the money.

4. Funds must be counted in the office by two people. Funds kept overnight must be kept in a safe which meets Treasury regulations.

C. Fee Reconciliation.

1. At staffed sites, reconciliation must be performed on a daily basis, balancing collections to receipts.

2. Campground Envelopes (the nationally approved campground fee envelopes must be used) - Two people must open envelopes, count remittances, and document collections on the Recreation Fee Collection Affidavit. The Affidavit information must be entered into the BLM Collection and Billing System. A copy of the Affidavit and the envelopes should be returned to the Recreation Specialist. The fee collection envelopes should be kept until the end of the fiscal year at which time visitor use information should have been entered into the Recreation Management RMIS.

D. Deposits.

Deposit procedures are covered in the BLM Collections Reference Guide.

E. Liabilities and Responsibilities.

1. Federal employees must follow procedures and safeguard funds. If a loss occurs, they must report the loss to the field manager and law enforcement, and document the

incident. This places responsibility and liability on line manages to take subsequent action. Procedures for loss of funds and employee relief are addressed in BLM Manual 1385.

2. Line managers are responsible for:

Ensuring that procedures are in place and training is provided
Providing adequate safeguarding facilities
Investigating incidents to determine if a problem exists and notifying the Group Administrator at NBC (BC-610) if a loss of funds occur.

3. In the event of a loss of funds involving volunteers, contact the Volunteer Office at 202-452-5163 for assistance in filing with the insurance company under the terms and conditions of the surety bond.

RECREATION FEE COLLECTION AFFIDAVIT

CAMPGROUND NAME _____

TOTAL COLLECTIONS * RECEIVED FROM PERMIT FEE ENVELOPES (1370-6)

_____ON _____
DATE

I hereby certify that the envelopes were opened, collections counted, taped and reconciled by the following two employees:

_____
Signature Date

_____
Signature Date

CASH _____

CHECKS _____

* TOTAL COLLECTIONS = $ _____

OTHER (List Unacceptable Forms of Payment received, e.g., stamps, lottery tickets, etc.)

_____

_____

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

In Reply Refer To:

1384 ( )

Memorandum

To: State Director

Through: (Field Manager)

From: (Supervisor)

Subject: Notice of Designation

In accordance with the Bureau's recommendation, (employee name) has been designated as a Collection Officer effective (__Date__). A general description of the functions of accountable officers and agents is contained in BLM Manual 1384 and in the Collections Reference Guide dated April 6, 1998. The specific criteria for Collection Officers are in 1382.

(Employee name) is familiar with the contents of the BLM Manual concerning the responsibilities/liabilities of their duties. Also, since the Federal Government no longer provides surety bond coverage, the employee is aware that, if found responsible, employees may be held liable for irregularities, shortages, or losses of public funds. Accountable officers and agents who desire to do so may obtain a personal bond at their own expense; however, there is no requirement for such a bond.

Signing this memorandum certifies that the employee has been advised of their duties/ responsibilities; accepts the responsibilities/liabilities; has been trained in collection procedures and has been furnished adequate facilities for safeguarding public funds.

Employee _____ Date_____

Supervisor _____Date_____

State Director Approval _____Date_____

Chapter 3. Concession Leases

I. Concession Leases Definition and Description.

Recreation concession leases are long-term authorizations for private parties to possess and use public lands to provide recreation facilities and services for a fixed period authorized under 43 CFR 2920, and the Land and Water Conservation Fund Act. Recreation concession leases establish the obligations the BLM and the concessionaire agree to assume in providing visitor services necessary for full enjoyment of the public lands and/or related waters.

II. When Concession Leases are Used

A. The BLM may enter into recreation concession leases to provide products, facilities, programs, management, and/or visitor services, which enhance visitor use of the public lands for recreation.

B. Recreation concession leases involving developments, program, or services may be offered to the general public where compatible with resource management objectives and applicable planning documents. Recreation concession leases should not be approved under the assumption that only high revenue services will be provided. The concessionaire should offer a diversity of opportunities whether they provide high revenues or not. Concession leases related to recreation are authorized under 43 CFR 2920, and the LWCFA provides authorization for collecting fees. Recreation concession leases are appropriate where strong public demand for products or services can be documented and not for speculative purposes.

C. Recreation concessionaire partnerships are established to provide better services to the recreation visitor and customer. While the BLM has no obligation to guarantee financial success, it is in the best interest of the BLM and the public for recreation concessions to be able to provide high quality services and make a fair and reasonable profit. Such private sector initiatives will not create any financial burden or liabilities to the Federal Government, and may reduce costs or generate revenues that aid in maintaining and expanding the recreation program.

D. Concession leases should not be used where either Land Use Permits (LUP - 43 CFR 2920 authorizations) or Special Recreation Permits (SRP - 43 CFR 2930) are sufficient.

III. Planning for Concession Leases

A. **Resource Management Planning**. Proposals and potential areas for commercial development for recreation concession leases on public lands and related waters are described

and analyzed in resource management plans and associated environmental analyses. Public demand for such facilities and services are quantified to the extent possible.

B. **Recreation Activity Plans**. Activity plans for recreation are completed as necessary to implement the decisions in the RMP. These plans address the need for recreation concession leases. Specific recreation activity plans are subdivided into two levels:

1. RAMPs. The RAMP identifies the specific recreation management actions to be taken, and provides overall project parameters to guide the development of specific concession project plans.

2. Project Plans. Project plans identify general locations of facilities for a site, design requirements, and parameters for the survey and design. Visitor profiles are covered to document user needs and to ensure the project designs meet recreation management objectives. The applicant prepares the project plan and submits it to the BLM for review. These plans are detailed descriptions of the proposed development containing site-specific information on utilities, engineering designs, architectural drawings, landscaping, rights-of-ways, sanitation, health and safety, and water systems. Operation and maintenance requirements are included. The information in the project plan becomes part of the lease and is an integral part of lease administration.

C. **NEPA**. Concession leases must comply with NEPA requirements. A simple lease to operate a previously developed campground or other facility may require only an Administrative Determination (AD) that appropriate analysis had been completed when the development occurred. A lease that includes development of a facility must be analyzed in the RAMP or Project Plan. If a new development that is not covered in a RAMP is proposed, a Project Plan with NEPA analysis must be completed. Preparation of the Project Plan and NEPA documents may be completed by the concession proponent, following BLM guidance, as part of the fee schedule for the lease.

IV. Leasing Actions

A. Lease Award. Recreation concession leases will be awarded on a competitive bid basis. A bid prospectus is used to attract offers from qualified applicants. Lease award is not solely determined by monetary bid, but on a complete assessment of the concessionaire's ability to provide quality services, financial stability and integrity, past or present performance record, and compliance with contract stipulations.

B. Lease Duration. The duration of concession leases generally ranges from 10 to 30 years depending upon the type of operation proposed, the capital investment involved, and the possessory interest, but a longer period may be necessary to fully amortize facilities. The term of the authorization is for an extended use of the public lands and related waters and should be

sufficient to provide reasonable amortization of the capital investment as provided for in an approved activity plan consistent with 43 CFR 2920.

C. Lease Renewal Procedures. Leases may be renewed if the concessionaire has successfully met performance stipulations. If the renewal is done on a modified competitive basis, the incumbent concessionaire is allowed to match the highest bid from a qualified applicant or have the right of first refusal. For small businesses (see your contracting officer to determine which businesses qualify), the authorized officer may renew the lease every 3 years depending on the site-specific or individual situation.

V. Leasing Fees

Fees for recreation concessions are based on fair market value (FMV), including land use rental, a recreation use fee for use of public lands or facilities, and cost reimbursement for administrative costs. The fees are set using actual or estimated FMV using comparable commercial practices available at the time of the appraisal.

VI. Insurance

A. A property damage, personal injury, and comprehensive public liability insurance policy is required of all recreation concession lessees to provide restitution for damage or injury to: users, spectators, privately owned resources, or public land resources, and to protect the United States from litigation resulting from actions taken or caused by the lessee, permittee, or participants associated with their use.

B. The recreation concessionaire furnishes a copy of the insurance policy directly to the authorized officer. The insurance policy must be provided the first year before the lease or permit goes into effect, but for each subsequent year the authorized officer may accept a valid Certificate of Insurance.

C. The BLM is named as additional insured on the Certificate of Insurance. The recreation concession lessee and/or vendor permittee shall indemnify and hold harmless the United States against any liability for personal injury, loss of life, or property damage to him or his employees arising in any way from activities under the lease or permit. All liability insurance policies are to specify that the insurance company shall have no right of subrogation against the United States of America. If the insurance company declines to issue the waiver of subrogation, the United States Government must be named as additional insured on the lessee's or permittee's policy.

D. Minimum BLM general liability limits, unless State minimum requirements are less, are as follows: $300,000 per occurrence and $600,000 annual aggregate for bodily injury, $30,000 property damage per occurrence and $50,000 annual aggregate, if the policy specifies

aggregate limits. The authorized officer may require larger amounts where the potential for risk or loss is high, or where the value of the business is jeopardized.

VII. Surety Bonds.

A. Purpose. The purpose of the surety bond is to secure performance and fulfillment of the recreation concessionaire's obligations under the lease. The bond is a written instrument executed by the concessionaire and a surety company to ensure fulfillment of obligations to the Government. If the concessionaire's obligations under the lease are not met, the surety bond will provide the funds necessary to complete performance.

B. When Required. A bond may be required for leases where Government property is provided to the recreation concessionaire and when the lease requires construction, reconstruction, maintenance, rehabilitation, restoration, dismantling, demolition, or removal of improvements.

C. Amount. The amount of the bond is generally to be a minimum of 20 percent of the value of the lease; however, actual amounts are discretionary with the authorized officer.

Chapter 4. Decisions, Protests and Appeals

I. Final Decisions of the Authorized Officer. - The final decision of the authorized officer to approve a permit, deny a permit or take action against a permit may be protested or appealed. Interlocutory decisions are not a final determination so they are not subject to appeal, but they may be protested. An interlocutory decision is one prepared as an, "if, then," statement. An example might be a decision to cancel a permit if some deficiency is not corrected. (If you do not provide proof of insurance, we will cancel your permit.) If the permittee does not comply, you would then issue a final decision actually canceling the permit. A decision should include information on the procedure for making a protest or filing an appeal. This may be accomplished by enclosing a copy of Form 1842-1, "Information On Taking Appeals to the Board of Land Appeals" with the decision.

II. Protests and Appeals - The decisions of the authorized officer regarding Special Recreation Permits may be protested to the authorized officer and/or appealed to the IBLA in accordance with the following procedures:

A. Protests

1. Proposed decisions of the authorized officer may be protested (including published proposed decisions in the Federal Register or a newspaper of general circulation).

2. Protests shall be filed with the authorized officer.

3. Protests must be received by the authorized officer within 15 days of: (a) receipt of the proposed decision by the affected party, or (b) the published proposed decision in the Federal Register or a newspaper of general circulation. Protests received more than 15 days after notification of the proposed decision do not have to be considered.

4. Upon filing of a protest, the authorized officer shall reconsider the decision to be implemented in light of the evidence submitted by the protestor, and in view of other information pertinent to the case. At the conclusion of the review of the protest, the authorized officer shall prepare a recommended decision on the protest, and it shall be reviewed by the next higher level authority. The decision of the higher level authority shall be the final decision of the BLM. This decision may be appealed. Final decisions on protests should be made within 15 days of receipt of protests.

B. Appeals

1. Individuals who believe they are adversely affected by a BLM decision to issue or deny a SRP may appeal the decision. Appeals are made to the IBLA under Title 43 CFR, Part 4.

2. The appellant's notice of appeal must be received by the authorized officer within 30 days of receipt of the final decision, or within 30 days of publishing the final decision in the Federal Register or a newspaper of general circulation.

3. The authorized officer has 10 days to forward the Notice of Appeal along with the decision appealed, and case file to the IBLA. A copy is also sent to the Regional Solicitor.

4. Within 30 days after filing the notice of appeal with the authorized officer, the appellant files a complete statement of reasons for the appeal with the IBLA and provides a copy to the Regional Solicitor.

5. Decisions to issue a permit take effect immediately upon execution if BLM determines that the proposed use is in conformance with BLM plans, policies and programs, local zoning ordinances and any other requirements, and will not cause appreciable damage or disturbance to the public lands, resources, or improvements. All final decisions of the authorized officer shall remain effective pending the appeal unless the Secretary rules otherwise. Petitions for stay of decisions may be made to the Secretary, through the Director, Office of Hearings and Appeals.

6. To avoid appeals, concerns and issues that surface during the permit issuance process including the public review and NEPA process should be resolved at the lowest management level possible.

Chapter 5. Recordkeeping

I. General Policy

Documents relating to the issuance and administration of SRPs and RUPs are official Government records. It is imperative that records be properly created, maintained, and safeguarded. Records and case files should be inventoried as part of your office's central files.

II. Purpose

Records related to SRPs have multiple purposes. These records are used to administer SRPs, report recreation use for the public land statistics and budgetary planning and reporting.

III. Privacy Act Considerations

A. RUPs and Non-commercial SRPs.

Information provided by an SRP or RUP holder in response to our information requests or requirements is subject to the Privacy Act. Under the Privacy Act, we must disclose how we will routinely utilize the information. Personal identifying information provided on RUP's and non-commercial SRP's should generally not be made public. Names, addresses, and other personal contact information from these records are not made available to the public. You may receive requests for lists of non-commercial SRP holders. The requestor may want to send solicitations or retail sales information to these permit holders. We may not provide such lists unless the permit holder has specifically been informed or given permission for the release of the information. Expired SRPs are kept for 3 years and then may be destroyed.

B. Commercial SRP's

The identity of a commercial SRP holder may be released to the public, published on lists, or posted on websites. The SRP holder's operating plan and financial reporting may contain proprietary information that may be held confidential.

IV. Establishment and Maintenance of Case Records

A. Commercial and Competitive SRPs

Each commercial SRP should be established as an individual case file. For simple, single use SRP's, record may be bound in a simple, single fold file folder. For more complex and multiple year permits, a six way case file should be used. A suggested organization for a six-way case file is shown in Appendix C-18. The official file documents include a copy of the permit and stipulations, insurance certificate, fee payment records, signed correspondence, telephone

conversation logs, maps, NEPA documentation, operating plan, state guide license, hunting unit map, advertisements, monitoring, and post-use annual reports. Case files must be kept in a neat and current condition and secured in a centralized location when not in use. All information in the file may be released under the Freedom of Information Act (FOIA) except for copies of money/checks, financial information, personal identification, and law enforcement incident reports. Be sure to check with your FOIA representative at the field or state office level before responding to FOIA requests.

B. Special Area SRPs, Organized Group SRPs and RUPs

Special Area SRPs and Organized Group SRPs may be filed individually or as a collective record for the Special Area or site.

V. Public Land Statistics and Budgetary Records.

The number of SRP's and RUPs issued, and the recreation use made under these permits are reported in the public land statistics. The Public Land Statistics are taken from the RMIS system. Issuance of SRPs, RUPs, and the recreation use associated the permits must be entered into RMIS. RMIS also relates to the Management Information System(MIS) and Collections and Billing System (CBS). There are reportable units under MIS that are not reported through RMIS. It is important to work with your budget and collections staff to assure fees are accounted for correctly and units of accomplishment are reported accurately.

Glossary of Terms

A-

Acceptable Performance means that the permittee has generally operated in accordance with the terms and conditions established for the permit. This may include some minor deficiencies that need correction. If deficiencies persist after a reasonable time period following notification, they may result in a probationary rating.

Actual expenses means expenses directly related to the permitted activity. These may include costs of such items as food, rentals, transportation, and permit or use fees. Actual expenses do not include the rental or purchase of personal equipment, amortization of equipment, salaries or other payments to participants, or profit.

Affiliate means any entity or person that controls, is controlled by, or is under common control with, an applicant or permittee.

Allocation is the assignment of use between and rationed among competing users for a particular area of public lands or related waters. Allocation includes both direct and indirect methods.

Applicant means any individual of legal age, a State or local Governmental entity, a partnership, corporation, association, or other business entity subject to the laws of any State or of the United States, that applies for a permit or lease. On public land in the State of Alaska, the applicant includes the United States Department of Defense and its agencies or the Commandant of the Coast Guard.

Assignment (subletting) is the prohibited practice whereby a permittee assigns, subleases, sells, or otherwise transfers authorized use to another individual, group, or business.

Authorized officer means any employee of the BLM to whom authority has been delegated to perform the duties described in this part.

Authorized Representative means any person(s) authorized by a permittee to conduct permit related business with the BLM.

-B-

BLM co-sponsored recreational activity or event means an activity or event that BLM is involved in organizing and hosting, arranged through authorizing letters or written agreements.

Bond is a contractual arrangement between the Government, the permittee and a financial institution that provides monetary protection for the public for allowing use of the public lands.

Bond (cash, payment, surety)

> **Cash Bond** is an amount of money deposited with the Government which can be drawn upon to defray the cost of restoration and rehabilitation of the lands affected by a permitted use.
>
> **Payment Bond** is an amount of money deposited or a promissory arrangement entered into to guarantee payment of fees associated with a special recreation permit.
>
> **Surety Bond** is a promissory note of a financial institution that guarantees payment of an amount of money to be used to defray the costs of restoration of the lands affected by the permitted use.

Business Plan as used in this manual is a written document that describes the objectives of the BLM fee program and how management intends to achieve them. A business plan is tailored to address the complexity of the venture described and the major features of the financial and environmental surroundings within which it will be implemented.

-C-

Certificate of Insurance is an official documentation from a licensed insurance company that proves the applicant/permittee has a valid current insurance policy covering the activity or event specified in the Special Recreation Permit, and that the United States Government is listed as an additional insured.

Commercial Recreation Photography means motion picture and video photography, advertising still photography, and still, motion picture, or video photography taken of public land recreation users for sale to those users.

Commercial Use is defined as recreational use of the public lands and related waters for business or financial gain. When any person, group, or organization makes or attempts to make a profit, receive money, amortize equipment, or obtain goods or services, as compensation from participants in recreational activities occurring on public lands, the use is considered commercial. An activity, service, or use is commercial if anyone collects a fee or receives other compensation that is not strictly a sharing of, or is in excess of, actual expenses incurred for the purposes of the activity, service or use. Commercial use may also be characterized by public advertising for participants or situations where a duty of care or expectation of safety is owed participants by service providers as a result of compensation.

Use by scientific, educational, and therapeutic institutions or non-profit organizations is considered commercial when the above criteria are met and subject to a permit when the above conditions exist. Non-profit status of any group or organization does not, in itself, determine whether an event or activity arranged by such a group or organization is noncommercial. Profit-making organizations are automatically classified as commercial, even if that part of their activity covered by the permit is not profit-making.

Common Pool is a method or mechanism to reallocate user days from those who cannot use previously assigned user days to those who desire new or additional user days.

Competitive use means any organized, sanctioned, or structured use, event, or activity on public land in which two or more contestants compete and any of the following elements apply:

(1) Participants register, enter, or complete an application for the event; or

(2) A predetermined course or area is designated.

It also means one or more individuals contesting an established record such as speed or endurance.

Cost Recovery means fees charged by the BLM to cover the costs of processing a Special Recreation Permit. Processing charges may include the cost of environmental analysis, consultation with other agencies, and conducting public participation. For short-term high intensity uses (e.g., large one-day motorcycle race), processing costs may also include monitoring, use supervision, permit compliance, and post use reports and close-out.

-D-

Designated Entrance Fee Area is an area or closely related group of areas administered by the BLM where BLM may charge an entrance fee.

Designated Recreation Use Facility is a posted U.S. fee area.

Desired Use Level is the amount and type of recreational use an area can accommodate without altering either the environment or the user's experience beyond the degree of change deemed acceptable by the management objectives for the area; can also be called the maximum allowable use level. Desired use levels are developed through the use of "Limits of Acceptable Change" or a “Recreation Opportunity Spectrum” analysis.

-E-

Event means a single, structured, organized, consolidated or scheduled meeting or occurrence for recreational use of public land and water resources; may be composed of several related activities.

-F-

Fee area means a site that contains or provides specialized facilities, equipment, or services for or related to outdoor recreation, and that is administered by BLM.

-G-

Gross Receipts is the total amount of money and/or the value of other considerations received by a permittee for undertaking a permitted activity, including, but not limited to: entrance fees; gate fees; revenue from sale of images or broadcast rights; donations of cash, goods, rental fees, advertising rights, or commercial services, on-site sales conducted under the permit, etc.

-H-

Historical Use is the average of the highest two use seasons in the preceding 5-year period.

Holder means the party who has received a permit or lease.

-L-

Land use authorization means either a permit or a lease issued under the lands regulations in 43 CFR 2920.

Limits of Acceptable Change the amount of human-caused change to biological, physical, or social components which are tolerable within an acceptable level without degrading the recreational experience.

Long term visitor use area means a designated special area where visitors pay a fee to camp for a designated period in excess of the usual occupancy limits, as authorized by permit.

-N-

Noncommercial use means a recreational activity on public land or related waters where actual expenses are shared equally among all members or participants. Any person, group, or

organization seeking to qualify as noncommercial must establish to the satisfaction of BLM that no financial or business gain will be derived from the proposed use. Fund raising for any purpose renders an activity a commercial use.

-O-

Off Highway Vehicle (a.k.a. off-road vehicle) is any motorized vehicle capable of, or designed for travel on or immediately over land, water or other natural terrain excluding: any non-amphibious registered motorboat; any military, fire, emergency or law enforcement vehicle while being used for emergency purposes; any vehicle whose use is expressly authorized by the authorized officer or otherwise officially approved.

Operating Plan is an applicant's/permittee's plan to conduct their activity or event on public lands or related waters in conjunction with a Special Recreation Permit. An operating plan will describe at a minimum how services will be delivered, how an event will be conducted, and describes measures that will be implemented to protect resources and provide for public health and safety.

Organized group activity or event means a structured, ordered, consolidated, or scheduled event or occupation of public lands for the purpose of recreational use that is not commercial or competitive, and which BLM has determined needs a special recreation permit based on planning decisions, resource concerns, potential user conflicts, or public health and safety.

-P-

Payment Bond is an amount of money deposited or a promissory arrangement entered into to guarantee payment of fees associated with a special recreation permit.

Permit means an authorization, revocable by or at the discretion of BLM, to utilize public lands for a fixed period of time. A permit conveys no possessory interest in the land.

Permittee is an individual, group or organization who has fulfilled all the requirements for and has been awarded a permit.

Probationary Performance means that the permittee has not operated in full accordance with the terms and conditions of the permit. Performance does not pose an immediate threat to the safety of guests or others, is not in violation of law and doesn't pose a threat of significant resource damage. Corrective action by the holder is mandatory and continued operation at this level of performance is unacceptable. Permits under probation are not transferable.

Paid Public Advertising is any written, oral, or graphic statement or representation made by any person or representative on their behalf in connection with the solicitation of participants. It

includes, but is not limited to, communication by cable and non-cable television systems, radio, computer media, internet sites available to the general public, listing on public event calendars, printed brochures, newspapers, leaflets, flyers, circulars, billboards, banners, or signs.

Public lands and Related Waters means any lands or interests in land owned by the United States and administered by the Secretary through the Bureau of Land Management, without regard to how the United States acquired ownership, except: (1) lands located on the Outer Continental Shelf; and (2) lands held for the benefit of Indians, Aleuts, or Eskimos.

-R-

Recreation Opportunity Spectrum (ROS) is a continuum used to characterize recreation opportunities in terms of setting, activity and experience opportunities. Refer to BLM Manual Handbook 8320.

Recreation Use Permit (RUP) means a permit issued to individuals or groups for the short term recreational use of specialized sites, facilities, equipment, or services furnished at Federal expense. Recreation Use Permits are commonly used at campgrounds and other "fee areas" and are often self-issued onsite by the visitor, e.g., as campground envelopes.

Related Waters are waters which lie directly over or adjacent to public lands and require some management control to protect Federally administered resources or to provide for enhanced visitor safety.

-S-

Secretary means the Secretary of the Interior.

Special Areas are designated by statute, Executive, or Secretarial order, State Director special rule making authority, or an area covered by joint agreement between BLM and a State under Title II of the Sikes Act (16 U.S.C. 670a et seq.).

Special Recreation Permit means an authorization that allows specified recreational uses of the public lands and related waters. Special Recreation Permits are issued as a means to manage visitor use, protect natural and cultural resources, and as a mechanism to authorize commercial, competitive, and vending use; organized group activities and events; and individual or group use of special areas.

Sponsor means a person or entity who assumes or shares responsibility for a permitted recreation activity or event.

Surety means one who agrees to pay money or to do any other required action in the event that the permittee fails to do so.

Sublease means a transaction whereby the holder allows another party to exercise the rights authorized under a lease.

Surety Bond is a promissory note of a financial institution that guarantees payment of an amount of money to be used to defray the costs of restoration of the lands affected by the permitted use.

Suspension means to withdraw authority to operate a permitted activity for a specified period of time.

-T-

Termination means to revoke the authorization of use.

Trespass means any use, occupancy, or development of the public lands or their resources without authorization from the United States if authorization is required, or exceeding such authorization, non-compliance, or causing unnecessary or undue degradation of the land or resources.

-U-

Unacceptable Performance means that the permittee has not operated in accordance with the terms and conditions of the permit and cannot be allowed to continue. The level of performance is a threat to the safety of guests or others or involves a serious violation of law, significant resource damage, or major violation of administrative or financial obligations. Unacceptable performance may be grounds for permit termination and permits with unacceptable performance are not subject to transfer.

Unnecessary or undue degradation means disturbance of land or interest in land greater than that which would normally result when the same or a similar activity is conducted in a prudent and proficient manner.

-V-

Vend means to sell or rent recreation related goods or services such as food, beverages, clothing, firewood, or equipment repair, on the public lands or related waters.

Violation Notice: (violation notice BLM form 9260-9) is a process permitted by law and serves to bring the violator before the court without the necessity of an office immediately taking the arrested person before a magistrate. This method will be utilized only when sufficient probable

cause exists that the violation occurred and that the subject apprehended is the violator. Authorization to issue violation notices is granted only to commissioned law enforcement officers.

Appendix A – Authorities

A-1 43 CFR 2930, Permits for Recreation on Public Lands; Proposed Rule

A-2 43 CFR 2930, Permits for Recreation on Public Lands: Final Rule and Proposed Rule (change to 10 year permit)

A-3 July 29, 1999, FRN, Use Authorizations: Special Recreation Permits, Other Than on Developed Recreation Sites: Proposed Adjustment in Fees

A-4 Land and Water Conservation Fund Act of 1965, as amended, P.L. 33-578

A-5 Sikes Act of 1974, P.L. 93-452 (16 U.S.C. 670, et seq.)

A-6 Title 36 CFR, Subpart 71 – Recreation Fees

A-7 Office of Management and Budget Circular A-25 of 1993, Revised

A-8 WO, Instruction Memorandum 02-119, Automatic Fee Adjustment for SRPs

A-9 WO, Information Bulletin 99-033, Recreation Fee Collection Guidance

A-10 WO, Instruction Memorandum 01-020, Implementation of Golden Eagle, Age, and Access Passport Program

Federal Register

Tuesday,
May 16, 2000

Part IV

Department of the Interior

Bureau of Land Management

43 CFR Part 2930 et al.
Permits for Recreation on Public Lands; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2930, 3800, 8340, 8370, 8560 and 9260

[WO–250–1220–PA–24 1A]

RIN 1004–AD25

Permits for Recreation on Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would update the regulations of the Bureau of Land Management (BLM) that tell how to obtain recreation permits for commercial recreational operations, competitive events and activities, organized group activities and events, and individual recreational use of special areas. It would establish a new system for determining costs for reimbursement to BLM, helping to ensure a fair return to the public for special uses of the public lands. It would add new regulations on how to obtain Recreation Use Permits for fee areas, such as campgrounds, certain day use areas, and recreation-related services.

The BLM also intends the rule to meet the policy goal of reorganizing the regulations in a more systematic way. The proposal would relocate the regulations to the subchapter dealing with other land use authorizations, reorganize them into an order that flows more logically, and simplify the language.

The proposed rule is needed for several reasons. First, it is needed to emphasize and highlight the cost recovery requirements for issuing recreation permits. Second, it is necessary to update BLM regulations to reflect changes over the last 15 years in recreational activities and large-scale events. Third, it is needed to provide guidance and standards for use of developed recreation sites.

DATES: You should submit your comments by July 17, 2000. BLM will not necessarily consider comments postmarked or received by messenger or electronic mail after the above date in the decisionmaking process on the proposed rule.

ADDRESSES: *Mail:* Director (630), Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C Street, NW, Washington, DC 20240.

Personal or messenger delivery: Room 401, 1620 L Street, NW, Washington, DC 20036.

Internet e-mail: WOComment@blm.gov. (Include "Attn: AD25".)

FOR FURTHER INFORMATION CONTACT: Lee Larson at (202) 452–5168 as to the substance of the proposed rule, or Ted Hudson at (202) 452–5042 as to procedural matters. Persons who use a telecommunications device for the deaf (TDD) may contact either individual by calling the Federal Information Relay Service (FIRS) at (800) 877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

A. How Do I Comment on the Proposed Rule?

If you wish to comment, you may submit your comments by any one of several methods.

- You may mail comments to Director (630), Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C Street, NW, Washington, DC 20240.
- You may deliver comments to Room 401, 1620 L Street, NW, Washington, DC 20036.
- You may also comment via the Internet to WOComment@blm.gov. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: AD25" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact us directly at (202) 452–5030.

Please make your comments on the proposed rule as specific as possible, confine them to issues pertinent to the proposed rule, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing.

BLM may not necessarily consider or include in the Administrative Record for the final rule comments that BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I Review Comments Submitted by Others?

Comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES:** Personal or messenger delivery during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays.

Individual respondents may request confidentiality, which we will honor to the extent allowable by law. If you wish to withhold your name or address, except for the city or town, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

II. Background

BLM published the regulations at 43 CFR part 8370 on September 12, 1978 (43 FR 40738). These regulations covered only Special Recreation Permits for use of lands other than developed recreation sites. BLM has reserved a separate subpart 8371 on use of fee areas and developed sites at least since 1978. BLM amended subpart 8372 on August 29, 1984 (49 FR 34337), by defining "actual expenses," by revising the section on "Enforcement," by adding a section on exceptions to the Special Recreation Permit requirements, and by revising the section on "Fees." They were amended again on March 31, 1988 (53 FR 10394), by adding a section on "Appeals" that allows appeals but places decisions in full force and effect pending appeal unless the Secretary of the Interior decides otherwise.

The regulations are in need of updating to reflect changes over the last 15 years in recreational activities and large-scale events, and to strengthen and clarify the provisions on cost recovery. Finally, the public needs information in the CFR on use of developed recreation sites, for which BLM has reserved a subpart for many years.

III. Discussion of Proposed Rule

The regulations in this proposed rule are divided into three subparts. The first of these contains general information pertaining to all kinds of recreational authorizations. The second describes the Special Recreation Permit process: what activities require permits, how to get them, what privileges they allow, and how BLM administers them. It also contains definitions of terms used in the subpart. The third subpart covers the Recreation Use Permit, its use, and how it is obtained.

This table should help the reader locate provisions from the current regulations in the proposed rule.

SECTION CONVERSION TABLE

Old section	New section
Part 8370	Part 2930
Note	§ 2931.9
Subpart 8371 [Reserved].	Subpart 2933
Subpart 8372	Subparts 2931 and 2932
§ 8372.0–1	§ 2931.1
§ 8372.0–2	§ 2931.2
§ 8372.0–3	§ 2931.3
§ 8372.0–5	§ 2932.5
§ 8372.0–7	§§ 2932.54(b) and 2933.32(b)
§ 8372.1	§ 2932.10
§ 8372.1–1	§ 2932.11
§ 8372.1–2	§ 2932.11(b)(1) and (b)(3)(iii), and 2932.13
§ 8372.1–3	§ 2932.12
§ 8372.2	§ 2932.20
§ 8372.2(a)	§ 2932.22(a), and (c)(1) and (2)
§ 8372.2(b)	§ 2932.24(c)
§ 8372.2(c)	§ 2932.22(b) and 2932.23
§ 8372.2(c)(2)	§ 2932.25
§ 8372.3	§ 2932.26
§ 8372.4	§ 2932.30
§ 8372.4(a)	§ 2932.31
§ 8372.4(b)	§ 2932.32
§ 8372.4(b)(3)	§ 2932.33
§ 8372.4(c)(1)	§ 2932.14
§ 8372.4(c)(2)–(3)	§ 2932.34
§ 8372.5(a)(1)	§ 2932.54(a), 2933.32
§ 8372.5(a)(2)	§ 2932.42
§ 8372.5(a)(3) (removed).	None
§ 8372.5(a)(4)	§ 2932.53
§ 8372.5(b)	§ 2932.41
§ 8372.5(c)	§ 2932.44
§ 8372.5(d)	§ 2932.43
§ 8372.5(e) (removed).	None
§ 8372.5(f)	§ 2932.54(b)(2)
§ 8372.6	§ 2931.8
None	§ 2932.50 through 2932.52 (new)

The following discussion of the proposed rule concentrates on those portions of the regulations that this rule would amend other than by reorganization and renumbering.

Subpart 2931—Recreation Use Authorizations; General

This subpart would serve as a general introduction to the subject of authorizations for recreational use of the public lands, where they are needed. No permit is needed for most non-commercial recreational use of the public lands. The function of the subpart is to summarize the purposes of and authorities for the regulations. It would also reaffirm the provision in the existing regulations that all permit decisions that BLM makes would remain in full force and effect pending appeal, unless stayed in accordance with Department of the Interior hearings and appeals regulations.

Subpart 2932—Special Recreation Permits for Commercial Use, Competitive Events, Organized Group Events, and Recreation Use in Special Areas

This subpart includes the regulations covering BLM's issuance of permits for—

- Outfitters and guides (hunting, fishing, rafting, boating, vehicle touring, and other recreational companies),
- Persons engaged in commercial recreational use of the public lands,
- Persons providing services to recreational visitors to the public lands,
- Competitive events such as motorcycle races and time trials,
- Organized group activities or events on the public lands, and
- Noncommercial recreational use of special areas where access may be limited for environmental protection and other reasons.

Subpart 2932 would do the following:

- Contain specific conditions for when you need a Special Recreation Permit and when BLM may waive this requirement;
- Require you to submit applications for Special Recreation Permits 180 days before your intended use begins;
- Provide for cost reimbursement based on administrative time required to issue the permit;
- Specifically require most Special Recreation Permit holders to have and submit liability insurance;
- Allow transfers of Special Recreation Permit privileges, but only as a part of business transactions involving sales of all or part of the business itself; and
- Allow renewal of Special Recreation Permits.

The provisions for transfers and renewals are new in this proposed rule, but we are merely codifying existing policy. Also, the cost reimbursement calculation provisions and the lead time for submitting applications represent changes from the current regulations.

Section 2932.5 Definitions

The only terms defined in this rule pertain to Special Recreation Permits, as opposed to Recreation Use Permits for fee areas. Therefore, we have placed the definition section in the subpart on Special Recreation Permits rather than in the general subpart. We eliminated definitions for terms whose common meaning is clear, and definitions of terms that appear but once in the regulations: "event," "education," "off-road vehicle, "operator," and "user day." Where there is need, we explained the term in the context in which it appears. We also added definitions for "vending" and "organized group."

Section 2932.10 When Special Recreation Permits Are Needed

The first four sections would tell recreationists when they need a Special Recreation Permit to use public lands, when BLM may waive permit requirements, and what activities do not need a permit.

Section 2932.11 When Do I Need a Special Recreation Permit?

This section would explain that Special Recreation Permits are necessary for commercial recreational use and competitive events, and vending, and may be needed for recreational use of some special areas, organized group activities and events, and research under limited circumstances. The changes in this provision, adding permit requirements for vending and some research activities, recognize the growing use of the public lands for recreational and related purposes, and the need in some locations to monitor and control these uses.

Section 2932.12 When May BLM Waive the Requirement To Obtain a Permit?

This section, which is based on section 8372.1–3 of the current regulations, would explain that BLM has discretion to waive permit requirements if the event or activity affects less than a mile of public land or shoreline, and poses no threat of appreciable damage to public land or water resources. BLM may also waive the requirement if the activity or event is sponsored at least in part by BLM, or if it is a noncommercial competitive event that poses no appreciable risk of damage to natural resources, whose sponsor does not publicly advertise or offer cash prizes, and which requires no monitoring. These criteria are not substantively changed from the existing regulations. However, the rule does remove the 50 vehicle upper limit for events as to which BLM may waive permit and fee requirements. This number is unnecessarily arbitrary. We would eliminate this numerical limit because we believe that it is more useful to consider the effects of an activity or event on a particular parcel of land. Thus, we would determine whether an activity poses a threat of appreciable damage to the land or water resources present, a criterion carried over from the existing regulation.

Section 2932.14 Do I Need a Special Recreation Permit To Hunt, Trap, or Fish?

This section would make it clear that hunters, trappers, and fishermen do not need Special Recreation Permits to use public lands for these activities, unless they would require a permit under section 2932.11 because the activity is commercial or competitive or takes place in a special area. Likewise, the Special Recreation Permit does not in and of itself authorize you to hunt, trap, or fish. You must obtain the proper license from the State game and fish department with jurisdiction. The regulation would require outfitters and guides who serve hunters, fishermen, and trappers to have a Special Recreation Permit. Except for clarification, and being moved to a more visible location in the regulations with a separate heading, this provision is not substantively changed from the current regulations.

Section 2932.20 Special Recreation Permit Applications

This heading leads into a series of sections introducing you to the recreation permit process. These provisions are based on sections 8372.2 and 8372.3 of the existing regulations.

Section 2932.21 Why Should I Contact BLM Before Submitting an Application?

This section, which is new in the proposed rule, would urge you to contact BLM before you submit an application, especially in light of the requirement that applications be submitted 180 days in advance. Early consultation will familiarize you with the process, and the terms and conditions that may be required in a Special Recreation Permit.

Section 2932.22 When Do I Apply for a Special Recreation Permit?

This section would require persons seeking Special Recreation Permits for commercial and competitive recreational uses, organized group activities or events, or for vending on public lands, to apply 180 days before they expect the use to begin. This would be an increase of 60 days over the provision in the current regulations, reflecting increased demand for such use and more intensive review of applications required by law. The section would also allow local BLM management to provide for shorter review periods for certain applications, and for applications for individual use of special areas. BLM would then notify you (see section 2932.25) if we cannot reach a decision on issuing the Special Recreation Permit before your desired use date. This might happen, for example, if BLM cannot complete the environmental assessments or consultations with other agencies within 180 days. The proposed rule does not impose a time limit for BLM to notify applicants of such delays. This kind of requirement on BLM itself is more appropriate for internal guidance. However, we recognize our obligation to keep our customers informed, especially as to such time-sensitive matters as scheduling recreation events.

The next three sections—2932.23, 2932.24, and 2932.25—are self-explanatory in setting forth the application process in detail.

Section 2932.26 How Will BLM Decide Whether To Issue a Special Recreation Permit?

This section repeats the statement in the current regulations that permit issuance is discretionary with BLM. It expands on the current regulations, however, by stating the criteria that BLM would apply. We would base our decision on the public interest served, public safety, conflicts with other uses, resource protection, and conformance with laws and land use plans. We would also weigh the applicant's past performance with BLM and other agencies. You can use these criteria as indicators of whether your application is likely to be approved.

Section 2932.30 Fees for Special Recreation Permits

The next several sections would deal with the establishment and administration of a fee system for cost recovery in the administration of Special Recreation Permits.

Section 2932.31 How Does BLM Establish Fees for Special Recreation Permits?

This section would explain how BLM sets fees for Special Recreation Permits. The Director establishes fees for these permits for commercial, organized group activities or events, and competitive events. The Director may adjust the fees when necessary to reflect changes in costs and the market, considering the direct and indirect cost to the government; the types of services or facilities provided; and comparable recreation fees charged by other Federal agencies, non-Federal public agencies, and private industry. The fee schedule for competitive and organized group activities or events was published in the **Federal Register** on July 29, 1999 (64 FR 41133), effective October 1, 1999. BLM would adjust these fees periodically based on the Implicit Price Deflator Index. The fee schedule for commercial outfitters, guides, and vendors was published on October 19, 1989 (54 FR 42998). We expect to publish the next regular update of this schedule in March 2002. Local fees for other uses would be posted or published in local newspapers by BLM.

The State Director with jurisdiction establishes fees for other Special Recreation Permits. This information will generally be available in field offices, but may be made available in newspapers, Internet websites, or other appropriate public notice.

The proposed rule would change the threshold for charging actual costs (which may replace or be in addition to the scheduled fees discussed in the previous paragraph) from a fixed cost in dollars ($5,000)—which may become obsolete due to changes in currency values—to an amount of administrative work that would be required. The section would provide that if a permit requires more than 50 hours of BLM administrative or staff time to process and monitor, BLM may require the applicant to pay actual administrative costs, in addition to the fees set by the fee schedule. If the time to process your application exceeds the 50-hour threshold, BLM would require you to pay costs from the first hour of administrative work. This provision will most often apply to short-term, high intensity uses, such as a large one-day motorcycle race. The proposed rule would require BLM to notify you in the event you need to pay actual costs.

Section 2932.32 When Must I Pay the Fees?

This section would require payment of fees in advance of the authorized use by the deadline BLM establishes. It would allow payment in installments for commercial use. BLM will not process your application until you have paid cost recovery fees, if any, as they are required. This approach is somewhat different from that in the current section 8372.4(b), which merely provides for payment at the time of permit issuance. The proposed rule allows the applicant more flexibility in making payments, but provides BLM with more assurance that our costs will be covered as we incur them.

Section 2932.33 When Are Fees Refundable?

This section would describe what happens if your advance payment against BLM costs turns out to exceed those actual costs. For commercial multi-year permits, such as outfitter permits, when your actual fees due are

less than the estimated fees you paid in advance, the rule would direct BLM to credit overpayments to the following year or season. For other permits, BLM would issue refunds or credit overpayments to future permits, whichever you prefer. However, if you have applied for recreational access to a limited use area and your trip is undersubscribed, and you do not give BLM sufficient opportunity to authorize use by others to make up for the use you forgo, BLM will not issue refunds or credits. BLM will determine whether you have given us sufficient opportunity. We will base our determination on the type of permit, the location, and the frequency of use.

We have tried in this section to simplify the explanation of how we handle refunds in cases of undersubscribed events or trips, and to provide more flexibility in how permittees may have their refunds paid.

Section 2932.34 When May BLM Waive Special Recreation Permit Fees?

This section would allow BLM to waive permit fees for Special Recreation Permits on a case-by-case basis. Waiver would be a possibility for scientific, research, therapeutic, or administrative use. However, the proposed rule would remove the waiver for educational/recreational trips found in section 8372.4(c)(2) of the existing regulations. This waiver has been prone to abuse by groups seeking to avoid fees by characterizing purely recreational outings as educational. However, the language in the rule would allow BLM sufficient discretion to waive fees for truly educational outings. The rule also would remove the disclaimer that the regulations do not pertain to commercial or other non-recreational activities. Such activities may be permitted under 43 CFR part 2920 or other regulations, but it is not necessary to state this in the text of the recreation regulations.

Section 2932.40 Permit Stipulations and Terms

The next several sections deal with permit terms, insurance requirements, and bonding requirements. These sections are all based on paragraphs in existing section 8372.5, and do not contain substantive changes. However, there are no equivalents of paragraphs 8372.5(a)(3) and (e) in the proposed rule. The first, limiting the size of the area for which a permit can be issued, is a matter for internal BLM guidance. The second, requiring indemnification of the United States by the permittee against liability for damage to persons or property occurring during or as a result of the authorized use, is unnecessary in light of the insurance requirements contained in section 2932.43.

Section 2932.50 Administration of Special Recreation Permits

This heading leads into a series of sections describing how BLM administers recreation permits, and the requirements that BLM imposes on permittees. These provisions are new in this proposed rule. We add them to codify existing policy or, in some cases, to simplify current procedures. For example, the proposed rule will allow Special Recreation Permits, such as those held by outfitters and guides, to be renewed. BLM currently renews outfitter and guide permits, although there is no regulatory provision that specifically addresses permit renewal. This rule fills this gap.

Section 2932.54 When May I Transfer My Special Recreation Permit to Other Individuals, Companies, or Entities?

The proposed rule also allows permit assignments and transfers, but only in very limited circumstances. The rule in general does not allow sale of permit privileges. However, we will allow a transfer in cases where the permittee is selling his business or a portion of it to the transferee, so long as both parties meet certain requirements. Thus, multi-year commercial Special Recreation Permits—generally held by outfitters, guides, and river-running concerns—would only be transferable in cases of actual sales of businesses or a substantial part of the business. You would be required to apply to BLM to transfer a permit to a prospective buyer of your business, and the buyer would have to pay the standard application fees and cost reimbursement, if any. BLM would evaluate the proposed business sale and transfer permit privileges to a qualified buyer, if—

(1) The transfer is consistent with planning decisions, and

(2) The proposed sale includes tangible property necessary to conduct the activities authorized.

BLM would not allow transfer of the permit privilege alone, without transfer of at least a substantial portion of the equipment or stock necessary to continue the activity. Again, in this case, the proposed rule would codify current policy. In the absence of BLM approval of your proposed transfer, the transferee would have to compete with other applicants for a Special Recreation Permit.

Section 2932.56 When Will BLM Amend, Suspend, or Cancel My Permit?

Paragraph (a) of this section would allow BLM to amend, suspend, or cancel a Special Recreation Permit if we find it necessary to protect public health, public safety, or the environment. In the case of a suspension, the terms of the permit would continue during the suspension. This paragraph is derived from paragraph 8372.5(a)(1) of the existing regulations, and is not substantively changed.

Paragraph (b) of this section would serve the same purpose as sections 8372.0–7 and 8372.5(f) of the existing regulations. It would allow BLM to suspend or cancel a Special Recreation Permit if the permittee violates permit stipulations, or is convicted of violating any Federal or State law or regulation on natural resources and environmental conservation and protection, endangered species or antiquities preservation while acting under a Special Recreation Permit.

Paragraph (c) would make it clear that, while a Special Recreation Permit is suspended, its holder's responsibilities and the permit's prohibitions continue in force.

Section 2932.57 Prohibited Acts and Penalties

The proposed rule makes no substantive changes in this section on prohibited acts and penalties. The penalties the rule provides for are taken from Section 303(a) and (b) of the Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1733).

Subpart 2933—Recreation Use Permits for Fee Areas

This subpart codifies a permit system pertaining to "fee areas" on public lands managed by BLM. Fee areas are sites that provide specialized facilities, equipment, or services related to outdoor recreation. These include areas that are developed by BLM, receive regular maintenance, may have on-site staffing, and are supported by Federal funding. Not all fee areas necessarily have all of these attributes. Examples of fee areas are campgrounds that include improvements such as picnic tables, toilet facilities, tent or trailer sites, and drinking water; and specialized sites such as swimming pools, boat launch facilities, guided tours, hunting blinds, and so forth. The provisions in these regulations are codifications of existing procedures and policies. They are designed to allow the most efficient administration possible of the permit system, and the easiest access by the public.

We believe that the regulations in this subpart are sufficiently self-explanatory and straightforward that we do not need to discuss them piecemeal or offer their rationale. If there are questions raised during the public comment period as to these provisions, we will discuss them in detail in the preamble of the final rule.

Cross-references

Finally, the proposed rule would change cross-references in other parts of Title 43 from subpart 8372 to part 2930.

IV. Procedural Matters

The principal author of this proposed rule is Lee Larson of the Recreation Group, Washington Office, BLM, assisted by Ted Hudson of the Regulatory Affairs Group, Washington Office, BLM.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

During fiscal year 1996, BLM issued over 116,000 Recreation Use Permits for use of fee sites, with revenues totaling about $600,000. During fiscal year 1997, BLM issued about 184,000 Recreation Use Permits for use of fee sites, with revenues totaling about $705,000. During fiscal year 1998, BLM issued about 280,000 Recreation Use Permits for use of fee sites, with revenues totaling about $1.3 million. The cost of such a permit averaged just over $5.00 for 1996, just under $5.50 for 1997, and a little over $4.60 for 1998. The proposed rule would allow BLM to charge fees based on the types of services or facilities provided at the fee site, the cost of providing them, and fees charged by public and private entities at similar sites nearby. Changes caused by this rule are not quantifiable in this document, but will not result in charges greater than fair market value. Any increase in prices for these users would have to have economic consequences of hundreds of dollars per permit for the effect on the economy to total $100 million, the threshold for a major rule in the Executive Order.

During fiscal year 1996, BLM issued just over 21,000 Special Recreation Permits, with revenues totaling a little over $1.5 million deposited into the Land and Water Conservation Fund (LWCF). During fiscal year 1997, BLM issued just over 32,000 Special Recreation Permits, with revenues totaling about $2.9 million, of which nearly $1.9 million was deposited into the LWCF with the balance attributed to the Fee Demonstration Project and other miscellaneous accounts. During fiscal year 1998, BLM issued just over 37,500 such permits, and collected just over $4.8 million in fees, of which nearly $1.6 million was deposited into the LWCF, with the balance attributed to the Fee Demonstration Project and other miscellaneous accounts. (These numbers are derived from the Public Land Statistics; the variety of laws directing the revenues to numerous funds accounts for different average fees from year to year. We give these numbers to illustrate that the revenues charged under BLM's recreation program are minuscule compared with those realized by the overall national recreation industry.) Special Recreation Permits are generally obtained by commercial outfitters and guides (about 2,500), river running companies (about 800), sponsors of competitive events (about 1,000), "snow bird" seasonal mobile home campers who use BLM's long term visitor areas (about 14,000), and private individuals and groups using certain special areas. Under current regulations, use fees are to be collected according to a schedule established by the Director, BLM, and published periodically in the **Federal Register**. BLM may charge actual costs if they exceed the fee on the schedule. The schedule is based on 3 percent of the gross annual receipts of the permittee or an $80 flat annual fee, whichever is greater. Snow birds pay a flat seasonal fee of $100. The flat annual fee for commercial outfitters and guides is adjusted periodically in line with the Implicit Price Deflator. The proposed rule would provide for use fees to equal fair market value, which can be determined through comparative market analysis, competitive bidding, or other means. The State of Colorado charges river outfitters 5 percent of gross receipts to run trips on the Arkansas River, which features the Royal Gorge. This might be an indication of the type of fee increase that might be phased in under the proposed rule. BLM will determine fair market values for outfitter permits on a local or regional level, based on comparative market analyses and considering public input.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). According to the president of the American Recreation Coalition, outdoor recreation is a $350 billion industry made up of small businesses. As stated in the previous section, BLM fees collected for Special Recreation Permits in fiscal year 1997 were about $2.9 million. BLM revenues collected thus amounted in that year to less than 1/1,000 of 1 percent of the gross industrial revenues, and not all of the BLM revenues were collected from commercial recreationists. The results in other years are similar. BLM considers that increases in these fees to fair market value could not create a significant impact on the outdoor recreation industry. However, BLM recognizes that most commercial recreation enterprises—outfitters, guides, river-running companies, local retail outlets—are small businesses, and that about 3,500 of them annually hold BLM commercial or competitive permits. For these reasons, any changes in fees to fair market value will be phased in, and fees will be set locally and only after opportunity for public participation leading to decisions on fair market value.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act.

This rule—

Does not have an annual effect on the economy of $100 million or more. See the discussion under Regulatory Planning and Review, above.

Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The rule will have no effect on the 3 percent basic use fee required of outfitters (set by policy, not regulations). The rule imposes cost recovery requirements provided for in section 304 of FLPMA (43 U.S.C. 1734), and in the Land and Water Conservation Fund Act (16 U.S.C. 460*l et seq., 460l*–5), and Office of Management and Budget Circular No. A–25. The cost increases under this rule would be de

minimus in the context of the entire outdoor recreation industry, and even in the context of the small proportion of it that uses public lands managed by BLM. See the discussion above under Regulatory Flexibility Act.

Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The adjustment of user fees to fair market value and the implementation of cost recovery should not affect the ability of mostly small businesses evenly treated to compete with one another. Recreationists are not likely to be driven to foreign recreation markets by finding an increase in user fees in the western part of this country, due to the insignificance of such increases compared to the costs of travel to comparable foreign recreation destinations. Much recreation equipment is manufactured in foreign countries, but it is sold by small business retailers in this country. The adjustment of user fees to fair market value should not affect buyers' choice of foreign versus domestic made equipment.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. The rule has no effect on governmental or tribal entities. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. While the proposed rule would provide for permits to be canceled under certain circumstances, including violations of law or regulations, or failure to comply with permit stipulations, and while for some commercial permittees a Special Recreation Permit may be essential to the exercise of property rights in a business, the rule would not allow such a forfeiture without due process of law. A takings implications assessment is not required.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The rule does not preempt State law.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation requires information collection from 10 or more parties and a submission under the Paperwork Reduction Act is required by 44 U.S.C. 3501 *et seq.* An OMB form 83-I has been reviewed by the Department and sent to OMB for approval. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

National Environmental Policy Act

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the proposed rule clearly stated?

(2) Does the proposed rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" and a numbered heading; for example, § 2932.22 When do I apply for a Special Recreation Permit?)

(5) Is the description of the proposed rule in the "supplementary information" section of this preamble helpful in understanding the proposed rule? What else could we do to make the proposed rule easier to understand?

If you have any comments that concern how we could make this proposed rule easier to understand, in addition to sending the original to the address shown in **ADDRESSES**, above, please send a copy to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW, Washington, DC 20240. You may also e-mail the comments to this address: Execsec@ios.doi.gov.

List of Subjects

43 CFR Part 2930

Penalties; Public lands; Recreation and recreation areas; Reporting and recordkeeping requirements; Surety bonds.

43 CFR Part 3800

Administrative practice and procedure, Environmental protection, Intergovernmental relations, Mines, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds, Wilderness areas.

43 CFR Part 8340

Public lands, Recreation and recreation areas, Traffic regulations.

43 CFR Part 8370

Penalties; Public lands; Recreation and recreation areas; Reporting and recordkeeping requirements; Surety bonds.

43 CFR Part 8560

Penalties, Public lands, Reporting and recordkeeping requirements, Wilderness areas.

43 CFR Part 9260

Continental shelf, Forests and forest products, Law enforcement, Penalties, Public lands, Range management, Recreation and recreation areas, Wildlife.

For the reasons explained in the preamble, and under the authority of 43 U.S.C. 1740, chapter II, subtitle B of title 43 of the Code of Federal Regulations is proposed to be amended as follows:

1. Part 2930 is added to read as follows:

PART 2930—PERMITS FOR RECREATION ON PUBLIC LANDS

Subpart 2931—Permits for Recreation; General

Sec.

2931.1 What are the purposes of these regulations?
2931.2 What kinds of permits does BLM issue for recreation-related uses of public lands?

2931.3 What are the authorities for these regulations?
2931.8 Appeals.
2931.9 Information collection.

Subpart 2932—Special Recreation Permits for Commercial Use, Competitive Events, Organized Groups, and Recreation Use in Special Areas

2932.5 Definitions.
2932.10 When Special Recreation Permits are needed.
2932.11 When do I need a Special Recreation Permit?
2932.12 When may BLM waive the requirement to obtain a permit?
2932.13 How will I know if individual use of a special area requires a Special Recreation Permit?
2932.14 Do I need a Special Recreation Permit to hunt, trap, or fish?
2932.20 Special Recreation Permit applications.
2932.21 Why should I contact BLM before submitting an application?
2932.22 When do I apply for a Special Recreation Permit?
2932.23 Where do I apply for a Special Recreation Permit?
2932.24 What information must I submit with my application?
2932.25 What will BLM do when I apply for a Special Recreation Permit?
2932.26 How will BLM decide whether to issue a Special Recreation Permit?
2932.30 Fees for Special Recreation Permits.
2932.31 How does BLM establish fees for Special Recreation Permits?
2932.32 When must I pay the fees?
2932.33 When are fees refundable?
2932.34 When may BLM waive Special Recreation Permit fees?
2932.40 Permit stipulations and terms.
2932.41 What stipulations must I follow?
2932.42 How long is my Special Recreation Permit valid?
2932.43 What insurance requirements pertain to Special Recreation Permits?
2932.44 What bonds does BLM require for a Special Recreation Permit?
2932.50 Administration of Special Recreation Permits.
2932.51 When can I renew my Special Recreation Permit?
2932.52 How do I apply for a renewal?
2932.53 What will be the term of my renewal?
2932.54 When may I transfer my Special Recreation Permit to other individuals, companies, or entities?
2932.55 When must I allow BLM to examine my permit records?
2932.56 When will BLM amend, suspend, or cancel my permit?
2932.57 Prohibited acts and penalties.

Subpart 2933—Recreation Use Permits for Fee Areas

2933.10 Obtaining Recreation Use Permits.
2933.11 When must I obtain a Recreation Use Permit?
2933.12 Where can I obtain a Recreation Use Permit?
2933.13 When do I need a reservation to use a fee site?
2933.14 For what time may BLM issue a Recreation Use Permit?
2933.20 Fees for Recreation Use Permits.
2933.21 When are fees charged for Recreation Use Permits?
2933.22 How does BLM establish Recreation Use Permit fees?
2933.23 When must I pay the fees?
2933.24 When can I get a refund of Recreation Use Permit fees?
2933.30 Rules of conduct.
2933.31 What rules must I follow at fee areas?
2933.32 When will BLM suspend or revoke my permit?

Authority: 43 U.S.C. 1740; 16 U.S.C. 460l–6a.

PART 2930—PERMITS FOR RECREATION ON PUBLIC LANDS

Subpart 2931—Permits for Recreation; General

§ 2931.1 What are the purposes of these regulations?

The regulations in this part—

(a) State when you need a permit to use public lands and waters for recreation, including recreation-related business;

(b) Tell you how to obtain the permit; and

(c) State the fees you must pay to obtain the permit.

§ 2931.2 What kinds of permits does BLM issue for recreation-related uses of public lands?

The regulations in this part establish permit and fee systems for:

(a) Special Recreation Permits for commercial use, organized group activities or events, competitive use, and for use of special areas; and (b) Recreation use permits for use of fee areas such as campgrounds and day use areas.

§ 2931.3 What are the authorities for these regulations?

(a) The statutory authorities underlying the regulations in this part are the Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and the Land and Water Conservation Fund Act, as amended, 16 U.S.C. 460*l*–6a.

(1) The Federal Land Policy and Management Act contains BLM's general land use management authority over the public lands, and establishes outdoor recreation as one of the principal uses of those lands (43 U.S.C. 1701(a)(8)).

(2) The Land and Water Conservation Fund (LWCF) Act, as amended, authorizes BLM to collect fees for recreational use (16 U.S.C. 460*l*–6a(a), (c)), and to issue special recreation permits for group activities and recreation events, and limits the services for which we may collect fees (16 U.S.C. 460*l*–6a(a), (b), (g)).

(b) The regulations at 36 CFR part 71 require all Department of the Interior agencies to use the criteria in that part in setting recreation fees. These criteria are based on the LWCF Act and stated in §§ 71.9 and 71.10 of that part.

§ 2931.8 Appeals.

(a) If you are adversely affected by a decision under this part, you may appeal the decision under parts 4 and 1840 of this title.

(b) All decisions BLM makes under this part will go into effect immediately and will remain in effect while appeals are pending unless a stay is granted under § 4.21(b) of this title.

§ 2931.9 Information collection.

The information collection requirements in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004–0119. The information will be used to determine whether applicants for Special Recreation Permits on public lands should be granted such permits. A response to requests for information is required to obtain a benefit.

Subpart 2932—Special Recreation Permits for Commercial Use, Competitive Events, Organized Groups, and Recreation Use in Special Areas

§ 2932.5 Definitions.

Actual expenses means money spent directly on the permitted activity. These may include costs of such items as food, rentals of group equipment, transportation, and permit or use fees. Actual expenses do not include the rental or purchase of personal equipment, amortization of equipment, salaries or other payments to participants, insurance premiums, or profit.

Commercial use means recreational use of the public lands and related waters for business or financial gain.

(1) The activity, service, or use is commercial if—

(i) Any person, group, or organization makes or attempts to make a profit, receive money, amortize equipment, or obtain goods or services, as compensation from participants in recreational activities occurring on public lands;

(ii) Anyone collects a fee or receives other compensation that is not strictly a sharing of actual expenses, or exceeds actual expenses, incurred for the purposes of the activity, service, or use;

(iii) There is public advertising to seek participants; or

(iv) Participants pay for a duty of care or an expectation of safety.

(2) Profit-making organizations and organizations seeking to make a profit are automatically classified as commercial, even if that part of their activity covered by the permit is not profit-making or the business as a whole is not profitable.

(3) Use of the public lands by scientific, educational, and therapeutic institutions or non-profit organizations is commercial and subject to a permit requirement when it meets any of the threshold criteria in paragraphs (1) and (2) of this definition. The non-profit status of any group or organization does not alone determine that an event or activity arranged by such a group or organization is noncommercial.

Competitive use means—

(1) Any organized, sanctioned, or structured use, event, or activity on public land in which 2 or more contestants compete and either or both of the following elements apply:

(i) Participants register, enter, or complete an application for the event; or

(ii) A predetermined course or area is designated; or

(2) One or more individuals contesting an established record such as for speed or endurance.

Organized group activity means a structured, ordered, consolidated, or scheduled meeting on or occupation of the public lands for the purpose of recreational or other use that is not commercial or competitive.

Special area means:

(1) An area officially designated by statute or Secretarial order;

(2) An area for which BLM determines that the resources require special management and control measures for their protection; or

(3) An area covered by joint agreement between BLM and a State under Title II of the Sikes Act (16 U.S.C. 670a *et seq.*)

Vending means the sale of goods or services, not from a permanent structure, associated with recreation on the public lands or related waters, such as food, beverages, clothing, firewood, souvenirs, photographs or film (video or still), or equipment repairs.

§ 2932.10 When Special Recreation Permits are needed.

§ 2932.11 When do I need a Special Recreation Permit?

(a) Except as provided in § 2932.1, you must obtain a Special Recreation Permit for:

(1) Commercial use, including vending associated with recreational use; or

(2) Competitive use.

(b) BLM may require you to obtain a Special Recreation Permit for:

(1) Recreational use of special areas;

(2) Noncommercial, noncompetitive, organized group activities or events; or

(3) Academic, educational, scientific, or research uses that involve:

(i) Means of access or activities normally associated with recreation;

(ii) Use of areas where recreation use is allocated; or

(iii) Use of special areas.

§ 2932.12 When may BLM waive the requirement to obtain a permit?

We may waive the requirement to obtain a permit if:

(a) The use or event begins and ends on non-public lands or related waters, traverses less than 1 mile of public lands or 1 shoreline mile, and poses no threat of appreciable damage to public land or water resource values;

(b) The use is sponsored or co-sponsored by the Bureau of Land Management, that is, an activity or event that BLM is involved in organizing and hosting, or sharing responsibility for, arranged through authorizing letters or written agreements; or

(c) The use is a competitive event that—

(1) Is not commercial;

(2) Does not award cash prizes;

(3) Is not publicly advertised;

(4) Poses no appreciable risk for damage to public land or related water resource values; and

(5) Requires no monitoring.

§ 2932.13 How will I know if individual use of a special area requires a Special Recreation Permit?

BLM will publish notification of the requirement to obtain a Special Recreation Permit to enter a special area in the **Federal Register** and local and regional news media. We will post permit requirements at major access points for the special area and provide information at the local BLM office.

§ 2932.14 Do I need a Special Recreation Permit to hunt, trap, or fish?

(a) You do not need a Special Recreation Permit to hunt, trap, or fish, unless you are using a special area. You must comply with State license requirements for these activities. BLM Special Recreation Permits do not alone authorize you to hunt, trap, or fish.

(b) Outfitters and guides providing services to hunters, trappers, or anglers must obtain Special Recreation Permits from BLM.

§ 2932.20 Special Recreation Permit applications.

§ 2932.21 Why should I contact BLM before submitting an application?

If you wish to apply for a Special Recreation Permit, we strongly urge you to contact the appropriate BLM office before submitting your application. You may need early consultation to become familiar with BLM practices and responsibilities, and the terms and conditions that may be required in a Special Recreation Permit. Because of the lead time involved in processing Special Recreation Permit applications (see § 2932.22(a)), you should contact BLM in sufficient time to complete a permit application ahead of the 180 day requirement.

§ 2932.22 When do I apply for a Special Recreation Permit?

(a) For all uses that require a Special Recreation Permit (see § 2932.11) except individual use of special areas, you must apply to the local BLM office at least 180 days before you intend your use to begin. This enables BLM to conduct environmental analyses and meet other legal requirements. We may process and issue your permit in less time.

(b) BLM field offices will establish application procedures for individual use of special areas, including when to apply. You should call the field office with jurisdiction as you begin to plan your use.

§ 2932.23 Where do I apply for a Special Recreation Permit?

You must apply to the local BLM office with jurisdiction over the land you wish to use.

§ 2932.24 What information must I submit with my application?

(a) Your application for a Special Recreation Permit for all uses, except individual and noncommercial group use of special areas, must include:

(1) A completed BLM Special Recreation Application and Permit form;

(2) A map or maps of sufficient scale and detail to allow identification of the proposed use area, unless waived by BLM; and

(3) Other information requested by BLM in sufficient detail to allow us to evaluate the nature and impact of the proposed activity, including measures you would take to mitigate adverse impacts.

(b) If you are an individual or noncommercial group wishing to use a special area, contact the local office with jurisdiction to find out the requirements, if any.

§ 2932.25 What will BLM do when I apply for a Special Recreation Permit?

It is BLM's intent to notify you at least 30 days before your desired use date if a decision on issuing the Special Recreation Permit cannot be made in a timely manner. An example of when this could happen is if we cannot complete the environmental assessments or consultations with other agencies within 180 days.

§ 2932.26 How will BLM decide whether to issue a Special Recreation Permit?

BLM has discretion whether or not to issue a Special Recreation Permit. We will base our decision on the public interest served, public safety, conflicts with other uses, resource protection, conformance with laws and land use plans, and your past performance with BLM and other agencies.

§ 2932.30 Fees for Special Recreation Permits.

§ 2932.31 How does BLM establish fees for Special Recreation Permits?

(a) The Director establishes fees, including minimum annual fees, for commercial, organized group activity or event, and competitive Special Recreation Permits.

(b) The Director may adjust the fees as necessary, using a **Federal Register** notice, to reflect changes in costs and the market, using the following types of data:

(1) The direct and indirect cost to the government;

(2) The types of services or facilities provided; and

(3) The comparable recreation fees charged by other Federal agencies, non-Federal public agencies, and the private sector located within the service area.

(c) The State Director with jurisdiction—

(1) Will set fees for other Special Recreation Permits (such as for private use of special areas),

(2) May adjust the fees when he or she finds it necessary,

(3) May provide information in field offices, and

(4) May provide newspaper or other appropriate public notice.

(d) In addition to the fees listed in the schedule or set by the State Director, if BLM needs more than 50 hours of staff time to process a Special Recreation Permit, we may charge a fee for recovery of our administrative costs. Processing charges may include, but are not limited to, the cost of environmental analysis, consultation with other agencies, and conducting public participation. Processing costs may also include, but are not limited to, the costs of monitoring, use supervision, permit compliance, and post-use reports and close-out.

(e) We will notify you in writing if you need to pay actual costs.

§ 2932.32 When must I pay the fees?

You must pay the required fees in advance of your authorized use and by the deadline or deadlines that BLM will establish in each case. We may allow you to make periodic payments for commercial use. We will not process or continue processing your application until you have paid the required fees or installments.

§ 2932.33 When are fees refundable?

For multi-year commercial permits, if your actual fees due are less than the estimated fees you paid in advance, BLM will credit overpayments to the following year or season. For other permits, we will issue refunds or credit overpayments to future permits, less processing costs. We will generally not make refunds for use of the areas allocated to you in your permit if your actual use is less than your intended use. We may consider a refund if there is sufficient time to authorize use by others and we are able to award such use. Application fees and minimum annual commercial use fees (those on BLM's published fee schedule) are not refundable.

§ 2932.34 When may BLM waive Special Recreation Permit fees?

BLM may waive Special Recreation Permit fees on a case-by-case basis for approved academic, scientific, research, therapeutic, or administrative uses.

§ 2932.40 Permit stipulations and terms.

§ 2932.41 What stipulations must I follow?

You must follow all stipulations contained in your Special Recreation Permit. BLM may impose stipulations and conditions to meet management goals and objectives and protect lands and resources and the public interest.

§ 2932.42 How long is my Special Recreation Permit valid?

You may request a permit for a day, season of use, or other time period, up to a maximum of 5 years. BLM will determine the appropriate term in each case.

§ 2932.43 What insurance requirements pertain to Special Recreation Permits?

All commercial and competitive applicants for Special Recreation Permits, except vendors, must obtain a property damage, personal injury, and public liability insurance policy that BLM judges sufficient to protect the public and the United States. Your policy must name the U.S. Government as additionally insured or co-insured and stipulate that you or your insurer notify BLM 30 days in advance of termination or modification of the policy. We may also require vendors and other applicants, such as organized groups, to obtain and submit such a policy.

§ 2932.44 What bonds does BLM require for a Special Recreation Permit?

BLM may require you to submit a payment bond, a cash or surety deposit, or other financial guarantee in an amount sufficient to cover your fees or defray the costs of restoration and rehabilitation of the lands affected by the permitted use. We will return the bonds and financial guarantees when you have complied with all permit stipulations.

§ 2932.50 Administration of Special Recreation Permits.

§ 2932.51 When can I renew my Special Recreation Permit?

We will renew your Special Recreation Permit at the end of its term only if it is in good standing and consistent with BLM management plans and policies, and if you and all of your affiliates have a satisfactory record of performance.

§ 2932.52 How do I apply for a renewal?

(a) You must submit an application for renewal in the same form as for a new permit.

(b) BLM will establish and publish deadlines for submitting renewal applications.

§ 2932.53 What will be the term of my renewal?

Renewals will generally be for the same term as the previous permit.

§ 2932.54 When may I transfer my Special Recreation Permit to other individuals, companies, or entities?

(a) BLM may transfer a commercial Special Recreation Permit in the case of an actual sale of a business or a substantial part of the business. Only BLM can approve the transfer or assignment of permit privileges to another person or entity.

(b) The approved transferee must complete the standard permit application as provided in §§ 2932.20 through 2932.26. Once the transferee pays the required fees, BLM will issue a Special Recreation Permit.

§ 2932.55 When must I allow BLM to examine my permit records?

(a) BLM may examine any books, documents, papers, or records pertaining to your Special Recreation Permit or transactions relating to it,

whether in your possession, or that of your employees, business affiliates, or agents.

(b) You must make these materials available upon request by BLM. BLM will not ask to inspect any of this material later than 3 years after your permit expires.

§ 2932.56 When will BLM amend, suspend, or cancel my permit?

(a) BLM may amend, suspend, or cancel your Special Recreation Permit if necessary to protect public health, public safety, or the environment.

(b) BLM may suspend or cancel your Special Recreation Permit if you—

(1) Violate permit stipulations, or

(2) Are convicted of violating any Federal or State law or regulation concerning the conservation or protection of natural resources, the environment, endangered species, or antiquities while exercising your privileges under your Special Recreation Permit.

(c) If we suspend your permit, your responsibilities under the permit will continue during the suspension.

§ 2932.57 Prohibited acts and penalties.

(a) *Prohibited acts.* You must not—

(1) Fail to obtain a Special Recreation Permit and pay the fees required by this subpart;

(2) Violate the stipulations or conditions of a permit issued under this subpart;

(3) Knowingly participate in an event or activity subject to the permit requirements of this subpart where BLM has not issued a permit;

(4) Fail to post a copy of any commercial or competitive permit where all participants may read it;

(5) Fail to show a copy of your Special Recreation Permit upon request by a BLM employee or a participant in your activity.

(b) *Penalties.* (1) Any person convicted of committing any prohibited act in paragraph (a) of this section, or of violating any regulation in this subpart or any condition or stipulation of a Special Recreation Permit, may be subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

(2) You may also be subject to civil action for unauthorized use of the public lands or related waters and their resources, for violations of permit terms, conditions, or stipulations, or for uses beyond those allowed by the permit.

Subpart 2933—Recreation Use Permits for Fee Areas

§ 2933.10 Obtaining Recreation Use Permits.

§ 2933.11 When must I obtain a Recreation Use Permit?

You must obtain a Recreation Use Permit for individual or group use of fee areas. These are sites where we provide or administer specialized facilities, equipment, or services related to outdoor recreation. You may visit these areas for uses and time periods BLM specifies. We will post these uses and limits at the entrance to the area or site, and provide this information in the local BLM office with jurisdiction over the area or site. You may contact this office for permit information when planning your visit.

§ 2933.12 Where can I obtain a Recreation Use Permit?

You may obtain a permit at self-service pay stations, from personnel at the site, or at other specified locations. Because these locations may vary from site to site, you should contact the local BLM office with jurisdiction over the area or site in advance for permit information.

§ 2933.13 When do I need a reservation to use a fee site?

Most sites are available on a first come/first serve basis. However, you may need a reservation to use some sites. You should contact the local BLM office with jurisdiction over the site or area to learn whether a reservation is required.

§ 2933.14 For what time may BLM issue a Recreation Use Permit?

You may obtain a permit for a day, season of use, year, or any other time period that we deem appropriate for the particular use. We will post this information on site or make it available at the local BLM office with jurisdiction over the area or site.

§ 2933.20 Fees for Recreation Use Permits.

§ 2933.21 When are fees charged for Recreation Use Permits?

You must pay a fee for individual or group recreational use if the area is posted to that effect. You may also find fee information at BLM field offices or BLM Internet websites.

§ 2933.22 How does BLM establish Recreation Use Permit fees?

BLM sets recreation use fees and adjusts them from time to time to reflect changes in costs and the market, using the following types of data:

(a) The direct and indirect cost to the government;

(b) The types of services or facilities provided; and

(c) The comparable recreation fees charged by other Federal agencies, non-Federal public agencies, and the private sector located within the service area.

§ 2933.23 When must I pay the fees?

You must pay the required fees upon occupying a designated recreation use facility, when you receive services, or as the BLM's reservation system may require. These practices vary from site to site. You may contact the local BLM office with jurisdiction over the area or site for fee information.

§ 2933.24 When can I get a refund of Recreation Use Permit fees?

If we close the fee site for administrative or emergency reasons, on your request, we will refund the unused portion of your permit fee.

§ 2933.30 Rules of conduct.

§ 2933.31 What rules must I follow at fee areas?

You must comply with all rules that BLM posts in the area. Any such site-specific rules supplement the general rules of conduct contained in subpart 8365 of this chapter relating to public safety, resource protection, and visitor comfort.

§ 2933.32 When will BLM suspend or revoke my permit?

(a) We may suspend your permit to protect public health, public safety, the environment, or you.

(b) We may revoke your permit if you commit any of the acts prohibited in subpart 8365 of this chapter, or violate any of the stipulations attached to your permit, or any site-specific rules posted in the area.

PART 3800—[AMENDED]

2. The authority citation for part 3800 continues to read as follows:

Authority: 5 U.S.C. 552; 16 U.S.C. 1131–1136, 1271–1287, 1901; 25 U.S.C. 463; 30 U.S.C. 21 *et seq.*, 21a, 22 *et seq.*, 1601; 43 U.S.C. 2, 154, 299, 687b–687b–4, 1068 *et seq.*, 1201, 1701 *et seq.*; 62 Stat. 162.

§ 3802.1–1 [Amended]

3. Section 3802.1–1(d) is amended by removing the phrase "subpart 8372 of this title" and adding in its place the phrase "part 2930 of this chapter."

PART 8340—[AMENDED]

4. The authority citation for part 8340 is corrected to read as follows:

Authority: 43 U.S.C. 1201, 43 U.S.C. 315a, 16 U.S.C. 1531 *et seq.*, 16 U.S.C. 1281c, 16 U.S.C. 670 *et seq.*, 16 U.S.C. 460*l*–6a, 16

U.S.C. 1241 *et seq.*, and 43 U.S.C. 1701 *et seq.*

§ 8344.1 [Amended]

5. Section 8344.1 is amended by revising the cross-reference "subpart 8372" to read "part 2930."

PART 8370—[REMOVED]

6. Part 8370 is removed.

7. The authority citation for part 8560 continues to read as follows:

Authority: 43 U.S.C. 1701 *et seq.*, 16 U.S.C. 1131 *et seq.*

§ 8560.1–1 [Amended]

8. Section 8560.1–1(e) is amended by removing the phrase "43 CFR part 8372" and adding in its place the phrase "part 2930 of this chapter."

PART 9260—[AMENDED]

9. The authority citation for part 9260 continues to read as follows:

Authority: 16 U.S.C. 433; 16 U.S.C. 460*l*-6a; 16 U.S.C. 670j; 16 U.S.C. 1246(i); 16 U.S.C. 1338; 18 U.S.C. 1851–1861; 18 U.S.C. 3551 *et seq.*; 43 U.S.C. 315(a); 43 U.S.C. 1061, 1063; 43 U.S.C. 1733.

§ 9268.3 [Amended]

10. Section 9268.3 is amended by removing from the first sentence of paragraph (e)(1) the phrase "subpart 8372 of this title" and adding in its place the phrase "part 2930 of this chapter."

Dated: April 28, 2000.

Sylvia V. Baca,

Assistant Secretary of the Interior.

[FR Doc. 00–12124 Filed 5–15–00; 8:45 am]

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Federal Register

Tuesday,
October 1, 2002

Part II

Department of the Interior

Bureau of Land Management

43 CFR Parts 2930, et al.
Permits for Recreation on Public Lands;
Final Rule and Proposed Rule

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
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Bureau of Land Management

43 CFR Parts 2930, 3800, 6300, 8340, 8370, and 9260

[WO-250-1220-PA-24 1A]

RIN 1004-AD25

Permits for Recreation on Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule updates the regulations of the Bureau of Land Management (BLM) that tell how to obtain recreation permits for commercial recreational operations, competitive events and activities, organized group activities and events, and individual recreational use of special areas. It establishes a new system for determining costs for reimbursement to BLM, helping to ensure a fair return to the public for special uses of the public lands. It adds new regulations on how to obtain Recreation Use Permits for fee areas, such as campgrounds, certain day use areas, and recreation-related services.

The final rule also meets the policy goal of reorganizing the regulations in a more systematic way. The rule relocates the regulations to the subchapter dealing with other land use authorizations, reorganizes them into an order that flows more logically, and simplifies the language.

The final rule is necessary for several reasons. First, it emphasizes and highlights the cost recovery requirements for issuing recreation permits. Second, it updates BLM regulations to reflect changes over the last 15 years in recreational activities and large-scale events. Third, it provides guidance and standards for use of developed recreation sites.

EFFECTIVE DATE: October 31, 2002.

ADDRESSES: You may send inquiries or suggestions to: Department of the Interior, Bureau of Land Management, Mail Stop WO-250, 1849 C St., NW., Attention: Lee Larson, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Lee Larson at (202) 452-5168. Persons who use a telecommunications device for the deaf (TDD) may contact Mr. Larson by calling the Federal Information Relay Service (FIRS) at (800) 877-8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Background
II. Responses to Comments
III. Final Rule as Adopted
IV. Procedural Matters

I. Background

BLM published the regulations at 43 CFR part 8370 on September 12, 1978 (43 FR 40738). These regulations covered only Special Recreation Permits for use of lands other than developed recreation sites. BLM has reserved a separate subpart 8371 on use of fee areas and developed sites since 1978. BLM amended subpart 8372—Special Recreation Permits Other Than on Developed Recreation Sites—on August 29, 1984 (49 FR 34337), by defining "actual expenses," by revising the section on "Enforcement," by adding a section on exceptions to the Special Recreation Permit requirements, and by revising the section on "Fees." They were amended again on March 31, 1988 (53 FR 10394), by adding a section on "Appeals" that allows appeals but places decisions in full force and effect pending appeal unless the Secretary of the Interior decides otherwise.

BLM published the proposed rule on Permits for Recreation on Public Lands in the **Federal Register** on May 16, 2000 (65 FR 31234). The proposed rule, while it revised and redesignated the entire subpart 8372 in the CFR, focused on how to obtain recreation permits for commercial recreational operations, competitive events and activities, organized group activities and events, and individual recreational use of special areas. It proposed a cost recovery system. It also proposed new regulations for campgrounds and other fee areas.

The period for public comment on the proposed rule expired on July 17, 2000. BLM received about 400 public comment letters or other communications during this comment period.

II. Responses to Comments

In this portion of the Supplementary Information, we will discuss the sections of the proposed rule upon which the public commented, or that need to be changed for some other reason. If we do not discuss a particular section or paragraph, it means that no public comments addressed the provision. However, we may change wording of other sections where we find clarification or style changes necessary or appropriate, and there is no other need for substantive amendment in the final rule.

Section 2931.3 Authorities

One comment suggested adding the Recreational Fee Demonstration Program authorization (Pub. L. 104-134) to the authorities listed. This program allows BLM to keep fees generated at recreational sites, through a permanent appropriation, in a special Treasury account that carries over from year to year. It also allows more innovative fee collection approaches, including cooperation with other Federal agencies and State and local government, and collection of fees where we had not collected them before.

This Program is a temporary program established by Congress. Unless Congress makes the authority permanent, we cannot cite it as authorization for general fee and permit regulations.

Section 2932.5 Definitions

Actual expenses. One comment addressed the definition of "actual expenses." The comment suggested that insurance and bonding costs, contingency funds (that trip organizers may set up to replace lost or damaged equipment, for example), and amortization should be counted in the calculation to determine whether an activity is noncommercial because the participants share the expenses.

BLM will consider amortization when the equipment being used belongs to all of the participants rather than just one. Otherwise, one person is receiving a financial benefit from the trip, making the trip commercial. We agree that insurance covering a group for a specific activity may conceivably be a shared expense, and have amended the definition of "actual expenses" so that the regulations would not prevent that. BLM does not require bonds for noncommercial, noncompetitive outings. The regulations do not disqualify trips from being noncommercial because of contingency funds, so long as they are used to defray actual expenses of the activity or returned to the participants.

Commercial use. Several comments questioned the definition of "commercial use." One stated that the definition was not clear and might lead BLM to determine that an outdoor retailer must obtain a Special Recreation Permit (SRP) if any of their customers used public land for recreation. The comment urged that the text be amended to provide that only persons providing goods and services or both on public lands, as opposed to retail outlets on private land, will need SRPs.

Some comments disagreed that public advertising should be a criterion for deciding whether an event or activity was commercial. They suggested that BLM define the term "public advertising." Some wanted

announcements to members of organizations included in the definition while others wanted communications within groups to be specifically excluded.

Two comments addressed paragraph (1)(iv) of the definition of "commercial use." One respondent found the paragraph ambiguous, unworkable, and dependant on the perception of the participant. The other comment supported the definition but suggested changing "participants pay for" to "the permittee receives payment for." The comment stressed that the requirement should bind the permittee, not the participant. Our response to this comment is that the section is a definition. It does not itself impose requirements on any party. "Participants pay for * * *" is a good description of an action that would identify a use as commercial.

One comment suggested changing the definition to: "Commercial use is providing goods or services on BLM administered lands and related waters for compensation of any kind."

One comment agreed that the definition of "commercial" is appropriate, but stated that it should be modified to clarify that a fee or donation used to offset the administrative expenses of a trip program qualifies the activity as commercial in nature. Specifically, it urged that we add at the end of the sentence at (1)(ii): "including compensation for administrative expenses associated with the activity, whether those expenses are paid by contribution or by trip fees."

If the definition of "commercial use" is read in its entirety, the meaning is clear. It refers only to uses occurring on public lands and related waters. We have added language to the definition to make it clear that the commercial operator is the person or organization that leads or sponsors the activity, not the retailer who sells recreational equipment to the general public.

The common meaning of "public advertising" is generally well understood to include appeals and inducements to the general public through newspapers, broadcast media, Internet sites available to the general public, listing on public or community event calendars, publicly displayed signs, posters and flyers. Public advertising does not include communications within the known membership of an identifiable group. The proposed regulation specified but did not define "public advertising." In the final rule, we have changed the definition of "commercial use" to specify that it is paid advertising that qualifies a use as commercial. We believe the suggestion in the comment to include announcements to group members in public advertising to be overly broad. If a private, social organization plans an activity on public land, information about the activity must be shared with the membership. This might take place in organization news letters, bulletins, posters in the club house, etc. All these communications tools could be considered advertising if we adopted the approach the comment suggested. Paid advertising outside the organization would be considered public advertising, but we do not consider that publicity such as a notice on a public bulletin board alone makes a trip commercial.

The definition as proposed provides an adequate description to allow BLM staff and members of the public to decide whether an activity is commercial.

The plain text of paragraph (1)(ii) is quite clear when it says that collection of a fee or other compensation that is not strictly a sharing of actual expenses or exceeds actual expenses incurred for the purposes of the activity, service or use, makes an event commercial. If an event organizer collects a fee to cover overhead or administrative costs, BLM would conclude that the use is commercial.

Organized group activity. We have amended the definition of "organized group activity" to make it clear that it covers only recreational use. See the discussion of section 2932.11, below, for an explanation.

Section 2932.11 When Do I Need a Special Recreation Permit?

Numerous comments addressed organized group permits.

Most of these comments were opposed to implementation of a group permit regulation. Most of them based their opposition on their interpretation of the definition of "organized group activity," contending that, as written, it could require a permit for anyone wishing to use public lands anywhere at any time. Most also mentioned the right to freedom of assembly, contending that the proposed regulation abrogates that right.

Several comments supported the elimination of the 50-vehicle ceiling for permit waivers, but suggested another threshold for when BLM should require group permits. Several other comments suggested that this is a new requirement, and therefore is a major action that requires further review.

The definition of "organized group activity" in § 2932.5 clearly concerned many of the respondents. As proposed, the definition was:

"Organized group activity" means a structured, ordered, consolidated, or scheduled meeting on or occupation of the public lands for the purpose of recreational or other use that is not commercial or competitive.

This definition does lend itself to the interpretation described by those who commented, by expanding the scope of the definition to include meetings and other non-recreational uses. We have amended the definition in the final rule to make it clear that it covers only recreational uses.

We have also amended § 2932.11 to provide that organizers of group events or activities need a permit only if required by a BLM management or activity plan or when we determine that resource concerns, potential user conflicts, or public health and safety concerns indicate that a permit is necessary. We have also amended the rule to treat small group events the same way we treat small competitive events. That is, we may waive the permit requirement (see § 2932.12) if an organized event is not commercial, not advertised, does not pose appreciable risks to people or the environment, and does not require special BLM management or monitoring.

Any threshold on the number of people making up a group that needs a permit would be difficult to establish on a national basis. BLM will determine the threshold, if any, for each area. (For example, 10 people in a sensitive riparian area may constitute an organized group, but a less sensitive upland area may be able to handle 200 people without special management attention.) BLM will base this determination on planning, resource concerns, potential user conflicts, public health and safety, or a combination of these factors.

The requirement for a group permit is not new. Our approach is similar to that of the National Park Service, which codified implementing regulations at 36 CFR 71.10 in 1974. BLM's authority for this type of permit is section 4 of the Land and Water Conservation Fund Act (LWCFA) of 1965 (16 U.S.C. 460*l*–1 *et seq.*).

One comment addressed the effect of the proposed rule on institutional groups. It suggested that the permit waiver requirements are overly broad, and would essentially prevent any institution from qualifying for a waiver for any type of use.

We may require academic, educational, scientific, and research groups to obtain a permit, depending

upon how they structure their trips. For example, if BLM determines that the institutional group is commercial use or if the primary purpose of a use is recreational, and academic aspects are incidental, we would not waive the permit requirement. If the use is noncommercial, the primary purpose is academic, the use supports management objectives, and BLM has either requested the institution to complete a project or study, or BLM can benefit from a project or study that the institution proposes and intends to complete if permitted, BLM could issue an administrative use authorization. BLM may issue permits to use special areas to institutional groups making noncommercial use of these areas on a cost sharing basis. Where BLM has allocated access to particular kinds of uses and numbers of trips through land use planning, we may award additional, non-allocated permits on a space available basis.

Section 2932.14 Do I Need a Special Recreation Permit To Hunt, Trap, or Fish?

A number of comments questioned why hunting, fishing, and trapping were singled out as activities not needing a permit. Some described this section as arbitrary and capricious for including only these uses, and not other, less consumptive uses. One comment noted that these uses still need a permit if they meet the requirements of commercial, competitive, or organized group permits. One comment concerned the requirement for guides involved in hunting, fishing, and trapping to acquire an SRP. The respondent suggested that the provision should indicate that the guide would need an SRP only if the guiding is taking place on public lands and related waters. The comment writer also wanted the rule to provide that drop-off or air taxi service would not require an SRP.

The intent of this section is to reiterate that hunting, fishing, and trapping primarily fall under the purview of the States. However, both the proposed rule and the final rule require a commercial enterprise that provides guide or outfitter service in support of hunting, fishing, or trapping to have a Special Recreation Permit. However, we have amended this provision to make it clear that if an organized group wished to go on a hunting trip on public lands, or someone wanted to hold a fishing tournament as a competitive event, BLM would require a Special Recreation Permit. The point of this amendment is that if the subject of an activity or event is hunting or fishing, it does not excuse the organizer or sponsor from obtaining a permit if the regulations otherwise require a permit because the event is commercial or competitive.

The title of the regulations, "Part 2930—Permits for Recreation on Public Lands," limits the content of the regulations to permits for recreational use of public lands. For the purposes of brevity, we do not repeat the phrase, "on public land and related waters," throughout the text.

Drop-off/pickup air taxi services that meet the definition of "commercial use" in § 2932.5 would need an SRP unless they had an airport lease or right of way for commercial use.

Section 2932.22 When Do I Apply for a Special Recreation Permit?

We received 6 comments that primarily addressed the requirement that applicants submit applications for Special Recreation Permits at least 180 days before their activities are to begin. Several other comments addressed this issue along with other concerns.

Most of these comments maintained that 180 days would be too far in advance, particularly for small competitive groups, or small organized groups and event sponsors, to have to apply.

Several of the comments also stated that it would not be fair to applicants to tell them as late as four months after they submitted their applications that we would not be able to issue a permit in time for their activity to take place, as provided in proposed § 2932.25.

On the other hand, none of the commercial outfitters who addressed this issue objected to the 180 day advance requirement.

While the preamble states that the local BLM office may provide for a shorter review period, this exception is not reflected in the regulation. The BLM handbook also specifies that we may be able to act on applications filed fewer than 180 days before your proposed activity or event.

We believe that 180 days is a reasonable requirement for permits that require environmental assessment beyond that already covered in a land use plan, programmatic EA, or categorical exclusion. If the proposed activity occurs in critical habitat for a threatened or endangered species, for example, BLM may have to engage in lengthy consultation with another agency. Therefore, we believe that the 180 day requirement reflects BLM's needs for most proposed competitive, commercial, and organized group or event activities. In some cases (for example, where there is great demand for access to the public lands), local offices may need to require that applications be submitted in advance of 180 days. This may happen when it is necessary to schedule a series of separate annual events on succeeding weekends. However, we have amended the provision in the final rule to make it clear that BLM may reduce the time requirement for events or activities that do not require extensive environmental documentation or consultation. We have also revised section 2932.25 to provide for earlier warning from BLM that permit application will require more than routine review.

Section 2932.24 What information Must I Submit With My Application?

Comments from the outfitter community suggested that we should amend § 2932.24(a)(3) by adding a provision for applications to include a statement of how the applicant's activity would contribute to the public's use and enjoyment of the land and resources that we manage.

While this information would be useful, and BLM would certainly consider it when evaluating an application (as provided in §2932.26), it is not necessary. Further, it might be misleading to make it a requirement for applications. Lack of a concrete public benefit does not disqualify an activity that is the object of a Special Recreation Permit application. We do not want to suggest in the regulations that a general public benefit is a prerequisite for obtaining a permit under these regulations.

Section 2932.31 How Does BLM Establish Fees for Special Recreation Permits?

A few comments that addressed this section did not recommend any change to the Proposed Rule. However, they strongly urged BLM to seek professional guidance from the appraisal industry, user groups, and others concerned with or affected by how fees will be determined, when we compile our fee schedules.

We concur with these comments, and plan such consultation. No change in the rule is necessary to respond to these comments.

More than 200 comments addressed the cost recovery provisions in paragraph (d) of this section (paragraph (e) in the final rule). About 20 of these came from outfitters and commercial operators. However, most of these comments came from participants in a single event, Burning Man in Nevada. Nearly all the comments opposed imposition of both cost recovery and use fees for the same permit. Several comments suggested that the 50 hour

threshold for charging cost recovery is too low, and suggested that cost recovery should be charged after 75–100 hours of BLM staff time, or 200 hours, in the case of some comments. Nearly all the comments from participants in the Burning Man event agreed that BLM should recover our administrative costs. However, they thought that BLM should not "profit" by charging both cost recovery and use fees, which many dubbed "double dipping."

Outfitters and commercial operators generally opposed cost recovery on permit renewals. Also, most of them raised the issue of how cost recovery should be applied in the case of multi-year permits.

Outfitters and several other respondents suggested that the costs of preparing programmatic environmental assessments (EAs) not be included in cost recovery charges, since the benefits fall to the general public and succeeding applicants, while the cost falls to one applicant.

There were a number of comments that asked us not to charge any fees for land which is publicly owned and already supported through taxes. Many of these comments also questioned whether BLM would wisely use the fees we collect.

BLM received its authority to seek cost recovery associated with issuing authorizations to use the public lands in 1976 from section 304(b) of the Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1734(b)). We selected the 50-hour threshold for charging full cost recovery because it is consistent with the BLM's Lands and Realty program, and is consistent with the approach of the U.S. Forest Service, which issues Special Use Permits to authorize general land uses as well as recreation. Cost recovery guidelines in Office of Management and Budget (OMB) Circular A–25 direct Federal agencies to limit cost recovery to situations when a service or privilege provides special benefits to an identifiable recipient, beyond those that accrue to the general public. Consequently, costs associated with development of programmatic EAs would not normally trigger cost recovery fee, because BLM does not assign them to the single initial applicant.

As to permit renewals, the practical effect of the rule as written, with its 50-hour threshold, is that permit renewals will not trigger cost recovery, unless you propose a substantial change in your operation that would require additional environmental analysis.

In response to the concerns expressed by the public about the appearance of double charging, we have made several changes in paragraph (e). These changes should have the effect of clarifying when cost recovery charges apply and when permit fees apply to commercial, competitive, and organized group activities or events. We separated cost recovery requirements for commercial use from competitive or organized group/event use. We did this to distinguish between the commercial fee that BLM assesses for the privilege of using the public lands for a business, versus the need to assess cost recovery for either type of use to help pay for the preparation of an authorization and for its administration.

- The costs would have to reach the threshold in one year for cost recovery to be invoked on a multi-year permit;
- We specifically exclude programmatic or general land use plan documentation from cost recovery, except if the documentation work has been done because of or to benefit a specific applicant;
- In cases where we charge for cost recovery for recreational events (as opposed to commercial use), the final rule provides that the charges will be in place of permit fees.
- In some cases where we would normally charge for cost recovery, we may elect to charge a permit fee instead of cost recovery if the permit fee is greater than cost recovery would be.

Section 2932.33 When Are Fees Refundable?

Comments from the outfitter community suggest removing the prerequisite that BLM actually award a permit to someone else before we refund fees to an applicant who cancels or reduces his or her application for a Special Recreation Permit. They suggest that the standard should be whether the outfitter relinquished the use in time to make it available to others, not whether others have actually applied for the use and the agency is able to award it. (Note that this provision pertains to fees, not cost recovery requirements.)

We agree with the comment and have removed the words "and we are able to award such use." The sentence in question only applies to areas where use is allocated to commercial or non-commercial use or both. An area where recreation use has been "allocated" is an area where demand has outstripped supply, or use needs to be restricted to protect the resources. Management or operations plans for allocated areas will determine the amount of time BLM would normally need to reallocate your use, and thus the deadline for you to notify us and qualify for a refund or credit. However, whether to provide a refund is at the discretion of BLM.

Section 2932.34 When May BLM Waive Special Recreation Permit Fees?

One comment stated that this section made it too easy for organizers of activities that the comment described as clearly commercial to obtain fee waivers. The comment urged that organizers of activities that are commercial in nature should not be able to avoid paying fees merely because the users have certain characteristics, or label themselves in certain ways.

The language in the proposed rule was very similar to that in the previous regulation at 43 CFR 8372.4(c)(2)–(3), which directed that BLM not assess fees for scientific and educational outings. In the proposed rule, we attempted to clarify this provision to eliminate the possibility that recreational outings may obtain a fee waiver because they have educational aspects, such as a professor accompanying a group of tourists to explain the geology or history of an area. As a practical matter, BLM has granted very few fee waivers under this authority. An applicant's status as an academic, scientific, research, or therapeutic institution is not, by itself, a basis for waiving fees. BLM has a responsibility to evaluate proposals to determine whether fee waivers are warranted. A professor proposing to take students onto public lands for research or study for academic credit would qualify for a waiver under this regulation. However, groups proposing activities meeting the definition of commercial use would not be granted fee waivers if they merely belong to an academic, scientific, research, or therapeutic institution. The key factor is whether the activity itself, rather than the sponsoring institution, qualifies for a waiver. We did not amend this provision in the final rule.

Section 2932.42 How Long Is My Special Recreation Permit Valid?

A comment from a trade association representing outfitters recommended that, considering the investment required by outfitters, the maximum term for SRPs should be 10 years, unless BLM finds that special circumstances require a shorter period.

As a practical matter, the renewal and transfer policies contained in the proposed rule improve tenure over that provided in the previous regulations. Section 2932.51 makes it clear that BLM will renew a permit if it is in good standing and consistent with our land use plans and policies, and if the permittee has a satisfactory record of performance. This regulation follows

existing BLM policy on permit renewal and transfers. Regardless of the term of the permit, BLM may cancel or amend it for cause as described in 2932.56.

However, BLM recognizes that the maximum of a 5-year permit is a matter of concern for the outfitting and guiding community. Elsewhere in today's **Federal Register** appears a proposed rule that would change the maximum term for a Special Recreation Permit to 10 years. Because this is a substantial change that was not discussed in the proposed rule, it is necessary and appropriate to allow a period of time for public comment.

Section 2932.43 What Insurance Requirements Pertain to Special Recreation Permits?

We received fewer than 10 comments addressing insurance and bonding issues. Outfitters and commercial interests generally supported the insurance requirements as they relate to their activities. However, other comments addressed bonding or insurance requirements for organized group activities or events. One comment was opposed to any insurance or bonding requirement. The others suggested changes to ensure that the requirements are based on the kind of event or activity for which BLM is issuing permits. According to these comments, there are many types of group activities or recreation events that may require a permit, but for which insurance or bonding should not be necessary because the event or activity poses no risk to participants or the environment. One respondent suggested that BLM establish criteria for when we would waive insurance and bonding requirements. Two comments suggested that any requirement for insurance for small groups would be onerous and would force small groups or events to either proceed without authorization (and risk prosecution) or cancel their proposed activity or event.

One comment suggested that there should not be an exception excusing vendors from obtaining insurance, and one comment suggested that BLM impose fines and penalties on permittees that cause environmental degradation or other damage rather than require insurance or bonding for possible damages occurring under an organized group or event Special Recreation Permit.

One comment suggested insurance coverage requirements should be published and updated in the same fashion as fees.

This section of the proposed rule was essentially unchanged from the previous regulations in subpart 8372. We added the provision that BLM may require insurance or bonding for organized groups or events, leaving the final decision on insurance and bonding requirement for groups and events to the BLM. We realize and agree that many small scale activities and events will not and should not require insurance or bonding, but do not believe it is reasonable to establish national criteria for waiving insurance requirements.

BLM's Special Recreation Permit Handbook, which will be available in field offices and on the internet soon after the effective date of this final rule, will contain criteria for our determination of minimum insurance coverage requirements. The amounts of coverage we require vary based on the risk involved in the activity. That risk depends on the nature of the activity, the conditions where the activity will take place, the number of participants, skill level of the participants, and risk management implemented by the permittee. In other words, the local BLM office administering the event can best determine what coverage you need, as opposed to BLM headquarters setting limits on a national basis. Our actual experience is that most permittees carry more insurance than BLM would normally require.

As written, the exception for vendors is not a blanket exception. Rather, it gives the BLM the discretion to require insurance for vendors when necessary. Not all vending poses risks to the public (tee-shirt sales, for example), while others (such as food sales) will require insurance.

Imposition of fines and penalties on permittees who cause damage, rather than requiring up-front insurance or bonding, would not assure the public that its interests are being protected. Fines are often uncollectible. Civil judgments are difficult to obtain and collect. Damage repair in such cases would at best take longer.

Section 2932.52 How Do I Apply for a Renewal?

Some comments expressed concern about the requirement in the proposed rule that an application for renewal be made "in the same form as for a new permit." The concern is the regulation may imply a full, "from scratch" evaluation.

That is not the intent, and we have amended the text to say "on the same form." You must file renewals on the SRP application form, and should file updates to operations plans at the same time. You need only write "unchanged" on the parts of the form where permit needs and other information have not changed. We expect that processing renewals will be much less involved than issuing new permits. For example, an application to continue a previously approved use usually does not require preparation of a new NEPA document. However, if field conditions have changed, we may need to conduct new environmental analyses.

Section 2932.54 When May I Transfer My Special Recreation Permit to Other Individuals, Companies, or Entities?

Comments from the outfitting community expressed concern that the language in this section may provide an avenue for a local manager to reduce or destroy the market value of an outfitting company by denying transfers or withholding approval of certain transfers to target specific operations or styles of operations.

BLM recognized the need for guidance on transfers and published its national Special Recreation Permit Policy in 1984 (49 FR 5300, February 10, 1984), which, among other things, authorized transfers. We process transfers under the following guidelines:

1. You must provide adequate documentation to BLM that you intend a bona fide business transfer or sale. The transfer or sale must include a substantial portion of the equipment and other tangible assets needed to conduct a business. BLM will not approve any attempted transfer or sale of authorized use alone.
2. The previous permittee generally should have operated at an acceptable standard for at least one full year.
3. BLM will evaluate the proposed business sale and transfer the permit privileges to a qualified buyer, if—
   - The transfer is consistent with planning decisions; and
   - The proposed sale includes tangible property necessary to conduct the activities authorized.
4. The proposed permittee must provide a written operation plan to BLM, including any anticipated operational changes from the present permittee.

This section of the final rule codifies and improves BLM's policy on permit transfers.

The discussion in the preamble of the May 16, 2000, proposed rule stated that BLM will allow a transfer as long as you meet the requirements of this section. This policy, that we will approve a permit transfer only if the business or a substantial part of it is sold, continues in this final rule.

Section 2932.55 When Must I Allow BLM To Examine My Permit Records?

One comment stated the section was overreaching, saying that it would attempt to authorize BLM to obtain

privileged material from attorneys, accountants, and other professionals.

The intent of the rule is to allow the BLM to meet its legislative and regulatory requirements in FLPMA, LWCFA, and OMB Circular A–25. For BLM to meet its legislative requirements to protect natural resources and to help ensure public health and safety, we issue stipulations with each permit. We use monitoring and an evaluation process to help us ensure that permittees provide the public with qualified, experienced guides. It also helps to ensure that the permittee follows permit stipulations to protect natural and cultural resources. Finally, audits help ensure that the public receives fair compensation from businesses conducted on public lands by allowing us to review the financial aspects of their permit operations and make sure adequate fees are paid. OMB Circular A–25 emphasizes this requirement. We need to ensure that BLM has access to records regardless of the entity that physically possesses them. BLM would certainly respect items covered by attorney/client and other privileges. It is up to you or your attorney to assert that privilege if and when BLM requests documents you believe to be privileged. Accounting records relating to the SRP are precisely the types of information the BLM would seek to review. Such confidential information may be protected from public disclosure under the Freedom of Information Act (5 U.S.C. 551 *et seq.*). BLM would protect it to the extent allowable by law.

Section 2932.56 When will BLM Amend, Suspend, or Cancel My Permit?

Several comments suggested removing the third reason for altering a permit, protection of the environment. These respondents found the requirement to be vague, given the contentious nature of determining carrying capacities of the land and associated waters and the environmental effects of various activities. The comments suggested that BLM should be obligated to perform some level of investigation or analysis to ensure that the outfitters' actions are responsible for undesired environmental impacts before imposing the sanctions provided for in this section.

BLM will not amend, suspend, or cancel a permit without a good reason. Doing so would be arbitrary and capricious, and could not bear the scrutiny of administrative or judicial review. BLM will only alter a permit for environmental protection reasons after we perform a thoroughly documented analysis and the permittee has an opportunity to review it. The provision needs to remain in the regulations. Protecting the public lands from unnecessary or undue degradation is a core duty of BLM and we would be remiss in not including environmental considerations as a basis for modifying a permit. The same reasoning applies to suspensions and cancellations of permits.

BLM may suspend or amend a permit if—

- There is a problem with public safety;
- There are clear violations of permit stipulations to protect public safety or the environment; or
- Resource or legal conditions change during the permit period (for example, a threatened or endangered species listing occurs that affects the permit area).

The BLM will use the annual evaluation process to determine whether there is any failure to perform or any violation of a permit that would lead to canceling a permit. If the reason for the adverse action is out of your control, (such as the endangered species listing just mentioned) BLM will consult with you to come to an amicable solution, if possible. Administrative procedures are always available to a permittee affected by an adverse action. This includes appeal to IBLA under 43 CFR part 4, specifically § 4.410, and any other administrative remedy applicable to the permittee.

One comment suggested that BLM should have authority to suspend a permit or deny a new application for a permit because of violations of similar stipulations on another permit.

We agree with this comment. We have amended § 2932.56(b)(2) by removing the final phrase, "while exercising your privileges under your Special Recreation Permit." This removes the requirement that your disqualifying conduct is specific to the subject permit, rather than to any similar permit. Further, any action that violates environmental or natural resource law may also be disqualifying, whether you have a permit or not.

Issuing permits to individuals who have histories of violating the conditions of their permits is an ongoing problem for all Federal agencies. Additional authority is necessary to deny permits to individuals or companies that have habitually violated permit conditions. Authority is needed to deny permits to individuals that have had permits canceled by other agencies and to those individuals who have a demonstrated history of willful destruction of private, state, or Federal properties, especially in relation to natural, cultural, and historical resources. We have had a number of former permittees who have had permits canceled for cause by one BLM office, or by another agency, who subsequently apply for and receive a BLM permit from another office, only to cause similar problems in the new area. BLM needs authority to stop this from occurring. It is our responsibility, as a regulatory agency, to give the public a reasonable assurance that businesses operating on the public lands are responsible and have a sense of stewardship and the duty of care for the lands they operate on and the clients they serve and who provide a safe and high quality experience to the public requesting these kinds of services.

Several comments addressed the language at paragraph (c): "If we suspend your permit, your responsibilities under the permit would continue during the suspension." In certain situations, it may be necessary for BLM to suspend assigned authorized use for a period of time. Examples of such instances include periods of high fire danger, flood conditions or high water, presence of health hazards, or high likelihood of degradation of environmental resources. These situations are usually temporary and will not normally extend the life of the permit. Situations could arise where only a portion of a permit would be suspended, and BLM would allow the permittee to continue operating in the areas not subjected to the suspension; in such cases permit obligations would continue. These suspensions may not have any affect on the reporting requirements, payment of fees, or expiration date of the permit.

III. Final Rule as Adopted

This portion of the Supplementary Information describes and explains section-by-section changes we have made in the final rule that were not prompted by public comments. The changes recognize—

- Longstanding field practice,
- Statutory law,
- Need for internal consistency in the final rule,
- Need for improved clarity in the regulations, or
- Some combination of these factors.

Section 2932.12 When May BLM Waive the Requirement To Obtain a Permit?

We have revised paragraph (c)(5) in the final rule. This paragraph states the final criterion for waiving the permit requirement for competitive events. We added the lack of need for specific

management by BLM personnel as a reason for waiving the permit requirement.

This change makes the text for competitive events consistent with the text changes resulting from public comment for organized group or event use. It recognizes that some competitive events are so small that they have such inconsequential effects that we do not need to exercise any control over them. The "requires no specific management" wording makes it clear that BLM recognizes no need to make any on-site management changes, *e.g.*, closing a recreation site to public use because it is reserved for an event. An example might be a Boy Scout orienteering competition with a limited number of participants. Although it would be technically competitive, it would not be commercial, award cash prizes, advertise, or appreciably affect the environment. It probably would not require monitoring under paragraph (c)(5), and in most circumstances would not require BLM management action before, during, or after the event. The local BLM manager would have discretion in this case to require or waive the permit, perhaps requiring one if only to be aware that there are a certain number of children on the public lands in a particular area, and possibly needing protection or rescue.

Section 2932.34 When May BLM Waive Special Recreation Permit Fees?

We have amended this section to make it clear that to have a fee waiver approved for educational, scientific, or research uses, you must be an accredited institution. Without this change, the provision would be unnecessarily vague.

Section 2932.52 How Do I Apply for a Renewal?

We have amended paragraph (b) by removing the requirement that BLM "establish and publish deadlines for submitting renewal applications." Instead, establishment of such deadlines for submitting renewal applications will be discretionary with the local BLM manager.

This change relieves BLM of the unnecessary burden of publishing deadlines for renewal applications in the **Federal Register** or newspapers. BLM mostly communicates directly with permittees, and if the renewal deadline is not stated in the original permit, we will alert the permittee as the deadline approaches. There is no need to publish application deadlines for renewal of permits. The change is also consistent with current language in the Special Recreation Permit Manual/ Policy Statement and Handbook.

Section 2932.54 When May I Transfer My Special Recreation Permit to Other Individuals, Companies, or Entities?

BLM has amended paragraph (b) of this section to make it clear that the transferee must meet all BLM requirements, including the payment of fees, before we will allow a transfer and issue a new SRP. Read in isolation, the proposed rule provision seemed to require only the payment of fees. The revised provision makes it clear that a transferee must meet all BLM requirements before we will allow a permit to be transferred.

Section 2932.57 Prohibited Acts and Penalties

We have added two provisions to the list of Prohibited acts. The first prohibits permittees from interfering with other users of the public lands. The second prohibits refusal to disperse when BLM has suspended or canceled a permit.

The first of these is based on 43 CFR 9239.2–5, which in turn implements an 1885 law prohibiting interference with persons using or traveling on public lands (23 Stat. 322; 43 U.S.C. 1063). The second addition is similar to a prohibited act already in the recreation regulations at §8365.1–4, which prohibits failure to disperse when directed by BLM. The prohibitions, in other words, are not new in this rule, and would apply to special recreation permittees whether they appear in part 2930 or not.

We have also made changes in the penalty provisions of paragraph (b) of this section. Paragraph (b)(1) is amended to refer to the penalties in 18 U.S.C. 3571 as well as FLPMA.

This will ensure that the fines that became applicable in 1987 under the alternative fines section in the U.S. Criminal Code are applicable. Also, any future increases in fines will also be applicable because they most likely will be increased in section 3571.

We also have added a new paragraph (b)(3) that imposes the penalties in 18 U.S.C. 3571 on failing to obtain any permit or pay any fee required in subpart 2932, pursuant to the Land and Water Conservation Fund Act, as amended.

This amendment places in subpart 2932 the penalty provisions already found in §9268.3(e)(1) of BLM's law enforcement regulations. This is needed to allow us to apply criminal penalties provided by the Land and Water Conservation Fund Act and to ensure that we have access to those infraction level penalties in locations where the class A misdemeanor penalty may lead to procedural problems.

Subpart 2933—Recreation Use Permits for Fee Areas

Recreation use permits (RUP) are authorizations for short term recreational use of developed facilities, equipment, services, or specialized sites furnished at Federal expense. RUPs are most frequently used in BLM to authorize individual and group recreational use of these sites. Sites that charge a fee meet the fee criteria established by the LWCFA, as amended. BLM issues RUPs to ensure that the people of the United States receive a fair and equitable return for the use of these facilities and to help recover the cost of construction, operation, maintenance, administration, and management of the permits.

BLM has been able to administer and manage these types of sites through fee provisions in the LWCFA, 36 CFR Part 7, and policy. Keeping up with the growing demands of users and the complexity of uses, their compatibility or lack thereof, and conflicting types and amounts of use, is becoming more difficult without regulations. The purpose of this rule is to allow BLM to notify the public in a more detailed and formal way of our policies and the laws and regulations for administering and managing these areas.

This subpart codifies a permit system pertaining to "fee areas" on public lands managed by BLM. Fee areas are sites that provide specialized facilities, equipment, or services related to outdoor recreation. These include areas that are developed by BLM, receive regular maintenance, may have on-site staffing, and are supported by Federal funding. Not all fee areas necessarily have all of these attributes. Examples of fee areas are campgrounds that include improvements such as picnic tables, toilet facilities, tent or trailer sites, and drinking water; and specialized sites such as swimming pools, boat launch facilities, guided tours, hunting blinds, and so forth. The provisions in these regulations are codifications of existing procedures and policies. They are designed to allow the most efficient administration possible of the permit system, and the easiest access by the public.

The provisions in this subpart did not attract public comments. However, we have found it necessary to add a section on prohibited acts and penalties. We will propose this new section in a new proposed rule after publication of this final rule.

Cross-references

Finally, the final rule changes cross-references in other parts of Title 43 from subpart 8372 to part 2930.

IV. Procedural Matters

The principal author of this final rule is Lee Larson of the Recreation Group, Washington Office, BLM, assisted by Ted Hudson of the Regulatory Affairs Group, Washington Office, BLM.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and was not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

During fiscal year 1996, BLM issued just over 21,000 Special Recreation Permits, with revenues totaling a little over $1.5 million deposited into the Land and Water Conservation Fund (LWCF). During fiscal year 1997, BLM issued just over 32,000 Special Recreation Permits, with revenues totaling about $2.9 million, of which nearly $1.9 million was deposited into the LWCF with the balance attributed to the Fee Demonstration Project and other miscellaneous accounts. During fiscal year 1998, BLM issued just over 37,500 such permits, and collected just over $4.8 million in fees, of which nearly $1.6 million was deposited into the LWCF, with the balance attributed to the Fee Demonstration Project and other miscellaneous accounts. (These numbers are derived from the Public Land Statistics; the variety of laws directing the revenues to numerous funds accounts for different average fees from year to year. We give these numbers to illustrate that the revenues charged under BLM's recreation program are minuscule compared with those realized by the overall national recreation industry.) Special Recreation Permits are generally obtained by commercial outfitters and guides (about 2,500), river running companies (about 800), sponsors of competitive events (about 1,000), "snow bird" seasonal mobile home campers who use BLM's long term visitor areas (about 14,000), and private individuals and groups using certain special areas. Under current regulations, use fees are to be collected according to a schedule established by the Director, BLM, and published periodically in the **Federal Register**. BLM may charge actual costs if they exceed the fee on the schedule. The schedule is based on 3 percent of the gross annual receipts of the permittee or an $80 flat annual fee, whichever is greater. Snow birds pay a flat seasonal fee of $100. The flat annual fee for commercial outfitters and guides is adjusted periodically in line with the Implicit Price Deflator. The final rule provides for use fees to equal fair market value, which can be determined through comparative market analysis, competitive bidding, or other means. The State of Colorado charges river outfitters 5 percent of gross receipts to run trips on the Arkansas River, which features the Royal Gorge. This may be an indication of the type of fee increase that may be phased in under the final rule. BLM will determine fair market values for outfitter permits on a local or regional level, based on comparative market analyses and considering public input.

During fiscal year 1996, BLM issued over 116,000 Recreation Use Permits for use of fee sites, with revenues totaling about $600,000. During fiscal year 1997, BLM issued about 184,000 Recreation Use Permits for use of fee sites, with revenues totaling about $705,000. During fiscal year 1998, BLM issued about 280,000 Recreation Use Permits for use of fee sites, with revenues totaling about $1.3 million. The cost of such a permit averaged just over $5.00 for 1996, just under $4.00 for 1997, and a little over $4.60 for 1998. The final rule allows BLM to charge fees based on the types of services or facilities provided at the fee site, the cost of providing them, and fees charged by public and private entities at similar sites nearby. Changes caused by this rule are not quantifiable in this document, but will not result in charges greater than fair market value. Any increase in prices for these users would have to have economic consequences of hundreds of dollars per permit for the effect on the economy to total $100 million, the threshold for a major rule in the Executive Order.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). According to the president of the American Recreation Coalition, outdoor recreation is a $350 billion industry made up of small businesses. As stated in the previous section, BLM fees collected for Special Recreation Permits in fiscal year 1997 were about $2.9 million. BLM revenues collected thus amounted in that year to less than 1/1,000 of 1 percent of the gross industrial revenues, and not all of the BLM revenues were collected from commercial recreationists. The results in other years are similar. BLM considers that increases in these fees to fair market value could not create a significant impact on the outdoor recreation industry. However, BLM recognizes that most commercial recreation enterprises—outfitters, guides, river-running companies, local retail outlets—are small businesses, and that about 3,500 of them annually hold BLM commercial or competitive permits. For these reasons, any changes in fees to fair market value will be phased in, and fees will be set locally and only after opportunity for public participation leading to decisions on fair market value.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

Does not have an annual effect on the economy of $100 million or more. See the discussion under Regulatory Planning and Review, above.

Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The rule will have no effect on the 3 percent basic use fee that BLM's fee schedule (set by the 1984 policy, not regulations) requires outfitters to pay. The rule imposes cost recovery requirements provided for in section 304 of FLPMA (43 U.S.C. 1734), and in the Land and Water Conservation Fund Act (16 U.S.C. 460*l et seq.*, 460*l*–5), and Office of Management and Budget Circular No. A–25. The cost increases under this rule will be de minimus in the context of the entire outdoor recreation industry, and even in the context of the small proportion of it that uses public lands managed by BLM. See the discussion above under Regulatory Flexibility Act.

Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to

compete with foreign-based enterprises. The adjustment of user fees to fair market value and the implementation of cost recovery should not affect the ability of mostly small businesses evenly treated to compete with one another. Recreationists are not likely to be driven to foreign recreation markets by finding an increase in user fees in the western part of this country, due to the insignificance of such increases compared to the costs of travel to comparable foreign recreation destinations. Much recreation equipment is manufactured in foreign countries, but it is sold by small business retailers in this country. The adjustment of user fees to fair market value should not affect buyers' choice of foreign versus domestic made equipment.

The Small Business Administration established the Small Business and Agricultural Regulatory Enforcement Ombudsman and ten Regional Fairness Boards to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman annually evaluates these enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on enforcement aspects of this rule, you may call 1–888–734–4247.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. The rule has no effect on governmental or tribal entities. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. While the final rule provides for permits to be canceled under certain circumstances, including violations of law or regulations, or failure to comply with permit stipulations, and while for some commercial permittees a Special Recreation Permit may be essential to the exercise of property rights in a business, the rule does not allow such a forfeiture without due process of law. A takings implications assessment is not required.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The rule does not preempt State law.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not a significant energy action. It will not have an adverse effect on energy supplies. The rule does not limit land use by energy companies. It applies only to permits for recreational use of public lands, how BLM issues and administers them.

Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements in the proposed rule under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, and has assigned clearance number 1004–0110. The section of this final rule with information collection requirements is section 2932.24, and BLM estimates the public reporting burden of this section to average, respectively, one-half hour per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Information Collection Clearance Officer, Bureau of Land Management, U.S. Department of the Interior, 1849 C Street, NW., Mail Stop 401–LS, Washington, DC 20240, and Desk Officer for the Department of the Interior, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Attention: 1004–0110.

National Environmental Policy Act

Based on an environmental assessment approved May 5, 2000, we have determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

List of Subjects

43 CFR Part 2930

Penalties; Public lands; Recreation and recreation areas; Reporting and recordkeeping requirements; Surety bonds

43 CFR Part 3800

Administrative practice and procedure, Environmental protection, Intergovernmental relations, Mines, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds, Wilderness areas

43 CFR Part 6300

Penalties, Public lands, Reporting and recordkeeping requirements, Wilderness areas.

43 CFR Part 8340

Public lands, Recreation and recreation areas, Traffic regulations

43 CFR Part 8370

Penalties; Public lands; Recreation and recreation areas; Reporting and recordkeeping requirements; Surety bonds

43 CFR Part 9260

Continental shelf, Forests and forest products, Law enforcement, Penalties, Public lands, Range management, Recreation and recreation areas, Wildlife.

Dated: July 8, 2002.

Rebecca W. Watson,

Assistant Secretary of the Interior.

For the reasons explained in the preamble, and under the authority of 43 U.S.C. 1740, chapter II, subtitle B of title 43 of the Code of Federal Regulations is amended as follows:

1. Part 2930 is added to read as follows:

PART 2930—PERMITS FOR RECREATION ON PUBLIC LANDS

Subpart 2931—Permits for Recreation; General

Sec.

2931.1 What are the purposes of these regulations?
2931.2 What kinds of permits does BLM issue for recreation-related uses of public lands?
2931.3 What are the authorities for these regulations?
2931.8 Appeals.
2931.9 Information collection.

Subpart 2932—Special Recreation Permits for Commercial Use, Competitive Events, Organized Groups, and Recreation Use in Special Areas

2932.5 Definitions.
2932.10 When you need Special Recreation Permits.
2932.11 When do I need a Special Recreation Permit?
2932.12 When may BLM waive the requirement to obtain a permit?
2932.13 How will I know if individual use of a special area requires a Special Recreation Permit?
2932.14 Do I need a Special Recreation Permit to hunt, trap, or fish?
2932.20 Special Recreation Permit applications.
2932.21 Why should I contact BLM before submitting an application?
2932.22 When do I apply for a Special Recreation Permit?
2932.23 Where do I apply for a Special Recreation Permit?
2932.24 What information must I submit with my application?
2932.25 What will BLM do when I apply for a Special Recreation Permit?
2932.26 How will BLM decide whether to issue a Special Recreation Permit?
2932.30 Fees for Special Recreation Permits.
2932.31 How does BLM establish fees for Special Recreation Permits?
2932.32 When must I pay the fees?
2932.33 When are fees refundable?
2932.34 When may BLM waive Special Recreation Permit fees?
2932.40 Permit stipulations and terms.
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2933.30 Rules of conduct.
2933.31 What rules must I follow at fee areas?
2933.32 When will BLM suspend or revoke my permit?

Authority: 43 U.S.C. 1740; 16 U.S.C. 460*l*–6a.

PART 2930—PERMITS FOR RECREATION ON PUBLIC LANDS

Subpart 2931—Permits for Recreation; General

§ 2931.1 What are the purposes of these regulations?

The regulations in this part—

(a) State when you need a permit to use public lands and waters for recreation, including recreation-related business;

(b) Tell you how to obtain the permit;

(c) State the fees you must pay to obtain the permit; and

(d) Establish the framework for BLM's administration of your permit.

§ 2931.2 What kinds of permits does BLM issue for recreation-related uses of public lands?

The regulations in this part establish permit and fee systems for:

(a) Special Recreation Permits for commercial use, organized group activities or events, competitive use, and for use of special areas; and

(b) Recreation use permits for use of fee areas such as campgrounds and day use areas.

§ 2931.3 What are the authorities for these regulations?

(a) The statutory authorities underlying the regulations in this part are the Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and the Land and Water Conservation Fund Act, as amended, 16 U.S.C. 460*l*–6a.

(1) The Federal Land Policy and Management Act (FLPMA) contains the Bureau of Land Management's (BLM's) general land use management authority over the public lands, and establishes outdoor recreation as one of the principal uses of those lands (43 U.S.C. 1701(a)(8)). Section 302(b) of FLPMA directs the Secretary of the Interior to regulate through permits or other instruments the use of the public lands, which includes commercial recreation use. Section 303 of FLPMA contains BLM's authority to enforce the regulations and impose penalties.

(2) The Land and Water Conservation Fund (LWCF) Act, as amended, authorizes BLM to collect fees for recreational use (16 U.S.C. 460*l*–6a(a), (c)), and to issue special recreation permits for group activities and recreation events, and limits the services for which we may collect fees (16 U.S.C. 460*l*–6a(a), (b), (g)).

(3) The Sentencing Reform Act (18 U.S.C. 3571) is the authority for the possible penalties for violations of these regulations.

(b) The regulations at 36 CFR part 71 require all Department of the Interior bureaus to use the criteria in that part to set recreation fees. These criteria are based on the LWCF Act and stated in §§ 71.9 and 71.10 of that part.

§ 2931.8 Appeals.

(a) If you are adversely affected by a decision under this part, you may appeal the decision under parts 4 and 1840 of this title.

(b) All decisions BLM makes under this part will go into effect immediately and will remain in effect while appeals are pending unless a stay is granted under § 4.21(b) of this title.

§ 2931.9 Information collection.

The information collection requirements in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004–0119. BLM will use the information to determine whether we should grant permits to applicants for Special Recreation Permits on public lands. You must respond to requests for information to obtain a benefit.

Subpart 2932—Special Recreation Permits for Commercial Use, Competitive Events, Organized Groups, and Recreation Use in Special Areas

§ 2932.5 Definitions.

Actual expenses means money spent directly on the permitted activity. These may include costs of such items as food, rentals of group equipment, transportation, and permit or use fees. Actual expenses do not include the rental or purchase of personal equipment, amortization of equipment, salaries or other payments to participants, bonding costs, or profit.

Commercial use means recreational use of the public lands and related waters for business or financial gain.

(1) The activity, service, or use is commercial if—

(i) Any person, group, or organization makes or attempts to make a profit, receive money, amortize equipment, or obtain goods or services, as compensation from participants in recreational activities occurring on public lands led, sponsored, or

organized by that person, group, or organization;

(ii) Anyone collects a fee or receives other compensation that is not strictly a sharing of actual expenses, or exceeds actual expenses, incurred for the purposes of the activity, service, or use;

(iii) There is paid public advertising to seek participants; or

(iv) Participants pay for a duty of care or an expectation of safety.

(2) Profit-making organizations and organizations seeking to make a profit are automatically classified as commercial, even if that part of their activity covered by the permit is not profit-making or the business as a whole is not profitable.

(3) Use of the public lands by scientific, educational, and therapeutic institutions or non-profit organizations is commercial and subject to a permit requirement when it meets any of the threshold criteria in paragraphs (1) and (2) of this definition. The non-profit status of any group or organization does not alone determine that an event or activity arranged by such a group or organization is noncommercial.

Competitive use means—

(1) Any organized, sanctioned, or structured use, event, or activity on public land in which 2 or more contestants compete and either or both of the following elements apply:

(i) Participants register, enter, or complete an application for the event;

(ii) A predetermined course or area is designated; or

(2) One or more individuals contesting an established record such as for speed or endurance.

Organized group activity means a structured, ordered, consolidated, or scheduled event on, or occupation of, public lands for the purpose of recreational use that is not commercial or competitive.

Special area means:

(1) An area officially designated by statute, or by Presidential or Secretarial order;

(2) An area for which BLM determines that the resources require special management and control measures for their protection; or

(3) An area covered by joint agreement between BLM and a State under Title II of the Sikes Act (16 U.S.C. 670a *et seq.*)

Vending means the sale of goods or services, not from a permanent structure, associated with recreation on the public lands or related waters, such as food, beverages, clothing, firewood, souvenirs, photographs or film (video or still), or equipment repairs.

§ 2932.10 When you need Special Recreation Permits.

§ 2932.11 When do I need a Special Recreation Permit?

(a) Except as provided in § 2932.12, you must obtain a Special Recreation Permit for:

(1) Commercial use, including vending associated with recreational use; or

(2) Competitive use.

(b) If BLM determines that it is necessary, based on planning decisions, resource concerns, potential user conflicts, or public health and safety, we may require you to obtain a Special Recreation Permit for—

(1) Recreational use of special areas;

(2) Noncommercial, noncompetitive, organized group activities or events; or

(3) Academic, educational, scientific, or research uses that involve:

(i) Means of access or activities normally associated with recreation;

(ii) Use of areas where recreation use is allocated; or

(iii) Use of special areas.

§ 2932.12 When may BLM waive the requirement to obtain a permit?

We may waive the requirement to obtain a permit if:

(a) The use or event begins and ends on non-public lands or related waters, traverses less than 1 mile of public lands or 1 shoreline mile, and poses no threat of appreciable damage to public land or water resource values;

(b) BLM sponsors or co-sponsors the use. This includes any activity or event that BLM is involved in organizing and hosting, or sharing responsibility for, arranged through authorizing letters or written agreements; or

(c) The use is a competitive event that—

(1) Is not commercial;

(2) Does not award cash prizes;

(3) Is not publicly advertised;

(4) Poses no appreciable risk for damage to public land or related water resource values; and

(5) Requires no specific management or monitoring.

(d) The use is an organized group activity or event that—

(1) Is not commercial;

(2) Is not publicly advertised;

(3) Poses no appreciable risk for damage to public land or related water resource values; and

(4) Requires no specific management or monitoring.

§ 2932.13 How will I know if individual use of a special area requires a Special Recreation Permit?

BLM will publish notification of the requirement to obtain a Special Recreation Permit to enter a special area in the **Federal Register** and local and regional news media. We will post permit requirements at major access points for the special area and provide information at the local BLM office.

§ 2932.14 Do I need a Special Recreation Permit to hunt, trap, or fish?

(a) If you hold a valid State license, you do not need a Special Recreation Permit to hunt, trap, or fish. You must comply with State license requirements for these activities. BLM Special Recreation Permits do not alone authorize you to hunt, trap, or fish. However, you must have a Special Recreation Permit if BLM requires one for recreational use of a special area where you wish to hunt, trap, or fish.

(b) Outfitters and guides providing services to hunters, trappers, or anglers must obtain Special Recreation Permits from BLM. Competitive event operators and organized groups may also need a Special Recreation Permit for these activities.

§ 2932.20 Special Recreation Permit applications.

§ 2932.21 Why should I contact BLM before submitting an application?

If you wish to apply for a Special Recreation Permit, we strongly urge you to contact the appropriate BLM office before submitting your application. You may need early consultation to become familiar with BLM practices and responsibilities, and the terms and conditions that we may require in a Special Recreation Permit. Because of the lead time involved in processing Special Recreation Permit applications, you should contact BLM in sufficient time to complete a permit application ahead of the 180 day requirement (see § 2932.22(a)).

§ 2932.22 When do I apply for a Special Recreation Permit?

(a) For all uses requiring a Special Recreation Permit, except private, noncommercial use of special areas (see paragraph (b) of this section), you must apply to the local BLM office at least 180 days before you intend your use to begin. Through publication in the local media and on-site posting as necessary, a BLM office may require applications for specific types of use more than 180 days before your intended use. A BLM office may also authorize shorter application times for activities or events that do not require extensive environmental documentation or consultation.

(b) BLM field offices will establish Special Recreation Permit application procedures for private noncommercial

individual use of special areas, including when to apply. As you begin to plan your use, you should call the field office with jurisdiction.

§ 2932.23 Where do I apply for a Special Recreation Permit?

You must apply to the local BLM office with jurisdiction over the land you wish to use.

§ 2932.24 What information must I submit with my application?

(a) Your application for a Special Recreation Permit for all uses, except individual and noncommercial group use of special areas, must include:

(1) A completed BLM Special Recreation Application and Permit form;

(2) Unless waived by BLM, a map or maps of sufficient scale and detail to allow identification of the proposed use area; and

(3) Other information that BLM requests, in sufficient detail to allow us to evaluate the nature and impact of the proposed activity, including measures you will use to mitigate adverse impacts.

(b) If you are an individual or noncommercial group wishing to use a special area, contact the local office with jurisdiction to find out the requirements, if any.

§ 2932.25 What will BLM do when I apply for a Special Recreation Permit?

BLM will inform you within 30 days after the filing date of your application if we must delay a decision on issuing the permit. An example of when this could happen is if we determine that we cannot complete required environmental assessments or consultations with other agencies within 180 days.

§ 2932.26 How will BLM decide whether to issue a Special Recreation Permit?

BLM has discretion over whether to issue a Special Recreation Permit. We will base our decision on the following factors to the extent that they are relevant:

(a) Conformance with laws and land use plans;

(b) Public safety,

(c) Conflicts with other uses,

(d) Resource protection,

(e) The public interest served,

(f) Whether in the past you complied with the terms of your permit or other authorization from BLM and other agencies, and

(g) Such other information that BLM finds appropriate.

§ 2932.30 Fees for Special Recreation Permits.

§ 2932.31 How does BLM establish fees for Special Recreation Permits?

(a) The BLM Director establishes fees, including minimum annual fees, for Special Recreation Permits for commercial activities, organized group activities or events, and competitive events.

(b) The BLM Director may adjust the fees as necessary to reflect changes in costs and the market, using the following types of data:

(1) The direct and indirect cost to the government;

(2) The types of services or facilities provided; and

(3) The comparable recreation fees charged by other Federal agencies, non-Federal public agencies, and the private sector located within the service area.

(c) The BLM Director will publish fees and adjusted fees in the **Federal Register**.

(d) The State Director with jurisdiction—

(1) Will set fees for other Special Recreation Permits (including any use of Special Areas, such as per capita special area fees applicable to all users, including private noncommercial visitors, commercial clients, and spectators),

(2) May adjust the fees when he or she finds it necessary,

(3) Will provide fee information in field offices, and

(4) Will provide newspaper or other appropriate public notice.

(e)(1) *Commercial use.* In addition to the fees set by the Director, BLM, if BLM needs more than 50 hours of staff time to process a Special Recreation Permit for commercial use in any one year, we may charge a fee for recovery of the processing costs.

(2) *Competitive or organized group/event use.* BLM may charge a fee for recovery of costs to the agency of analyses and permit processing instead of the Special Recreation Permit fee, if—

(i) BLM needs more than 50 hours of staff time to process a Special Recreation Permit for competitive or organized group/event use in any one year, and

(ii) We anticipate that permit fees on the fee schedule for that year will be less than the costs of processing the permit.

(3) *Limitations on cost recovery.* Cost recovery charges will be limited to BLM's costs of issuing the permit, including necessary environmental documentation, on-site monitoring, and permit enforcement. Programmatic or general land use plan NEPA documentation are not subject to cost recovery charges, except if the documentation work done was done for or provides special benefits or services to an identifiable individual applicant.

(f) We will notify you in writing if you need to pay actual costs before processing your application.

§ 2932.32 When must I pay the fees?

You must pay the required fees before BLM will authorize your use and by the deadline or deadlines that BLM will establish in each case. We may allow you to make periodic payments for commercial use. We will not process or continue processing your application until you have paid the required fees or installments.

§ 2932.33 When are fees refundable?

(a) *Overpayments.* For multi-year commercial permits, if your actual fees due are less than the estimated fees you paid in advance, BLM will credit overpayments to the following year or season. For other permits, BLM will give you the option whether to receive refunds or credit overpayments to future permits, less processing costs.

(b) *Underuse.*

(1) Except as provided in paragraph (b)(2) of this section, for areas where BLM's planning process allocates use to commercial outfitters, or non-commercial users, or a combination, we will not make refunds for use of the areas we allocate to you in your permit if your actual use is less than your intended use.

(2) We may consider a refund if we have sufficient time to authorize use by others.

(c) *Non-refundable fees.* Application fees and minimum annual commercial use fees (those on BLM's published fee schedule) are not refundable.

§ 2932.34 When may BLM waive Special Recreation Permit fees?

BLM may waive Special Recreation Permit fees on a case-by-case basis for accredited academic, scientific, and research institutions, therapeutic, or administrative uses.

§ 2932.40 Permit stipulations and terms.

§ 2932.41 What stipulations must I follow?

You must follow all stipulations in your approved Special Recreation Permit. BLM may impose stipulations and conditions to meet management goals and objectives and to protect lands and resources and the public interest.

§ 2932.42 How long is my Special Recreation Permit valid?

You may request a permit for a day, season of use, or other time period, up

to a maximum of 5 years. BLM will determine the appropriate term on a case-by-case basis.

§ 2932.43 What insurance requirements pertain to Special Recreation Permits?

(a) All commercial and competitive applicants for Special Recreation Permits, except vendors, must obtain a property damage, personal injury, and public liability insurance policy that BLM judges sufficient to protect the public and the United States. Your policy must name the U.S. Government as additionally insured or co-insured and stipulate that you or your insurer will notify BLM 30 days in advance of termination or modification of the policy.

(b) We may also require vendors and other applicants, such as organized groups, to obtain and submit such a policy. BLM may waive the insurance requirement if we find that the vending or group activity will not cause appreciable environmental degradation or risk to human health or safety.

§ 2932.44 What bonds does BLM require for a Special Recreation Permit?

BLM may require you to submit a payment bond, a cash or surety deposit, or other financial guarantee in an amount sufficient to cover your fees or defray the costs of restoration and rehabilitation of the lands affected by the permitted use. We will return the bonds and financial guarantees when you have complied with all permit stipulations. BLM may waive the bonding requirement if we find that your activity will not cause appreciable environmental degradation or risk to human health and safety.

§ 2932.50 Administration of Special Recreation Permits.

§ 2932.51 When can I renew my Special Recreation Permit?

We will renew your Special Recreation Permit upon application at the end of its term only if—

(a) It is in good standing;

(b) Consistent with BLM management plans and policies; and

(c) You and all of your affiliates have a satisfactory record of performance.

§ 2932.52 How do I apply for a renewal?

(a) You must apply for renewal on the same form as for a new permit. You must include information that has changed since your application or your most recent renewal. If information about your operation or activities has not changed, you may merely state that and refer to your most recent application or renewal.

(b) BLM will establish deadlines in your permit for submitting renewal applications.

§ 2932.53 What will be my renewal term?

Renewals will generally be for the same term as the previous permit.

§ 2932.54 When may I transfer my Special Recreation Permit to other individuals, companies, or entities?

(a) BLM may transfer a commercial Special Recreation Permit only in the case of an actual sale of a business or a substantial part of the business. Only BLM can approve the transfer or assignment of permit privileges to another person or entity, also basing our decision on the criteria in § 2932.26.

(b) The approved transferee must complete the standard permit application process as provided in § 2932.20 through 2932.24. Once BLM approves your transfer of permit privileges and your transferee meets all BLM requirements, including payment of fees, BLM will issue a Special Recreation Permit to the transferee.

§ 2932.55 When must I allow BLM to examine my permit records?

(a) You must make your permit records available upon BLM request. BLM will not ask to inspect any of this material later than 3 years after your permit expires.

(b) BLM may examine any books, documents, papers, or records pertaining to your Special Recreation Permit or transactions relating to it, whether in your possession, or that of your employees, business affiliates, or agents.

§ 2932.56 When will BLM amend, suspend, or cancel my permit?

(a) BLM may amend, suspend, or cancel your Special Recreation Permit if necessary to protect public health, public safety, or the environment.

(b) BLM may suspend or cancel your Special Recreation Permit if you—

(1) Violate permit stipulations, or

(2) Are convicted of violating any Federal or State law or regulation concerning the conservation or protection of natural resources, the environment, endangered species, or antiquities.

(c) If we suspend your permit or a portion thereof, all of your responsibilities under the permit will continue during the suspension.

§ 2932.57 Prohibited acts and penalties.

(a) *Prohibited acts.* You must not—

(1) Fail to obtain a Special Recreation Permit and pay the fees required by this subpart;

(2) Violate the stipulations or conditions of a permit issued under this subpart;

(3) Knowingly participate in an event or activity subject to the permit requirements of this subpart if BLM has not issued a permit;

(4) Fail to post a copy of any commercial or competitive permit where all participants may read it;

(5) Fail to show a copy of your Special Recreation Permit upon request by either a BLM employee or a participant in your activity.

(6) Obstruct or impede pedestrians or vehicles, or harass visitors or other persons with physical contact while engaged in activities covered under a permit or other authorization; or

(7) Refuse to leave or disperse, when directed to do so by a BLM law enforcement officer or State or local law enforcement officer, whether you have a required Special Recreation Permit or not.

(b) *Penalties.*

(1) Under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), if you are convicted of committing any prohibited act in paragraph (a) of this section, or of violating any regulation in this subpart or any condition or stipulation of a Special Recreation Permit, you may be subject to a fine under 18 U.S.C. 3571 or other penalties in accordance with 43 U.S.C. 1733.

(2) You may also be subject to civil action for unauthorized use of the public lands or related waters and their resources, for violations of permit terms, conditions, or stipulations, or for uses beyond those allowed by the permit.

(3) If you are convicted of failing to obtain a permit or paying a fee required in this subpart, you may be subject to a fine under 18 U.S.C. 3571, pursuant to the Land and Water Conservation Fund Act, as amended.

Subpart 2933—Recreation Use Permits for Fee Areas

§ 2933.10 Obtaining Recreation Use Permits.

§ 2933.11 When must I obtain a Recreation Use Permit?

You must obtain a Recreation Use Permit for individual or group use of fee areas. These are sites where we provide or administer specialized facilities, equipment, or services related to outdoor recreation. You may visit these areas for the uses and time periods BLM specifies. We will post these uses and limits at the entrance to the area or site, and provide this information in the local BLM office with jurisdiction over the area or site. You may contact this

office for permit information when planning your visit.

§ 2933.12 Where can I obtain a Recreation Use Permit?

You may obtain a permit at self-service pay stations, from personnel at the site, or at other specified locations. Because these locations may vary from site to site, you should contact the local BLM office with jurisdiction over the area or site in advance for permit information.

§ 2933.13 When do I need a reservation to use a fee site?

Most sites are available on a first come/first serve basis. However, you may need a reservation to use some sites. You should contact the local BLM office with jurisdiction over the site or area to learn whether a reservation is required.

§ 2933.14 For what time may BLM issue a Recreation Use Permit?

You may obtain a permit for a day, season of use, year, or any other time period that we deem appropriate for the particular use. We will post this information on site, or make it available at the local BLM office with jurisdiction over the area or site, or both.

§ 2933.20 Fees for Recreation Use Permits.

§ 2933.21 When are fees charged for Recreation Use Permits?

You must pay a fee for individual or group recreational use if the area is posted to that effect. You may also find fee information at BLM field offices or BLM Internet websites.

§ 2933.22 How does BLM establish Recreation Use Permit fees?

BLM sets recreation use fees and adjusts them from time to time to reflect changes in costs and the market, using the following types of data:

(a) The direct and indirect cost to the government;

(b) The types of services or facilities provided; and

(c) The comparable recreation fees charged by other Federal agencies, non-Federal public agencies, and the private sector located within the service area.

§ 2933.23 When must I pay the fees?

You must pay the required fees upon occupying a designated recreation use facility, when you receive services, or as the BLM's reservation system may require. These practices vary from site to site. You may contact the local BLM office with jurisdiction over the area or site for fee information.

§ 2933.24 When can I get a refund of Recreation Use Permit fees?

If we close the fee site for administrative or emergency reasons, we will refund the unused portion of your permit fee upon request.

§ 2933.30 Rules of conduct.

§ 2933.31 What rules must I follow at fee areas?

You must comply with all rules that BLM posts in the area. Any such site-specific rules supplement the general rules of conduct contained in subpart 8365 of this chapter relating to public safety, resource protection, and visitor comfort.

§ 2933.32 When will BLM suspend or revoke my permit?

(a) We may suspend your permit to protect public health, public safety, the environment, or you.

(b) We may revoke your permit if you commit any of the acts prohibited in subpart 8365 of this chapter, or violate any of the stipulations attached to your permit, or any site-specific rules posted in the area.

PART 3800—MINING CLAIMS UNDER THE GENERAL MINING LAWS

2. The authority citation for part 3800 continues to read as follows:

Authority: 5 U.S.C. 552; 16 U.S.C. 1131–1136, 1271–1287, 1901; 25 U.S.C. 463; 30 U.S.C. 21 *et seq.*, 21a, 22 *et seq.*, 1601; 43 U.S.C. 2, 154, 299, 687b–687b–4, 1068 *et seq.*, 1201, 1701 *et seq.*; 62 Stat. 162.

3. Section 3802.1–1(d) is amended by removing the phrase "subpart 8372 of this title" and adding in its place the phrase "part 2930 of this chapter."

PART 6300—MANAGEMENT OF DESIGNATED WILDERNESS AREAS

4. The authority citation for part 6300 continues to read as follows:

Authority: 43 U.S.C. 1701 *et seq.*, 16 U.S.C. 1131 *et seq.*

5. Section 6302.20(i) is amended by removing the phrase "section 8372.0–5(c)" and adding in its place the phrase "section 2932.5."

PART 8340—OFF-ROAD VEHICLES

6. The authority citation for part 8340 is revised to read as follows:

Authority: 43 U.S.C. 1201, 43 U.S.C. 315a, 16 U.S.C. 1531 *et seq.*, 16 U.S.C. 1281c, 16 U.S.C. 670 *et seq.*, 16 U.S.C. 460*l-6a*, 16 U.S.C. 1241 *et seq.*, and 43 U.S.C. 1701 *et seq.*

7. Section 8344.1 is amended by revising the cross-reference "subpart 8372" to read "part 2930."

PART 8370—USE AUTHORIZATIONS [REMOVED]

8. Part 8370 is removed.

PART 9260—LAW ENFORCEMENT—CRIMINAL

9. The authority citation for part 9260 continues to read as follows:

Authority: 16 U.S.C. 433; 16 U.S.C. 460*l*–6a; 16 U.S.C. 670j; 16 U.S.C. 1246(i); 16 U.S.C. 1338; 18 U.S.C. 1851–1861; 18 U.S.C. 3551 *et seq.*; 43 U.S.C. 315(a); 43 U.S.C. 1061, 1063; 43 U.S.C. 1733.

10. Section 9268.3 is amended by removing from the first sentence of paragraph (e)(1) the phrase "subpart 8372 of this title" and adding in its place the phrase "part 2930 of this chapter."

[FR Doc. 02–24748 Filed 9–30–02; 8:45 am]
BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2930

[WO–250–1220–PA–24 1A]

RIN 1004–AD45

Permits for Recreation on Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to amend its regulations on Special Recreation Permits by changing the maximum term for these permits to 10 years instead of 5 years. The reason for this change is to add a reasonable expectation of continuity for outfitters, guides; and other small businesses that provide services to recreationists on public lands.

BLM also proposes to amend its regulations on Recreation Use Permits for fee areas by adding a section on prohibited acts and penalties. This new provision is necessary to give BLM law enforcement personnel authority to cite persons who do not pay fees or otherwise do not follow the regulations on Recreation Use Permits.

DATES: You should submit your comments by December 2, 2002. BLM will not necessarily consider comments postmarked or received by messenger or electronic mail after the above date.

ADDRESSES:

Mail: Director (630), Bureau of Land Management, Eastern States Office, 7450 Boston Blvd., Springfield, VA 22153, Attn: RIN 1004-AD45.

Personal or messenger delivery: Room 401, 1620 L Street, NW, Washington, DC 20036.

Direct internet response: *http://www.blm.gov/nhp/news/regulatory/index.html*

Internet e-mail: *WOComment@blm.gov.* (Include "Attn: AD45")

FOR FURTHER INFORMATION CONTACT: Lee Larson at (202) 452–5168 as to the substance of the proposed rule, or Ted Hudson at (202) 452–5042 as to procedural matters. Persons who use a telecommunications device for the deaf (TDD) may contact either individual by calling the Federal Information Relay Service (FIRS) at (800) 877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

A. How Do I Comment on the Proposed Rule?

If you wish to comment, you may submit your comments by any one of several methods.

- You may mail comments to Director (630), Bureau of Land Management, Eastern States Office, 7450 Boston Blvd., Springfield, VA 22153, Attn: RIN 1004–AD45.
- You may deliver comments to Room 401, 1620 L Street, NW, Washington, DC 20036.
- You may comment via the Internet by accessing our automated commenting system located at *http://www.blm.gov/nhp/news/regulatory/index.html* and following the instructions there.
- You may also comment via email to *WOComment@blm.gov.* We intend this address for use by those who want to keep their comments confidential and for those who are unable, for whatever reason, to use the Internet site. Please submit email comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: AD45" and your name and return address in your email message.

If you do not receive a confirmation that we have received your electronic message, contact us directly at (202) 452–5030.

Please make your comments on the proposed rule as specific as possible, confine them to issues pertinent to the proposed rule, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing.

BLM may not necessarily consider or include in the Administrative Record for the final rule comments that BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I Review Comments Submitted By Others?

Comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES:** Personal or messenger delivery" during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays.

Individual respondents may request confidentiality, which we will honor to the extent allowable by law. If you wish to withhold your name or address, except for the city or town, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

We intend to post all comments on the Internet. If you are requesting that your comment remain confidential, do not send us your comment to the direct internet response website. Use mail, messenger, or email (include your request for confidentiality) to *WOComment@blm.gov.* We will post all electronically-received comments online as soon as we receive them.

II. Background

BLM published the proposed rule on Permits for Recreation on Public Lands in the **Federal Register** on May 16, 2000 (65 FR 31234). That proposed rule included a new subpart containing regulations on recreation use permits. These permits are for use of BLM fee areas. Fee areas are sites that provide specialized facilities, equipment, or services related to outdoor recreation. These include areas that are developed by BLM, receive regular maintenance, may have on-site staffing, and are supported by Federal funding. Not all fee areas necessarily have all of these attributes. Examples of fee areas are campgrounds that include improvements such as picnic tables, toilet facilities, tent or trailer sites, and drinking water; and specialized sites such as swimming pools, boat launch facilities, places with guided tours, hunting blinds, and so forth. The final rule containing these regulations appears elsewhere in this issue of the **Federal Register.**

The final rule left substantially intact the existing regulations on the length of terms for commercial Special Recreation Permits. Those regulations provide for a maximum term of 5 years, allowing applicants to request permit terms up to that length and authorizing BLM to issue them for no more than that length of time.

One comment on the proposed rule from an association representing commercial outfitters and guides recommended that, considering the investment required by outfitters, the maximum term for Special Recreation Permits should be 10 years, unless BLM finds that special circumstances require a shorter period.

BLM recognizes that the 5-year maximum term for permits is a matter of concern for the outfitting and guiding community, and agrees that a 10-year

term may be more desirable from both a business and a land management perspective.

From the business perspective, the change would improve the ability of outfitters and guides to justify financing from lenders and would allow them to amortize equipment fully within the permit term, if BLM in fact sets their term at 10 years. It would improve the business climate for larger scale commercial permits and operations, in turn improving business stability and diversification within local economies.

From the perspective of the land manager, extending the maximum permit term from 5 to 10 years allows BLM greater range and flexibility to set a term for the permit appropriate for the activity in light of, and commensurate with—

- The level of investment required by the permittee;
- The geographic location and resource considerations;
- Anticipated changes or time frames in land use allocations or planning decisions;
- Our experience in managing and monitoring the type of permitted use; and
- The type, complexity, and extent of the proposed activity.

The rule would not automatically set the term of all permits at 10 years. Rather, it would simply allow the authorized officer to select an appropriate term for up to 10 years.

Finally, the change would lead to a small but real reduction in administrative costs by reducing the analysis and paperwork required for more frequent permit renewal.

However, since the matter was not raised in the 2000 proposed rule, it is appropriate to request public comment on the matter. Therefore, we are including this provision in this proposed rule.

III. Discussion of Proposed Rule

Section 2932.42 How Long Is My Special Recreation Permit Valid?

We propose to amend this section solely by changing the maximum Special Recreation Permit term to 10 years. BLM would consider each application separately, and could issue a permit for any period of time from the 10-year maximum term to down to a season or even a single day. We would consider the purpose of the permit, the needs of the permittee, and the public interest in determining the appropriate term.

Permittees are subject to rigorous monitoring and may lose their permits for poor performance under other provisions of the regulations (see §2932.56 of the final rule published in today's **Federal Register**). This proposed rule would have no impact on our ability to ensure that permittees are well-qualified and carry out their activities in a manner that protects the health of the public lands and serves the recreating public. It would, on the other hand, allow outfitters, guides, and river-running enterprises to amortize their equipment fully within a permit term, avoid the expense and inconvenience of more frequent permit renewal, secure financing more easily (based on lenders knowing that permit terms are longer), and engage in long-term business planning.

This change should benefit existing permit holders, but it may reduce the ability of outfitters who currently do not hold a permit to obtain one, but only in areas where resource sensitivity or high demand for a limited recreational resource requires BLM to impose limits on use allocations. BLM is also seeking comments on, and may include in the final rule additional data about, the economic impact of this rule, including its effects on the availability of loans and investments that the outfitter industry needs to support its operations and provide recreational services to its customers. BLM does not expect this rule to present a substantial departure from current commercial outfitter operations on BLM lands or the ability of BLM staff to monitor and enforce permit compliance. However, BLM is seeking comments from the public on this issue to ensure that this rule will adequately address any outstanding concerns that may arise from its implementation. Specifically, we invite comments offering answers to the following questions:

- Is the proposed rule an appropriate way to encourage business stability while allowing appropriate levels of competition and ranges of services?
- What problems have outfitters had obtaining financing under the current permit term limitation? Have lenders cited short permit terms as a reason for denying longer-term financing?
- Is there specific guidance BLM should issue to its field offices to assure fair and uniform implementation of this rule, and reduce pressure for automatic approval of 10-year permit terms?
- How would the proposed rule affect BLM's ability to manage permits even if on-the-ground conditions change?
- What substantial or additional benefit would the proposed rule provide to small businesses that is not available under the current 5 year maximum term?

We are also interested in anecdotal information concerning the following issues:

- What has prompted BLM to deny permit renewal?
- What problems have outfitters had obtaining financing under the present permit term limitation?
- What may be the tax consequences of allowing permits to last 10 years?

Subpart 2933—Recreation Use Permits for Fee Areas

The May 16, 2000, proposed rule did not include enforcement language for fee areas. In this new proposed rule we would amend this subpart on Recreation Use Permits by adding a new section on prohibited acts and penalties. Under this new §2933.33, persons using campgrounds and other fee areas would be cited and penalized if they do not—

- Obtain a permit,
- Pay necessary fees, or
- Display proof of payment as required by BLM and posted at the site.

They may also be cited and penalized if they—

- Use forged permits, or
- Use another person's permit.

This new section would also state that failure to display proof of payment on a vehicle parked in a fee area is evidence of non-payment.

Finally, the new section would list the penalties that may be imposed upon conviction.

The existing regulation at 43 CFR 8365.2–3(a), which requires visitors to pay fees imposed under 36 CFR part 71, is insufficient because part 71 has not been amended since 1981, and thus does not include fees provided for in numerous amendments of the Land and Water Conservation Fund Act since that time. Further, fee areas now include many more facilities besides developed campgrounds, and methods and proof of payment have changed so radically that law enforcement has encountered difficulties in enforcing these requirements and seeking prosecution of violators. Field offices are trying to solve these problems, primarily with supplementary rules under 43 CFR 8365.1–6.

IV. Procedural Matters

The principal author of this proposed rule is Lee Larson of the Recreation Group, Washington Office, BLM, assisted by Ted Hudson of the Regulatory Affairs Group, Washington Office, BLM.

Regulatory Planning and Review (E.O. 12866)

This rule is not a significant rule and is not subject to review by the Office of

Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

The first change in the proposed rule would be to increase the maximum term for Special Recreation Permits from 5 to 10 years. During fiscal year 2001, BLM issued about 34,500 Special Recreation Permits, and collected about $4 million in fees. We give these figures to illustrate that the revenues collected under BLM's recreation program are minuscule compared with those realized by the overall national recreation industry, which, according to industry sources, is a $350 billion industry. Special Recreation Permits are generally obtained by commercial outfitters and guides, including river-running companies (about 3,000), sponsors of competitive events (about 1,000), "snow bird" seasonal mobile home campers who use BLM's long term visitor areas (about 14,000), and private individuals and groups using certain special areas.

The proposal to increase the maximum term for Special Recreation Permits would affect primarily the first of these categories: commercial outfitters and guides, and river-running companies. The rule would not change the fee structure at all, but would benefit these businesses by giving them a more secure tenure in their permits. This in turn would help them justify financing from lenders and allow them to amortize equipment fully within the permit term.

The second change in the proposed rule affects Recreation Use Permits. During fiscal year 2001, BLM issued about 670,000 Recreation Use Permits for use of fee sites, with revenues totaling about $3.9 million. The cost of such a permit averaged a little under $6.00.

This proposed rule will have no effect on fees, and should have no effect on the number of Recreation Use Permits BLM will issue. It would merely add a section—

- Making failure to obtain a permit, failure to pay for one, and fraudulent use of permits or other documents to avoid paying a fee, prohibited acts;
- Making failure to display a permit, where local rules require it, evidence of failure to pay; and
- Stating the standard statutory maximum penalties for violation that a magistrate could impose.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). According to the president of the American Recreation Coalition, outdoor recreation is a $350 billion industry made up of small businesses. None of these small businesses will be affected more than incidentally by making failure to pay for or obtain a fee area Recreation Use Permit a prohibited act. There is no way to quantify how many of these permits BLM issues to small entities, but it must be a minuscule share of the campground and similar permits BLM issues to the general recreating public.

Changing the maximum term for Special Recreation Permits from 5 to 10 years will benefit small businesses as explained in the previous section of this part of the Preamble. However, we cannot quantify the benefits accruing from increased permit tenure. The rule will benefit about 3,000 commercial outfitters and guides and river-running outfitters, all of whom operate small businesses, and some of whom hold multiple Special Recreation Permits.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small-Business Regulatory Enforcement Fairness Act. This rule:

- Does not have an annual effect on the economy of $100 million or more. See the discussion under Regulatory Planning and Review, above.
- Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The rule does not change fees, but only provides a mechanism for enforcing their collection. See the discussion above under Regulatory Flexibility Act.
- Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Recreationists are not likely to resort to foreign recreation markets because failure to pay a campground fee becomes a punishable offense.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. The rule has no effect on governmental or tribal entities. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. The enforcement provision proposed does not include any language requiring or authorizing forfeiture of personal property or any property rights. A takings implications assessment is not required.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The rule does not preempt State law.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Consultation and Coordination With Indian Tribal Governments (E.O. 13175)

In accordance with E.O. 13175, we have found that this final rule would not include policies that have tribal implications. The rule would not affect lands held for the benefit of Indians, Aleuts, and Eskimos. The rule would apply only to BLM campgrounds and other fee areas on BLM lands.

Paperwork Reduction Act

This rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required. We base this finding on an environmental assessment of the proposed rule dated August 22, 2002, which you will find in the administrative record for the rule.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the proposed rule clearly stated?

(2) Does the proposed rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" and a numbered heading; *for example,* § 2932.42 How long is my Special Recreation Permit valid?)

(5) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION:** section of this preamble helpful in understanding the proposed rule? What else could we do to make the proposed rule easier to understand?

If you have any comments that concern how we could make this proposed rule easier to understand, in addition to sending the original to the address shown in **ADDRESSES**, above, please send a copy to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW, Washington, DC 20240. You may also e-mail the comments to this address: *Execsec@ios.doi.gov.*

List of Subjects in 43 CFR Part 2930

Penalties; Public lands; Recreation and recreation areas; Reporting and recordkeeping requirements; Surety bonds.

Dated: August 30, 2002.

Rebecca W. Watson,

Assistant Secretary of the Interior.

For the reasons explained in the preamble, and under the authority of 43 U.S.C. 1740, part 2930, chapter II, subtitle B of title 43 of the Code of Federal Regulations is proposed to be amended as follows:

PART 2930—PERMITS FOR RECREATION ON PUBLIC LANDS

1. The authority citation for part 2930 continues to read as follows:

Authority: 43 U.S.C. 1740; 16 U.S.C. 460*l*–6a.

Subpart 2932—Special Recreation Permits for Commercial Use, Competitive Events, Organized Groups, and Recreation Use in Special Areas

2. Revise §2932.42 to read as follows:

§ 2932.42 How long is my Special Recreation Permit valid?

You may request a permit for a day, season of use, or other time period, up to a maximum of 10 years. BLM will determine the appropriate term on a case-by-case basis.

Subpart 2933—Recreation Use Permits for Fee Areas

3. Add § 2933.33 to read as follows:

§ 2933.33 Prohibited acts and penalties.

(a) *Prohibited acts.* You must not—

(1) Fail to obtain a use permit or pay any fees that this subpart or the Land and Water Conservation Fund Act, as amended, requires;

(2) Fail to pay any fees within a time that the local BLM office sets after you have begun occupying a designated use facility;

(3) Fail to display any required proof of payment of fees;

(4) Willfully and knowingly possess, use, publish as true, or sell to another, any forged, counterfeited, or altered document or instrument used as proof of or exemption from fee payment; or

(5) Willfully and knowingly use any document or instrument used as proof of or exemption from fee payment, that BLM issued to or intended another to use, or

(6) Falsely represent yourself to be a person to whom BLM has issued a document or instrument used as proof of or exemption from fee payment.

(b) *Evidence of nonpayment.* BLM will consider as evidence of non-payment failure to display proof of payment, where required, on your unattended vehicle parked within a fee area.

(c) *Responsibility for penalties.* If another driver incurs a penalty when using a vehicle registered in your name, you and the driver are jointly responsible for the penalty, unless you can show that the vehicle was used without your permission.

(d) *Types of penalties.* You may be subject to the following fines or penalties for violating the provisions of this section.

If you are convicted of	Then you may be subject to...	Under...
(1) Any act prohibited by paragraph (a) of this section.	A fine under 18 U.S.C. 3571 or other penalties in accordance with 43 U.S.C. 1733.	The Federal Land Policy and Management Act 1976 (43 U.S.C. 1733(a)).
(2) Violating any regulation in this subpart or any condition of a Recreation Use Permit.	A fine under 18 U.S.C. 3571 or other penalties in accordance with 43 U.S.C. 1733.	The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)).
(3) Failing to obtain any permit or to pay any fee required in this subpart.	A fine in accordance with 18 U.S.C. 3571	The Land and Water Conservation Fund Act, as amended.

[FR Doc. 02–24749 Filed 9–30–02; 8:45 am]

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[Federal Register: July 29, 1999 (Volume 64, Number 145)]
[Notices]
[Page 41133]
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DEPARTMENT OF THE INTERIOR

Bureau of Land Management
[WO-250-24-1A]

Use Authorizations; Special Recreation Permits, Other Than on Developed Recreation Sites; Proposed Adjustment in Fees

AGENCY: Bureau of Land Management, Interior.

ACTION: Public notice-specific fee adjustment for competitive and organized group activities or events, special recreation permits.

SUMMARY: The Bureau of Land Management (BLM) hereby gives notice it is adjusting certain special recreation permit fees for various recreation activities on BLM administered Public Lands and related waters. BLM is adjusting the minimum fee for competitive and organized group activities or events.

Effective October 1, 1999, fee adjustments will be made automatically every 3 years using 1984 as the base year. These fees will be calculated and adjusted based on the change in the Implicit Price Deflator Index (IPDI). The fees will be rounded up to the nearest $1.00. This notice establishes the special recreation permit minimum fee for both competitive and organized group activities or events at $4.00 per person per day. Notice of the fee increase in the future will be announced in conjunction with the BLM and Forest Service minimum annual commercial fee and per site reservation fee. The next adjustment is scheduled for March 1, 2002. The intended effect is to ensure fees cover administrative costs of permit issuance, a fair return to the U.S. government for use of the public lands, and approach free market value in certain cases.

The IPDI is published every February as a part of the ''Economic Report of the President'' to Congress. The IPDI is also cited monthly in the ''Survey of Current Business,'' a periodical available in most regional, university, and local government depository libraries.

EFFECTIVE DATE: October 1, 1999.

ADDRESSES: Inquires or suggestions should be directed to--Director (100), Room 5660, Main Interior Building, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Lee V. Larson, National Recreation Group, (202) 452-5168.

SUPPLEMENTARY INFORMATION: In 1984 (49 FR 5300 and 49 FR 34332), the Bureau of Land Management announced its final regulations and policy concerning special recreation permits for individuals or organizations conducting commercial, competitive, and other uses. BLM established the minimum fee for competitive events at $2.00 per user day or 3% of gross receipts, whichever is greater, and group activities or events, other uses, at $1.50 per user day. These flat fees have not changed since the 1984 Federal Register. The above Federal Register notices and 43 CFR 8372.4(a)(1) states ''Fees for Special Recreation Permits shall be established and maintained by the Director, Bureau of Land Management,

and may be adjusted from time to time to reflect changes in costs. The fee schedule shall be incorporated in the Manual of the Bureau of Land Management, published periodically in the Federal Register and otherwise made generally available to the public.'' Since 1984, inflation has devalued these fixed fee amounts. Therefore, it is necessary to adjust the minimum competitive and organized group activities and event fees and provide a mechanism for the fees to be self-adjusting based on inflation.

Tom Fry,

Director, Bureau of Land Management.

[FR Doc. **99-19457 Filed** 7-28-**99**; 8:45 am]

BILLING CODE 4310-84-M

THE LAND AND WATER CONSERVATION FUND ACT OF 1965, AS AMENDED (THROUGH ENACTMENT OF P.L. 94-422 OF SEPTEMBER 28, 1976)

TITLE I—LAND AND WATER CONSERVATION PROVISIONS

Short Title and Statement of Purposes

SECTION 1. (a) CITATION; EFFECTIVE DATE—This Act may be cited as the "Land and Water Conservation Fund Act of 1965" and shall become effective on January 1, 1965.

(b) PURPOSES.—The purposes of this Act are to assist in preserving, developing, and assuring accessibility to all citizens of the United States of America of present and future generations and visitors who are lawfully present within the boundaries of the United States of America such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation in such recreation and to strengthen the health and vitality of the citizens of the United States by (1) providing funds for and authorizing Federal assistance to the States in planning, acquisition, and development of needed land and water areas and facilities and (2) providing funds for the Federal acquisition and development of certain lands and other areas.

Certain Revenues Placed in Separate Fund

SEC. 2. SEPARATE FUND. — During the period ending September 30, 1989, there shall be covered into the land and water conservation fund in the Treasury of the United States, which fund is hereby established and is hereinafter referred to as the "fund", the following revenues and collections:

(a) SURPLUS PROPERTY SALES. — All proceeds (except so much thereof as may be otherwise obligated, credited, or paid under authority of those provisions of law set forth in section 485(b)-(e), title 40, United States Code, or the Independent Offices Appropriation Act, 1963 (76 Stat. 725) or in any later appropriation Act) hereafter received from any disposal of surplus real property and related personal property under the Federal Property and Administrative Services Act of 1949, as amended, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Nothing in this Act shall affect existing laws or regulations concerning disposal of real or personal surplus property to schools, hospitals, and States and their political subdivisions.

(b) MOTORBOAT FUELS TAX.—The amounts provided for in section 201 of this Act.

(c) (1) OTHER REVENUES.—In addition to the sum of the revenues and collections estimated by the Secretary of the Interior to be covered into the fund pursuant to this section, as amended, there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated such amounts as are necessary to make the income of the fund not less than $300,000,000 for fiscal year 1977, $600,000,000 for fiscal year 1978, $750,000,000 for fiscal year 1979, and $900,000,000 for fiscal year 1980 and for each fiscal year thereafter through September 30, 1989.

(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund equivalent to the amounts provided in clause (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.): Provided, That notwithstanding the provisions of section 3 of this Act, moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purpose of this Act.

SEC. 3. APPROPRIATIONS.—Moneys covered into the fund shall be available for expenditure for the purposes of this Act only when appropriated therefor. Such appropriations may be made without fiscal-year limitation. Moneys covered into this fund not subsequently authorized by the Congress for expenditures within two fiscal years following the fiscal year in which such moneys had been credited to the fund, shall be transferred to miscellaneous receipts of the Treasury.

Admission and Use Fees: Establishment and Regulations

SEC. 4 (a) ADMISSION FEES. —Entrance or admission fees shall be charged only at designated units of the National Park System administered by the Department of the Interior and National Recreation Areas administered by the Department of Agriculture. No admission fees of any kind shall be charged or imposed for entrance into any other Federally owned areas which are operated and maintained by a Federal agency and used for outdoor recreation purposes.

(1) For admission into any such designated area, an annual admission permit (to be known as the Golden Eagle Passport) shall be available, for a fee of not more than $10. The permittee and any person accompanying him in a single, private, noncommercial vehicle, or alternatively, the permittee and his spouse, children, and parents accompanying him where entry to the area is by any means other than private, noncommercial vehicle, shall be entitled to general admission into any area designated pursuant to this subsection. The annual permit shall be valid during the calendar year for which the annual fee is paid. The annual permit shall not authorize any uses for which additional fees are charged pursuant to subsections (b) and (c) of this section. The annual permit shall be nontransferable and the unlawful use thereof shall be punishable in accordance with regulations established pursuant to subsection (e). The annual permit shall be available for purchase at any such designated area.

(2) Reasonable admission fees for a single visit at any designated area shall be established by the administering Secretary for persons who choose not to purchase the annual permit. A "single visit" means that length of time a visitor remains within the exterior boundary of a designated fee area beginning from the day he first enters the area until he leaves, except that on the same day such admission fee is paid, the visitor may leave and reenter without the payment of an additional admission fee to the same area.

(3) No admission fee shall be charged for travel by private, noncommercial vehicle over any national parkway or any road or highway established as a part of the National Federal Aid System, as defined in section 101, title 23, United States Code, which is commonly used by the public as a means of travel between two places either or both of which are outside the area. Nor shall any fee be charged for travel by private, noncommercial vehicle over any road or highway to any land in which such person has any property right if such land is within any such designated area. In the Smoky Mountains National Park, unless fees are charged for entrance into said park on main highways and thoroughfares, fees shall not be charged for entrance on other routes into said park or any part thereof.

(4) The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit (to be known as the "Golden Age Passport") to any citizen of, or person domiciled in, the United States sixty-two years of age or older applying for such permit. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and any person accompanying him in a single, private, noncommercial vehicle, or alternatively, the permittee and his spouse and children accompanying him where entry to the area is by any means other than private noncommercial vehicle, to general admission into any area designated pursuant to this subsection. No other free permits shall be issued to any person: PROVIDED, That no fees of any kind shall be collected from any persons who have a right of access for hunting or fishing privileges under a specific provision of law or treaty or who are engaged in the conduct of official Federal, State, or local Government business and PROVIDED FURTHER, That for no more than three years after the date of enactment of this Act, visitors to the United States will be granted entrance, without charge, to any designated admission fee area upon presentation of a valid passport.

(b) RECREATION USE FEES.- Each Federal agency developing, administering, providing or furnishing at Federal expense, specialized outdoor recreation sites, facilities, equipment, or services shall, in accordance with this subsection and subsection (d) of this section, provide for the collection of daily recreation use fees at the place of use or any reasonably convenient location: PROVIDED, That in no event shall there be a charge by any such agency for the use, either singly or in any combination, of drinking water, wayside exhibits, roads, overlook sites, visitors' centers, scenic drives, toilet facilities, picnic tables, or boat ramps: PROVIDED, HOWEVER, That a fee shall be charged for boat launching facilities only where specialized facilities or services such as mechanical or hydraulic boat lifts or facilities are provided: AND PROVIDED FURTHER, That in no event shall there be a charge for the use of any campground not having the following-tent or trailer spaces, drinking water, access road, refuse containers, toilet facilities, personal collection of the fee by an employee or agent of the Federal agency operating

the facility, reasonable visitor protection, and simple devices for containing a campfire (where campfires are permitted). At each lake or reservoir under the jurisdiction of the Corps of Engineers, United States Army, where camping is permitted, such agency shall provide at least one primitive campground, containing designated campsites, sanitary facilities, and vehicular access, where no charge shall be imposed. Any Golden Age Passport permittee shall be entitled upon presentation of such permit to utilize such special recreation facilities at a rate of 50 per centum of the established use fee.

(c) RECREATION PERMITS.--Special recreation permits for uses such as group activities, recreation events, motorized recreation vehicles, and other specialized recreation uses may be issued in accordance with procedures and at fees established by the agency involved.

(d) All fees established pursuant to this section shall be fair and equitable, taking into consideration the direct and indirect cost to the Government, the benefits to the recipient, the public policy or interest served, the comparable recreation fees charged by non-Federal public agencies, the economic and administrative feasibility of fee collection and other pertinent factors. Clear notice that a fee has been established pursuant to this section shall be prominently posted at each area and at appropriate locations therein and shall be included in publications distributed at such areas. It is the intent of this Act that comparable fees should be charged by the several Federal agencies for comparable services and facilities.

(e) In accordance with the provisions of this section, the heads of appropriate departments and agencies may prescribe rules and regulations for areas under their administration for the collection of any fee established pursuant to this section. Persons authorized by the heads of such Federal agencies to enforce any such rules or regulations issued under this subsection may, within areas under the administration or authority of such agency head and with or, if the offense is committed in his presence, without a warrant, arrest any person who violates such rules and regulations. Any person so arrested may be tried and sentenced by the United States magistrate specifically designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided in title 18, United States Code, section 3401, subsections (b), (c), (d), and (e), as amended. Any violations of the rules and regulations issued under this subsection shall be punishable by a fine of not more than $100.

(f) Except as otherwise provided by law or as may be required by lawful contracts entered into prior to September 3, 1964, providing that revenues collected at particular Federal areas shall be credited to specific purposes, all fees which are collected by any Federal agency shall be covered into a special account in the Treasury of the United States to be administered in conjunction with, but separate from, the revenues in the Land and Water Conservation Fund: PROVIDED, That the head of any Federal agency, under such terms and conditions as he deems appropriate, may contract with any public or private entity to provide visitor reservation services; and any such contract may provide that the contractor shall be permitted to deduct a commission

to be fixed by the agency head from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency. Revenues in the special account shall be available for appropriation, without prejudice to appropriations from other sources for the same purposes, for any authorized outdoor recreation function of the agency by which the fees were collected: PROVIDED, HOWEVER, That not more than forty per centum of the amount so credited may be appropriated during the five fiscal years following the enactment of this Act for the enhancement of the fee collection system established by this section, including the promotion and enforcement thereof.

(g) Nothing in this Act shall authorize Federal hunting or fishing licenses or fees or charges for commercial or other activities not related to recreation, nor shall it affect any rights or authority of the States with respect to fish and wildlife, nor shall it repeal or modify any provision of law that permits States or political subdivisions to share in the revenues from Federal lands or any provision of law that provides that any fees or charges collected at particular Federal areas shall be used for or credited to specific purposes or special funds as authorized by that provision of law.

(h) Periodic reports indicating the number and location of fee collection areas, the number and location of potential fee collection areas, capacity and visitation information, the fees collected, and other pertinent data, shall be coordinated and compiled by the Bureau of Outdoor Recreation and transmitted to the Committees on Interior and Insular Affairs of the United States House of Representatives and United States Senate. Such reports, which shall be transmitted no later than March 31 annually, shall include any recommendations which the Bureau may have with respect to improving this aspect of the land and water conservation fund program.

Allocation of Land and Water Conservation Fund for State and Federal Purposes

SEC. 5. ALLOCATION. — There shall be submitted with the annual budget of the United States a comprehensive statement of estimated requirements during the ensuing fiscal year for appropriations from the fund. Not less than 40 per centum of such appropriations shall be available for Federal purposes.

Financial Assistance to States

SEC. 6. GENERAL AUTHORITY; PURPOSES.—(a) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to provide financial assistance to the States from moneys available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such terms and conditions as he considers appropriate and in the public interest to carry out the purposes of this Act, for outdoor recreation: (1) planning, (2) acquisition of land, waters, or interests in land or waters, or (3) development.

(b) APPORTIONMENT AMONG STATES; NOTIFICATION.—Sums appropriated and available for State purposes for each fiscal year shall be apportioned among the several States by the Secretary, whose determination shall be final, in accordance with the following formula:

(1) Forty per centum of the first $225,000,000; thirty per centum of the next $275,000,000; and twenty per centum of all additional appropriations shall be apportioned equally among the several States; and

(2) At any time, the remaining appropriation shall be apportioned on the basis of need to individual States by the Secretary in such amounts as in his judgment will best accomplish the purposes of this Act. The determination of need shall include among other things a consideration of the proportion which the population of each State bears to the total population of the United States and of the use of outdoor recreation resources of individual States by persons from outside the State as well as a consideration of the Federal resources and programs in the particular States.

(3) The total allocation to an individual State under paragraphs (1) and (2) of this subsection shall not exceed 10 per centum of the total amount allocated to the several States in any one year.

(4) The Secretary shall notify each State of its apportionments; and the amounts thereof shall be available thereafter for payment to such State for planning, acquisition, or development projects as hereafter prescribed. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given and for two fiscal years thereafter shall be reapportioned by the Secretary in accordance with paragraph (2) of this subsection, without regard to the 10 per centum limitation to an individual State specified in this subsection.

(5) For the purposes of paragraph (1) of this subsection, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (when such islands achieve Commonwealth status) shall be treated collectively as one State, and shall receive shares of such apportionment in proportion to their populations. The above listed areas shall be treated as States for all other purposes of this title.

(c) MATCHING REQUIREMENTS.—Payments to any State shall cover not more than 50 per centum of the cost of planning, acquisition, or development projects that are undertaken by the State. The remaining share of the cost shall be borne by the State in a manner and with such funds or services as shall be satisfactory to the Secretary. No payment may be made to any State for or on account of any cost or obligation incurred or any service rendered prior to the date of approval of this Act.

(d) COMPREHENSIVE STATE PLAN REQUIRED; PLANNING PROJECTS.—A comprehensive statewide outdoor recreation plan shall be required prior to the consideration by the Secretary of financial assistance for acquisition or development projects. The plan shall be adequate if, in the judgment of the Secretary, it encompasses and will promote the purposes of this Act: Provided, That no plan shall be approved unless the Governor of the respective State certifies that ample opportunity for public participation in plan development and revision has been accorded. The Secretary shall develop, in consultation with others, criteria for public participation, which criteria shall constitute the basis for the certification by the Governor. The plan shall contain —

(1) the name of the State agency that will have authority to represent and act for the State in dealing with the Secretary for purposes of this Act;

(2) an evaluation of the demand for and supply of outdoor recreation resources and facilities in the State;

(3) a program for the implementation of the plan; and

(4) other necessary information, as may be determined by the Secretary.

The plan shall take into account relevant Federal resources and programs and shall be correlated so far as practicable with other State, regional, and local plans. Where there exists or is in preparation for any particular State a comprehensive plan financed in part with funds supplied by the Housing and Home Finance Agency, any statewide outdoor recreation plan prepared for purposes of this Act shall be based upon the same population, growth, and other pertinent factors as are used in formulating the Housing and Home Finance Agency financed plans.

The Secretary may provide financial assistance to any State for projects for the preparation of a comprehensive statewide outdoor recreation plan when such plan is not otherwise available or for the maintenance of such plan.

(e) PROJECTS FOR LAND AND WATER ACQUISITION; DEVELOPMENT.—In addition to assistance for planning projects, the Secretary may provide financial assistance to any State for the following types of projects or combinations thereof if they are in accordance with the State comprehensive plan:

(1) ACQUISITION OF LAND AND WATERS.—For the acquisition of land, waters, or interests in land or waters (other than land, waters, or interests in land or waters acquired from the United States for less than fair market value), but not including incidental costs relating to acquisition. Whenever a State provides that the owner of a single-family residence may, at his option, elect to retain a right of use and occupancy for not less than six months from the date of acquisition of such residence and such owner elects to retain such a right, such owner shall be deemed to have waived any benefits under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894) and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 101(6) of that Act.

(2) DEVELOPMENT. — For development of basic outdoor recreation facilities to serve the general public, including the development of Federal lands under lease to States for terms of twenty-five years or more: Provided, That no assistance shall be available under this Act to enclose or shelter facilities normally used for outdoor recreation activities, but the Secretary may permit local funding, and after the date of enactment of this proviso not to exceed 10 per centum of the total amount allocated to a State in any one year to be used for sheltered facilities for swimming pools and ice skating rinks in areas where the Secretary determines that the severity of climatic conditions and the increased public use thereby made possible justifies the construction of such facilities.

(f) REQUIREMENTS FOR PROJECT APPROVAL: CONDITION. —

(1) Payments may be made to States by the Secretary only for those planning, acquisition, or development projects that are approved by him. No payment may be made by the Secretary for or on account of any project with respect to which financial assistance has been given or promised under any other Federal program or activity, and no financial assistance may be given under any other Federal program or activity for or on account of any project with respect to which such assistance has been given or promised under this Act. The Secretary may make payments from time to time in keeping with the rate of progress toward the satisfactory completion of individual projects: *Provided*, That the approval of all projects and all payments, or any commitments relating thereto, shall be withheld until the Secretary receives appropriate written assurance from the State that the State has the ability and intention to finance its share of the cost of the particular project, and to operate and maintain by acceptable standards, at State expense, the particular properties or facilities acquired or developed for public outdoor recreation use.

(2) Payments for all projects shall be made by the Secretary to the Governor of the State or to a State official or agency designated by the Governor or by State law having authority and responsibility to accept and to administer funds paid hereunder for approved projects. If consistent with an approved project, funds may be transferred by the State to a political subdivision or other appropriate public agency.

(3) No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.

(4) No payment shall be made to any State until the State has agreed to (1) provide such reports to the Secretary, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his duties under this Act, and (2) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting for Federal funds paid to the State under this Act.

(5) Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(6) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act.

(7) Each State shall evaluate its grant programs annually under guidelines set forth by the Secretary and shall transmit such evaluation to the Secretary, together with a list of all projects funded during that fiscal year, including, but not limited to, a description of each project, the amount of Federal funds employed in such project, the source of other funds, and the estimated cost of completion of the project. Such evaluation and the publication of same shall be eligible for funding on a 50-50 matching basis. The results of the evaluation shall be annually reported on a fiscal year basis to the Bureau of Outdoor Recreation, which agency shall forward a summary of such reports to the Committees on Interior and Insular Affairs of the United States Congress. Such report to the committees shall also include an analysis of the accomplishments of the fund for the period reported, and may also include recommendations as to future improvements for the operation of the Land and Water Conservation Fund program.

(8) With respect to property acquired or developed with assistance from the fund, discrimination on the basis of residence, including preferential reservation or membership systems, is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence.

(g) COORDINATION WITH FEDERAL AGENCIES.—In order to assure consistency in policies and actions under this Act, with other related Federal programs and activities (including those conducted pursuant to title VII of the Housing Act of 1961 and section 701 of the Housing Act of 1954) and to assure coordination of the planning, acquisition, and development assistance to States under this section with other related Federal programs and activities, the President may issue such regulations with respect thereto as he deems desirable and such assistance may be provided only in accordance with such regulations.

Allocation of Moneys for Federal Purposes

SEC. 7. (a) Moneys appropriated from the fund for Federal purposes shall, unless otherwise allotted in the appropriation Act making them available, be allotted by the President to the following purposes and subpurposes:

(1) For the acquisition of land, waters, or interests in land or waters as follows:

NATIONAL PARK SYSTEM; RECREATION AREAS.—Within the exterior boundaries of areas of the national park system now or hereafter authorized or established and of areas now or hereafter authorized to be administered by the Secretary of the Interior for outdoor recreation purposes.

NATIONAL FOREST SYSTEM.—Inholdings within (a) wilderness areas of the National Forest System, and (b) other areas of national forests as the boundaries of those forests exist on the effective date of this Act, or purchase units approved by the National Forest Reservation Commission subsequent to the date of this Act, all of which other areas are primarily of value for outdoor recreation purposes: Provided, That lands outside of but adjacent to an existing national forest boundary, not to exceed three thousand acres in the case of any one forest, which would comprise an integral part of a forest recreational management area may also be acquired with moneys appropriated from this fund: Provided further, That except for areas specifically authorized by Act of Congress, not more than 15 per centum of the acreage added to the National Forest System pursuant to this section shall be west of the 100th meridian.

NATIONAL WILDLIFE REFUGE SYSTEM. — Acquisition for (a) endangered species and threatened species authorized under section 5(a) of the Endangered Species Act of 1973; (b) areas authorized by section 2 of the Act of September 28, 1962, as amended (16 U.S.C. 460k-1); (c) national wildlife refuge areas under section 7(a)(5) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(5)) except migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act of 1929, as amended (16 U.S.C. 715-715s); (d) any areas authorized for the National Wildlife Refuge System by specific Acts.

(2) For payment into miscellaneous receipts of the Treasury as a partial offset for those capital costs, if any, of Federal water development projects hereafter authorized to be constructed by or pursuant to an Act of Congress which are allocated to public recreation and the enhancement of fish and wildlife values and financed through appropriations to water resource agencies.

(b) ACQUISITION RESTRICTION.—Appropriations from the fund pursuant to this section shall not be used for acquisition unless such acquisition is otherwise authorized by law.

Funds Not to Be Used for Publicity

SEC. 8. Moneys derived from the sources listed in section 2 of this

Act shall not be available for publicity purposes: Provided, however, That in each case where significant acquisition or development is initiated, appropriate standardized temporary signing shall be located on or near the affected site, to the extent feasible, so as to indicate the action taken is a product of funding made available through the Land and Water Conservation Fund. Such signing may indicate the per centum and dollar amounts financed by Federal and non-Federal funds, and that the source of the funding includes moneys derived from Outer Continental Shelf receipts. The Secretary shall prescribe standards and guidelines for the usage of such signing to assure consistency of design and application.

SEC. 9. Not to exceed $30,000,000 of the money authorized to be appropriated from the fund by section 3 of this Act may be obligated by contract during each fiscal year for the acquisition of lands, waters, or interests therein within areas specified in section 7(a)(1) of this Act. Any such contract may be executed by the head of the department concerned, within limitations prescribed by the Secretary of the Interior. Any such contract so entered into shall be deemed a contractual obligation of the United States and shall be liquidated with money appropriated from the fund specifically for liquidation of such contract obligation. No contract may be entered into for the acquisition of property pursuant to this section unless such acquisition is otherwise authorized by Federal law.

SEC. 10. The Secretary of the Interior may enter into contracts for options to acquire lands, waters, or interests therein within the exterior boundaries of any area the acquisition of which is authorized by law for inclusion in the national park system. The minimum period of any such option shall be two years, and any sums expended for the purchase thereof shall be credited to the purchase price of said area. Not to exceed $500,000 of the sum authorized to be appropriated from the fund by section 3 of this Act may be expended by the Secretary in any one fiscal year for such options.

SEC. 11. There is hereby repealed the third paragraph from the end of the division entitled "National Park Service" of section 1 of the Act of March 7, 1928 (45 Stat. 238) and the second paragraph from the end of the division entitled "National Park Service" of section 1 of the Act of March 4, 1929 (45 Stat. 1602; 16 U.S.C. 14). Section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 24, 1944 (16 U.S.C. 460d), as amended by the Flood Control Act of 1962 (76 Stat. 1195) is further amended by deleting ", without charge," in the third sentence from the end thereof. All other provisions of law that prohibit the collection of entrance, admission, or other recreation user fees or charges authorized by this Act or that restrict the expenditure of funds if such fees or charges are collected are hereby also repealed: *Provided*, That no provision of any law or treaty which extends to any person or class of persons a right of free access to the shoreline of any reservoir or other body of water, or to hunting and fishing along or on such shoreline, shall be affected by this repealer.

SEC. 12. Within one year of the date of enactment of this section, the Secretary is authorized and directed to submit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives a comprehensive review and report on the needs, problems, and opportunities associated with urban recreation in highly populated regions, including the resources potentially available for meeting such needs. The report shall include site specific analyses and alternatives, in a selection of geographic environments representative of the Nation as a whole, including, but not limited to, information on needs, local capabilities for action, major site opportunities, trends, and a full range of options and alternatives as to possible solutions and courses of action designed to preserve remaining open space, ameliorate recreational deficiency, and enhance recreational opportunity for urban populations, together with an analysis of the capability of the Federal Government to provide urban-oriented environmental education programs (including, but not limited to, cultural programs in the arts and crafts) within such options. The Secretary shall consult with, and request the views of, the affected cities, counties, and States on the alternatives and courses of action identified.

TITLE II--MOTORBOAT FUEL TAX PROVISIONS

Transfers To and From Land and Water Conservation Fund

SEC. 201. (a) There shall be set aside in the land and water conservation fund in the Treasury of the United States provided for in title I of this Act the amounts specified in section 209(f)(5) of the Highway Revenue Act of 1956 (relating to special motor fuels and gasoline used in motorboats).

(b) There shall be paid from time to time from the land and water conservation fund into the general fund of the Treasury amounts estimated by the Secretary of the Treasury as equivalent to--

(1) the amounts paid before October 1, 1980, under section 6421 of the Internal Revenue Code of 1954 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems) with respect to gasoline used after December 31, 1964, in motorboats, on the basis of claims filed for periods ending before October 1, 1979; and

(2) 80 percent of the floor stocks refunds made before October 1, 1980, under section 6412(a)(2) of such Code with respect to gasoline to be used in motorboats.

Amendments To Highway Revenue Act of 1956

SEC. 202. (a) Section 209(f) of the Highway Revenue Act of 1956 (relating to expenditures from highway trust fund) is amended by adding at the end thereof the following new paragraph:

"(5) TRANSFERS FROM THE TRUST FUND FOR SPECIAL MOTOR FUELS AND GASOLINE USED IN MOTORBOATS.—The Secretary of the Treasury shall pay from time to time from the trust fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965 amounts as determined by him in consultation with the Secretary of Commerce equivalent to the taxes received, on or after January 1, 1965, under section 4041(b) of the Internal Revenue Code of 1954 with respect to special motor fuels used as fuel for the propulsion of motorboats and under section 4081 of such Code with respect to gasoline used as fuel in motorboats."

(b) Section 209(f) of such Act is further amended—

(1) by adding at the end of paragraph (3) the following new sentence: "This paragraph shall not apply to amounts estimated by the Secretary of the Treasury as paid under section 6421 of such Code with respect to gasoline used after December 31, 1964, in motorboats."; and

(2) by inserting after "such Code" in paragraph (4)(C) the following: "(other than gasoline to be used in motorboats, as estimated by the Secretary of the Treasury)".

Sikes Act
(Fish and Wildlife Conservation)

Act of September 15, 1960 (P.L. 86-797, 74 Stat. 1052, as amended; 16 U.S.C. 670g-670*l*, 670o)

Interior/Agriculture Coordination

Sec. 201. (a) The Secretary of the Interior and the Secretary of Agriculture shall each, in cooperation with the State agencies and in accordance with comprehensive plans developed pursuant to section 202 of this title, plan, develop, maintain, and coordinate programs for the conservation and rehabilitation of wildlife, fish, and game. Such conservation and rehabilitation programs shall include, but not be limited to, specific habitat improvement projects and related activities and adequate protection for species considered threatened or endangered.

(b) . . . The Secretary of Agriculture shall implement such conservation and rehabilitation programs on public land under his jurisdiction. (16 U.S.C. 670g)

Comprehensive Planning and State Cooperation

Sec. 202. (a)(1) The Secretary of the Interior shall develop, in consultation with the State agencies, a comprehensive plan for conservation and rehabilitation programs to be implemented on public land under his jurisdiction and the Secretary of Agriculture shall do the same in connection with public land under his jurisdiction.

* * *

(b) Each comprehensive plan developed pursuant to this section shall be consistent with any overall land use and management plans for the lands involved. In any case in which hunting, trapping, or fishing (or any combination thereof) of resident fish and wildlife is to be permitted on public land under a comprehensive plan, such hunting, trapping, and fishing shall be conducted in accordance with applicable laws and regulations of the State in which such land is located.

(c)(1) Each State agency may enter into a cooperative agreement with—

(A) the Secretary of Interior. . . .

(B) the Secretary of Agriculture with respect to those conservation and rehabilitation programs to be implemented under this title within the State on public land which is under his jurisdiction;

(C) the Secretary of Interior. . . .

Conservation and rehabilitation programs developed and implemented pursuant to this title shall be deemed as supplemental to wildlife, fish, and game-related programs conducted by the Secretary of the Interior and the Secretary of Agriculture pursuant to other provisions of law. Nothing in this title shall be construed as limiting the authority of the Secretary of the Interior or the Secretary of Agriculture, as the case may be, to manage the

National Forests or other public lands for wildlife and fish and other purposes in accordance with the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528-531) or other applicable authority.

(2) Any conservation and rehabilitation program included within a cooperative agreement entered into under this subsection may be modified in a manner mutually agreeable to the State agency and the Secretary concerned . . .

(3) Each cooperative agreement entered into under this subsection shall—

(A) specify those areas of public land within the State on which conservation and rehabilitation programs will be implemented;

(B) provide for fish and wildlife habitat improvements or modifications, or both;

(C) provide for range rehabilitation where necessary for support of wildlife;

(D) provide adequate protection for fish and wildlife officially classified as threatened or endangered pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) or considered to be threatened, rare, or endangered by the State agency;

(E) require the control of off-road vehicle traffic;

(F) if the issuance of public land area management stamps is agreed to pursuant to section 203(a) of this title—

(i) contain such terms and conditions as are required under section 203(b) of this title;

(ii) require the maintenance of accurate records and the filing of annual reports by the State agency to the Secretary of the Interior or the Secretary of Agriculture, or both, as the case may be, setting forth the amount and disposition of the fees collected for such stamps; and

(iii) authorize the Secretary concerned and the Comptroller General of the United States, or their authorized representatives, to have access to such records for purposes of audit and examination; and

(G) contain such other terms and conditions as the Secretary concerned and the State agency deem necessary and appropriate to carry out the purposes of this title.

A cooperative agreement may also provide for arrangements under which the Secretary concerned may authorize officers and employees of the State agency to enforce, or to assist in the enforcement of, section 204(a) of this title.

(4) Except where limited under a comprehensive plan or pursuant to a cooperative agreement, hunting, fishing, and trapping shall be permitted with respect to resident fish and wildlife in accordance with applicable laws and regulations of the State in which such land is located on public land which is the subject of a conservation and rehabilitation program implemented under this title.

(5) The Secretary of the Interior and the Secretary of Agriculture, as the case may be, shall prescribe such regulations as are deemed necessary to control, in a manner consistent with the applicable comprehensive plan and cooperative agreement, the public use of public land which is the subject of any conservation and rehabilitation program implemented by him under this title. (16 U.S.C. 670h)

Public Land Management Area Stamp

Sec. 203. (a) Any State agency may agree with the Secretary of the

Interior and the Secretary of Agriculture (or with the Secretary of the Interior or the Secretary of the Agriculture, as the case may be, if within the State concerned all conservation and rehabilitation programs under this title will be implemented by him) that no individual will be permitted to hunt, trap, or fish on any public land within the State which is subject to a conservation and rehabilitation program implemented under this title unless at the time such individual is engaged in such activity he has on his person a valid public land management area stamp issued pursuant to this section.

(b) Any agreement made pursuant to subsection (a) of this section to require the issuance of public land management area stamps shall be subject to the following conditions:

(1) Such stamps shall be issued, sold, and the fees therefor collected, by the State agency or by the authorized agents of such agency.

(2) Notice of the requirement to possess such stamps shall be displayed prominently in all places where State hunting, trapping, or fishing licenses are sold. To the maximum extent practicable, the sale of such stamps shall be combined with the sale of such State hunting, trapping, and fishing licenses.

(3) Except for expenses incurred in the printing, issuing, or selling of such stamps, the fees collected for such stamps by the State agency shall be utilized in carrying out conservation and rehabilitation programs implemented under this title in the State concerned. Such fees may be used by the State agency to acquire lands or interests therein from willing sellers or donors to provide public access to program lands that have no existing public access for enhancement of outdoor recreation and wildlife conservation: *Provided*, That the Secretary of Agriculture and the Secretary of the Interior maintain such access, or ensure that maintenance is provided for such access, through or to lands within their respective jurisdiction.

(4) The purchase of any such stamp shall entitle the purchaser thereof to hunt, trap, and fish on any public land within such State which is the subject of a conservation or rehabilitation program implemented under this title except to the extent that the public use of such land is limited pursuant to a comprehensive plan or cooperative agreement; but the purchase of any such stamp shall not be construed as (A) eliminating the requirement for the purchase of a migratory bird hunting stamp as set forth in the first section of the Act of March 16, 1934, commonly referred to as the Migratory Bird Hunting Stamp Act (16 U.S.C. 718a), or (B) relieving the purchaser from compliance with any applicable State game and fish laws and regulations.

(5) The amount of the fee to be charged for such stamps, the age at which the individual is required to acquire such a stamp, and the expiration date for such stamps shall be mutually agreed upon by the State agency and the Secretary or Secretaries concerned; except that each such stamp shall be void not later than one year after the date of issuance.

(6) Each such stamp must be validated by the purchaser thereof by signing his name across the face of the stamp.

(7) Any individual to whom a stamp is sold pursuant to this section shall upon request exhibit such stamp for inspection to any officer or employee of the Department of the Interior or the Department of Agriculture, or to any other person who is authorized to enforce section 204(a) of this title. (16 U.S.C. 670l)

Jurisdiction and Enforcement

Sec. 204. (a)(1) Any person who hunts, traps, or fishes on any public land which is subject to a conservation and rehabilitation program implemented under this title without having on his person a valid public land management area stamp, if the possession of such a stamp is required, shall be fined not more than $1,000, or imprisoned for not more than six months, or both.

(2) Any person who knowingly violates or fails to comply with any regulations prescribed under section 202(c)(5) of this title shall be fined not more than $500, or imprisoned not more than six months, or both.

(b)(1) For the purpose of enforcing subsection (a) of this section, the Secretary of the Interior and the Secretary of Agriculture may designate any employee of their respective departments, and any State officer or employee authorized under a cooperative agreement to enforce such subsection (a), to (i) carry firearms; (ii) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; (iii) make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view; (iv) search without warrant or process any person, place or conveyance as provided by law; and (v) seize without warrant or process any evidentiary item as provided by law.

(2) Upon the sworn information by a competent person, any United States magistrate or court of competent jurisdiction may issue process for the arrest of any person charged with committing any offense under subsection (a) of this section.

(3) Any person charged with committing any offense under subsection (a) of this section may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of title 18, United States Code.

(c) All guns, traps, nets, and other equipment, vessels, vehicles, and other means of transportation used by any person when engaged in committing an offense under subsection (a) of this section shall be subject to forfeiture to the United States and may be seized and held pending the prosecution of any person arrested for committing such offense. Upon conviction for such offense, such forfeiture may be adjudicated as a penalty in addition to any other provided for committing such offense.

(d) All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as such provisions of law are applicable and not inconsistent with the provisions of this section; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for the purposes of this section, be exercised or performed by the Secretary of the Interior or the Secretary of Agriculture, as the case may

be, or by such persons as he may designate. (16 U.S.C. 670j)

Definitions

Sec. 205. As used in this title—

* * * *

(3) The term "off-road vehicle" means any motorized vehicle designed for, or capable of, cross-country travel on or immediately over land, water, sand, snow ice, marsh, swampland, or other natural terrain; but such term does not include—

(A) any registered motorboat at the option of each State;

(B) any military, fire, emergency, or law enforcement vehicle when used for emergency purposes; and

(C) any vehicle the use of which is expressly authorized by the Secretary of the Interior or the Secretary of Agriculture under a permit, lease, license, or contract.

(4) The term "public land" means all lands under the respective jurisdiction of the Secretary of the Interior, the Secretary of Agriculture, the Chairman, and the Administrator, except land which is, or hereafter may be, within or designated as—

(A) a military reservation;

(B) a unit of the National Park System;

(C) an area within the national wildlife refuge system;

(D) an Indian reservation; or

(E) an area within an Indian reservation or land held in trust by the United States for an Indian or Indian tribe.

(5) The term "State agency" means the agency or agencies of a State responsible for the administration of the fish and game laws of the State.

(6) The term "conservation and rehabilitation programs" means to utilize those methods and procedures which are necessary to protect, conserve, and enhance wildlife, fish, and game resources to the maximum extent practicable on public lands subject to this title consistent with any overall land use and management plans for the lands involved. Such methods and procedures shall include, but shall not be limited to, all activities associated with scientific resources management such as protection, research, census, law enforcement, habitat management, propagation, live trapping and transplantation, and regulated taking in conformance with the provisions of this title. Nothing in this term shall be construed as diminishing the authority or jurisdiction of the States with respect to the management of resident species of fish, wildlife, or game, except as otherwise provided by law. (16 U.S.C. 670k)

Exceptions

Sec. 206. Notwithstanding any other provision in this title, section 203 of this title shall not apply to land which is, or hereafter may be, within or designated as Forest Service land or a Bureau of Land Management land of any State in which all Federal lands therein comprise 60 percent or more of the total area of such State; except that in any such State, any appropriate State agency may agree with the Secretary of Agriculture or the Secretary of the Interior, or both, as the case may be, to collect a fee as specified in such agreement at the point of sale of regular licenses to hunt, trap, or fish in such State, the proceeds of which shall be utilized in carrying out conservation and rehabilitation programs implemented under this

title in the State concerned and for no other purpose. (16 U.S.C. 670l)

* * * *

Authorized Appropriations

Sec. 209 (a) (Note—Secretary of Interior)

(b) There are authorized to be appropriated the sum of $12,000,000 for each of the fiscal years 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, and 1993 to enable the Secretary of Agriculture to carry out his functions and responsibilities under this subchapter. Such funds shall be in addition to those provided under other provisions of law. In requesting such funds under this subsection the Secretary shall take into account fish and wildlife program needs, including those for projects, identified in the State comprehensive plans as contained in the program developed pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1601-1610, P.L. 95-307).

(c) The Secretary of the Interior and the Secretary of Agriculture may each use any authority available to him under other laws relating to fish, wildlife, or plant conservation or rehabilitation for purposes of carrying out the provisions of this Act.

(d) The Secretary of the Interior and the Secretary of Agriculture may each make purchases and contracts for property and services from, or provide assistance to, the State agencies concerned, if such property, services or assistance is required to implement those projects and programs carried out on, or of benefit to, Federal lands and identified in the comprehensive plans or cooperative agreements developed under section 202 of this Act, without regard to title III (other than section 304) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251-260). Contract authority provided in this section is effective only to such extent or in such amounts as are provided in appropriation Acts. (16 U.S.C. 670o)

accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.

(3) Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.

(4) Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the non-surviving historic property in materials, design, color and texture.

(5) A reconstruction will be clearly identified as a contemporary re-creation.

(6) Designs that were never executed historically will not be constructed.

PART 71—RECREATION FEES

Sec.
71.1 Application.
71.2 Types of Federal recreation fees.
71.3 Designation.
71.4 Posting.
71.5 Golden Eagle Passport.
71.6 Golden Age Passport.
71.7 Entrance fees for single-visit permits.
71.8 Validation and display of entrance permits.
71.9 Establishment of recreation use fees.
71.10 Special recreation permits and special recreation permit fees.
71.11 Collection of Federal recreation fees.
71.12 Enforcement.
71.13 Exceptions, exclusions, and exemptions.
71.14 Public notification.
71.15 The Golden Eagle Insignia.

AUTHORITY: Sec. 4, Land and Water Conservation Fund Act of 1965 (16 U.S.C.A. 4601–6a (Supp., 1974)), as amended by Pub. L. 93-303; and sec. 3, Act of July 11, 1972, 86 Stat. 461; sec. 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

SOURCE: 39 FR 33217, Sept. 16, 1974. Redesignated at 44 FR 7143, Feb. 6, 1979, and 46 FR 34329, July 1, 1981; correctly redesignated at 46 FR 43045, Aug. 26, 1981, unless otherwise noted.

§ 71.1 Application.

This part is promulgated pursuant to section 4, Land and Water Conservation Fund Act of 1965, 16 U.S.C.A. 4601–6a (Supp., 1974), and section 3, Act of July 11, 1972, 86 Stat. 461. Any Federal recreation fee charged by any bureau of the Department of the Interior shall be charged according to criteria set forth in this part.

§ 71.2 Types of Federal recreation fees.

There shall be three types of Federal recreation fees:

(a) Entrance fees, charged either on an annual or single-visit basis, for admission to any Designated Entrance Fee Area;

(b) Daily recreation use fees for the use of specialized sites, facilities, equipment or services furnished at Federal expense; and

(c) Special recreation permit fees for specialized recreation uses, such as, but not limited to, group activities, recreation events, and the use of motorized recreation vehicles.

§ 71.3 Designation.

(a) An area or closely related group of areas shall be designated as an area at which entrance fees shall be charged (hereinafter "Designated Entrance Fee Area") if the following conditions are found to exist concurrently:

(1) The area is a unit of the National Park System administered by the Department of the Interior;

(2) The area is administered primarily for scenic, scientific, historical, cultural, or recreation purposes;

(3) The area has recreation facilities or services provided at Federal expense; and

(4) The nature of the area is such that entrance fee collection is administratively and economically practical.

(b) Any specialized site, facility, equipment or service related to outdoor recreation (hereinafter "facility") shall be designated as a facility for which a recreation use fee shall be charged (hereinafter "Designated Recreation Use Facility") if:

(1) For each Designated Recreation Use Facility, at least one of the following criteria is satisfied:

(i) A substantial Federal investment has been made in the facility,

(ii) The facility requires regular maintenance,

(iii) The facility is characterized by the presence of personnel, or

(iv) The facility is utilized for the personal benefit of the user for a fixed period of time; and,

(2) For each Designated Recreation Use Facility, all of the following criteria are satisfied:

(i) The facility is developed, administered, or provided by any bureau of the Department of the Interior,

(ii) The facility is provided at Federal expense, and

(iii) The nature of the facility is such that fee collection is administratively and economically practical.

(3) In no event shall any of the following, whether used singly or in any combination, be designated as facilities for which recreation use fees shall be charged: Drinking water, wayside exhibits, roads, overlook sites, visitors' centers, scenic drives, toilet facilities, picnic tables, and boat ramps. The first sentence of this paragraph does not apply to boat launching facilities with specialized facilities or services, such as mechanical or hydraulic boat lifts or facilities. Such boat launching facilities shall be designated as facilities for which recreation use fees shall be charged; *Provided*, They satisfy the requirements of paragraphs (b) (1) and (2) of this section.

(4) In no event shall a campground, which satisfies the requirements of paragraphs (b) (1) and (2) of this section, be designated as a facility for which recreation use fees shall be charged unless the campground has all of the following: Tent or trailer spaces, drinking water, access road, refuse containers, toilet facilities, personal fee collection, reasonable visitor protection, and simple devices for containing a campfire where campfires are permitted. A campground may be designated for recreation use fee collection whether the above enumerated amenities are provided for individual or group use.

(c) Any specialized recreation use including, but not limited to, group activities, recreation events, or the use of motorized recreation vehicles, shall qualify as a use for which a special recreation permit fee may be charged (hereinafter "Special Recreation Permit Use") if such use occurs in areas under the jurisdiction of any bureau of the Department of the Interior.

§ 71.4 Posting.

(a) The administering bureaus of the Department of the Interior shall provide for the posting of the following designation sign at entrances to Designated Entrance Fee Areas and at appropriate locations in areas with Designated Recreation Use Facilities in such a manner that the visiting public will be clearly notified that Federal recreation fees are charged. The designation sign shall:

(1) Be constructed of enameled steel, coated aluminum, silk screen reflective materials attached to wood or metal, or other permanent materials;

(2) Consist of the basic elements, proportion, and color as indicated below:

(i) The representation of an American Golden Eagle (colored gold) and a family group (colored midnight blue) enclosed within a circle (colored white with a midnight blue border) framed by a rounded triangle (colored gold with a midnight blue border).

(A) The color midnight blue shall be Pantone Matching System 282; the color gold shall be Pantone Matching System 130;

(B) The rounded triangle shall be 18 inches in vertical height at all Designated Entrance Fee Areas, except that at those areas accessible only on foot, the rounded triangle may be 9 inches vertical height;

(ii) The words "U.S. Fee Area" as indicated below.

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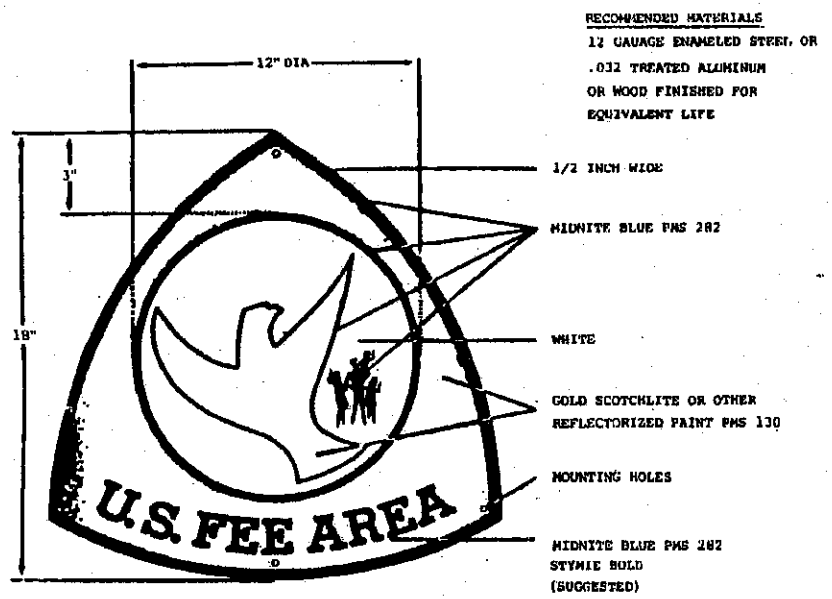
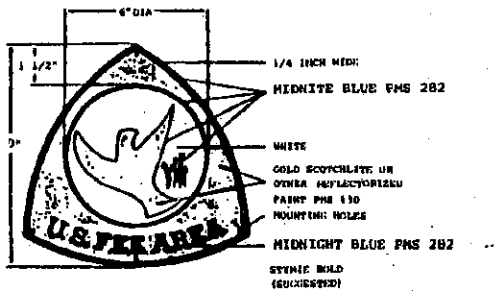


DIMENSIONS FOR STANDARD SIGN



DIMENSIONS FOR OPTIONAL
HALF-SIZE SIGN
FOR WALK-IN AREAS

(b) Clear notice shall be posted by any bureau issuing special recreation permits at its area headquarters having administrative jurisdiction over the area in which the use authorized by such a permit is to occur, that fees are charged for such permits. In addition, any specialized recreation use authorized by permit shall, if reasonably feasible, be posted with the designation sign described in paragraph (a) of this section at the site of use at the time of use.

(c) Proportionally sized replicas of the designation sign described in paragraph (a) of this section may be used in conjunction with other signs erected by any bureau of the Department of the Interior which direct the public to Designated Entrance Fee Areas, Designated Recreation Use Facilities, or Special Recreation Permit Uses.

(d) No entrance fee for admission to any Designated Entrance Fee Area or recreation use fee for the use of any Designated Recreation Use Facility shall be collected unless such area or facility is posted in accordance with this section. No fee for any Special Recreation Permit Use shall be collected unless clear notice that such a fee is charged is posted at the area headquarters of the bureau issuing such permit in which the use authorized by the permit is to occur.

§71.5 Golden Eagle Passport.

(a) The Golden Eagle Passport is an annual permit, valid on a calendar-year basis, for admission to any Designated Entrance Fee Area. The charge for the Golden Eagle Passport shall be $10. The annual Golden Eagle Passport shall be nontransferable and the unlawful use thereof shall be punishable in the manner described in §71.12 of this part.

(b) The Golden Eagle Passport shall admit the permittee and any persons accompany him in a single, private, noncommercial vehicle, or alternatively, the permittee and his spouse, children, and parents accompanying him where entry to the area is by any means other than private, noncommercial vehicle, to Designated Entrance Fee Areas. Golden Eagle Passport coverage does not include a permittee and his spouse, children, or parents entering a Designated Entrance Fee Area in two separate, private, noncommercial vehicles. In this case, only the vehicle with the permittee shall be covered by the Passport. The persons in the second vehicle shall be subject to the single-visit entrance fee requirement.

(1) "Private, noncommercial vehicle," for the purpose of this part, shall include any passenger car, station wagon, pickup camper truck, motorcycle, or other motor vehicle which is used for private recreation purposes.

(2) "Accompanying," for the purpose of this section, shall be defined as coming immediately with (at the same time) and entering together with (in physical proximity).

(c) The annual Golden Eagle Passport does not authorize the use of any Designated Recreation Use Facility for which a recreation use fee is charged or any Special Recreation Permit Use for which a special recreation permit fee is charged.

(d) The annual Golden Eagle Passport shall be for sale at all Designated Entrance Fee Areas of the National Park Service, at the National Park Service headquarters, Washington, D.C., and at the Park Service field offices.

§71.6 Golden Age Passport.

(a) Issuance of the Golden Age Passport:

(1) Golden Age Passports will be issued by appropriate Federal personnel (hereinafter "Issuing Officer") at National Park Service headquarters, Washington, D.C., and at field offices designated by the heads of the bureaus administering Designated Entrance Fee Areas and Designated Recreation Use Facilities.

(2) The Golden Age Passport will be issued free of charge upon the presentation of identification or information which attests to the fact that the applicant is a person 62 years of age or older and a citizen of the United States, or if not a citizen, domiciled therein. To satisfy the age requirement such identification may include, but is not limited to a State driver's license or birth certificate. To satisfy the citizenship requirement, such identification may include, but is not limited to,

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a birth certificate or a voter registration card issued by a State or Territory, or a political subdivision thereof, of the United States.

(3) For the purpose of this section, an applicant should be regarded as being "domiciled" in the United States if he has a fixed and permanent residence in the United States or its Territories to which he has the intention of returning whenever he is absent. Accordingly, an alien may be domiciled in the United States if he maintains a fixed and permanent residence therein to which he has the intention of returning whenever he is absent. An alien who temporarily travels or works in the United States, even for a period of years, shall not be regarded as domiciled therein if that alien has no intention of permanently maintaining his residence in the United States.

(4) The Golden Age Passport, commencing with the issuance of the 1975 Golden Age Passports, shall be a lifetime permit valid for the life of the permittee.

(5) Any applicant meeting the age and other requirements described in paragraph (a)(2) of this section not having in his possession any identification or information evidencing his qualification for a Golden Age Passport may be issued such a Passport on the basis of the affidavit below, if such an affidavit is signed in front of the Issuing Officer.

Passport No ———— Date ————

To the Secretary of the Interior:

I do hereby swear or affirm that I am 62 years of age or older, that I am a citizen of the United States or that I am domiciled therein and that I am duly entitled to be issued free of charge one Golden Age Passport pursuant to the Land and Water Conservation Fund Act of 1965, 16 U.S.C. A.460l-6a (Supp., 1974), as amended by Pub. L. 93-303.

Signature ————
Street ————
Town, City, State ————
Issuing Officer ————

(6) The Passport must be applied for in person and signed in front of the Issuing Officer or otherwise it will be treated as invalid.

(7) The Golden Age Passport shall be nontransferable and the unlawful use thereof shall be punishable in the manner described in §71.12 of this part.

(b) The Golden Age Passport shall admit the permittee and any persons accompanying him in a single, private, noncommercial vehicle, or alternatively, the permittee and his spouse and children accompanying him where entry to the areas is by means other than private, noncommercial vehicle to Designated Entrance Fee Areas. Golden Age Passport coverage does not include a permittee and his spouse or children entering a Designated Entrance Fee Area in two separate, private, noncommercial vehicles. In this case, only the vehicle with the permittee shall be covered by the Passport. The persons in the second vehicle shall be subject to the single-visit entrance fee requirement.

(1) "Private, noncommercial vehicle," for the purposes of this subsection, shall be defined the same as in §71.5(b)(1).

(2) "Accompanying," for the purpose of this subsection, shall be defined the same as in §71.5(b)(2).

(c) Any Golden Age Passport permittee shall be entitled upon presentation of the Passport to utilize Designated Recreation Use Facilities at a rate of 50 percent of the established recreation use fees.

(d) The Golden Age Passport does not authorize any specialized recreation use for which a special recreation permit fee is changed.

§71.7 Entrance fees for single-visit permits.

(a) Entrance fees for single-visit permits shall be selected by the National Park Service from within the range of fees listed below, provided that such fees are established in accordance with the following criteria:

(1) The direct and indirect cost to the Government;

(2) The benefit to the recipient;

(3) The public policy or interest served;

(4) The comparable recreation fees charged by other Federal and non-Federal public agencies within the service area of the management unit at which the fee is charged;

(5) The economic and administrative feasibility of fee collection; and,

(6) Other pertinent factors.

(b) There shall be two types of single-visit entrance fees charged at Designated Entrance Fee Areas for those persons not covered by either Golden Eagle or Golden Age Passports.

(1) The fee for a single-visit permit applicable to those persons entering by private, noncommercial vehicle shall be no more than $3 per vehicle. The single-visit permit shall admit the permittee and all persons accompanying him in said vehicle. The single-visit permit shall be valid only at the one Designated Entrance Fee Area for which it was purchased. "Accompanying," for the purpose of this section, shall mean entering together with the permittee while being transported by the same private, noncommercial vehicle which the permittee occupies.

(2) The fee for a single-visit permit applicable to those persons entering by any means other than private, noncommercial vehicle shall be no more than $1.50 per person and shall be valid at the one Designated Entrance Fee Area for which it is paid.

(c) Any of the permits provided for in paragraphs (a) and (b) of this section shall be valid at the Designated Entrance Fee Area for which it was purchased during the same calendar day of purchase. In addition, at overnight use areas, the single-visit permit shall be valid as long as the permittee and those covered by his permit remain within the boundaries of the Designated Entrance Fee Area, beginning from the first day of entry until the day of departure; except that on the same day that the entrance fee is paid, the permittee and those covered by the permit may leave and reenter without payment of additional fees.

[39 FR 33217, Sept. 16, 1974, as amended at 41 FR 22563, June 4, 1976. Redesignated at 46 FR 34329, July 1, 1981, and correctly redesignated at 46 FR 43045, Aug. 26, 1981]

§71.8 Validation and display of entrance permits.

(a) Every annual and lifetime permit shall be validated by the signature of its bearer on the face of the permit at the time of its receipt.

(b) All annual, lifetime and single-visit permits shall be nontransferable.

(c) Every permit shall be kept on the person of its owner, and shall be exhibited on the request of any authorized representative of the administering bureau.

§71.9 Establishment of recreation use fees.

(a) Recreation use fees shall be established by all outdoor recreation administering agencies of the Department of the Interior in accordance with the following criteria:

(1) The direct and indirect cost to the government,

(2) The benefit to the recipient,

(3) The public policy or interest served,

(4) The comparable recreation fees charged by other Federal agencies, non-Federal public agencies and the private sector located within the service area of the management unit at which the fee is charged,

(5) The economic and administrative feasibility of fee collection, and

(6) Other pertinent factors.

(b) With the approval of the Secretary of the Interior recreation use fees may be established for other types of facilities in addition to those which are listed below.

(c) Types of recreation facilities for which use fees may be charged:

Tent, trailer and recreation vehicle sites[1]
Group camping sites[1 2]
Specialized boat launching facilities and services[3]

[1] Provided, That in no event shall there be a charge for the use of any campsite and adjacent related facilities unless the campground in which the site is located has all of the following: Tent or trailer spaces, drinking water, access road, refuse containers, toilet facilities, personal collection of the fee by an employee or agent of the bureau operating the facility, reasonable visitor protection, and simple devices for containing a campfire (where campfires are permitted).

[2] The administering agency may establish a group use rate in lieu of the above "Group Camping Sites" recreation use fee in accordance with the criteria set out in this section provided such rate is not less than $3.00 per day per group. Such a group use rate may constitute either a special recreation permit fee or a recreation use fee as determined by the administering agency.

[3] Use fees for boat ramps are prohibited. However, in the case of boat launching facilities with specialized facilities or services,

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Lockers
Boat storage and handling
Elevators
Ferries and other means of transportation
Bathhouses
Swimming pools
Overnight shelters
Guided tours
Electrical hook-ups
Vehicle and trailer storage
Rental of nonmotorized boats
Rental of motorized boats
Rental of hunting blinds
Reservation services
Specialized sites (highly developed)

[45 FR 43168, June 26, 1980. Redesignated at 46 FR 34329, July 1, 1981, and correctly redesignated at 46 FR 43045, Aug. 26, 1981]

§71.10 Special recreation permits and special recreation permit fees.

(a) Special recreation permits may be required in accordance with procedures established by the administering bureaus for specialized recreation uses, such as, but not limited to, group activities, recreation events, and the use of motorized recreation vehicles. In any instance where such a permit is required, the following conditions must be satisfied:

(1) The use complies with pertinent State and Federal laws and regulations on public health, safety, air quality, and water quality;

(2) The use will not adversely impact archeological, historic or primitive values and is not in conflict with existing resource management programs and objectives;

(3) The necessary clean-up and restoration is made for any damage to resources or facilities; and

(4) The use is restricted, to the extent practicable, to an area where minimal impact is imposed on the environmental, cultural or natural resource values.

(b) Fees for special recreation permits shall be established by all outdoor recreation bureaus of the Department of the Interior issuing such permits in accordance with the following criteria:

(1) The direct and indirect cost to the Government;

(2) The benefit to the recipient;

(3) The public policy or interest served;

(4) The comparable recreation fees charged by other Federal and non-Federal public agencies within the service area of the management unit at which the fee is charged;

(5) The economic and administrative feasibility of fee collection; and

(6) Other pertinent factors.

§71.11 Collection of Federal recreation fees.

The bureaus of the Department of the Interior administering outdoor recreation programs shall provide for the collection of entrance fees at the place of admission to Designated Entrance Fee Areas; they shall provide for the collection of recreation use fees and/or special recreation permit fees at the place of use or at a location reasonably convenient for the public and the bureaus.

§71.12 Enforcement.

Persons authorized by the heads of the appropriate bureaus to enforce these regulations may arrest any person who violates these rules and regulations within areas under the administration or authority of such bureau head with a warrant or, if the offense is committed in his presence, without a warrant. Any violations of the rules and regulations issued in this part, except those in §71.15, shall be punishable by a fine of not more than $100.

§71.13 Exceptions, exclusions, and exemptions.

In the application of the provisions of this part, the following exceptions, exclusions, and exemptions shall apply:

(a) Nothing contained herein shall authorize Federal hunting or fishing licenses or fees;

(b) No entrance fee shall be charged for travel by private noncommercial vehicle over any National Parkway, or any road or highway established as part of the National Federal-Aid System, which is commonly used by the public as a means of travel between two places, either or both of which are outside the Designated Entrance Fee Area;

(c) No entrance fee shall be charged for travel by private noncommercial vehicle over any road or highway to any land in which such person has any property right if such land is within any Designated Entrance Fee Area.

(d) No Federal recreation fee shall be charged for commercial or other activities not related to recreation, including, but not limited to, organized tours or outings conducted for educational or scientific purposes related to the resources of the area visited by bona fide institutions established for these purposes. Applicants for waiver of fees on this basis will be required to provide documentation of their official recognition as educational or scientific institutions by Federal, State or local government bodies and will also be required to provide a statement as to the purposes of the visit proposed. The use of any recreation facilities for which a fee waiver is requested must relate directly to scientific or educational purposes of the visit and may not be primarily for recreational purposes. No Federal recreation fee shall be charged any hospital inmate actively involved in medical treatment or therapy in the area visited.

(e) No entrance fee shall be charged any person conducting State, local, or Federal government business.

(f) No entrance fee shall be charged at any entrance to Great Smoky Mountains National Park unless such fees are charged at main highway and thoroughfare entrances.

(g) No entrance fees shall be charged for persons who have not reached their 16th birthday.

(h) Until July 12, 1975, no entrance fee shall be charged a foreign visitor to the United States seeking admission to any Designated Entrance Fee Area upon presentation of a valid passport.

(i) No entrance fees shall be charged persons having a right of access to lands or waters within a Designated Entrance Fee Area for hunting or fishing privileges under a specific provision of law or treaty.

[39 FR 33217, Sept. 16, 1974; 39 FR 36114, Oct. 8, 1974. Redesignated at 44 FR 7143, Feb. 6, 1979, and 46 FR 34329, July 1, 1981, and correctly redesignated at 46 FR 43045, Aug. 26, 1981]

§71.14 Public notification.

The administering bureaus shall notify the public of the specific Federal recreation fees which will be charged at areas and for facilities and uses under their jurisdiction. Such notification shall be accomplished by the posting of fee information in accordance with §71.4 and the inclusion of such information in publications distributed at each area or facility. Public announcements, press releases and any other suitable means may also be used to provide such notification.

§71.15 The Golden Eagle Insignia.

(a) *Definitions.* (1) The term "The Golden Eagle Insignia" (hereinafter "Insignia") as used in this section, means the words "The Golden Eagle" and the representation of an American Golden Eagle (colored gold) and a family group (colored midnight blue) enclosed within a circle (colored white with a midnight blue border) framed by a rounded triangle (colored gold with a midnight blue border) which was originated by the Department of the Interior as the official symbol for Federal recreation fee areas.

(2) The term "Secretary" as used in this section, means the Secretary of the Interior or any person designated to act for him in any matter to which this section refers.

(3) The term "commercial use," as used in this section, refers to any use, including the reproduction, manufacture, importation, or distribution, of the Insignia the primary purpose of which is to make a profit.

(4) The term "public service use," as used in this section, refers to any use, including the reproduction, manufacture, importation, or distribution, of the Insignia the primary purpose of which is to contribute to the public's information and education about the Federal recreation fee program.

(5) The term "official use" refers to uses of the Insignia pursuant to §§71.4, 71.5, 71.6, 71.8, 71.10, and 71.14, including, but not limited to, the posting of areas, facilities, and uses with the designation sign described in §71.4(a), and the design of Golden Eagle and Golden Age Passports, and uses of the Insignia by other Federal agencies.

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such as mechanical or hydraulic lifts, reasonable fees may be assessed in accordance with the criteria set out in a paragraph (a) of this section.

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(6) The Golden Eagle program refers to the Federal outdoor recreation fee program, which provides for the designation of entrance fee areas, recreation use facilities, special recreation permit uses, the issuance of Golden Eagle and Golden Age Passports, and the collection and enforcement of fees at Federal areas and facilities and for specialized recreation uses established by the Land and Water Conservation Fund Act of 1965, 16 U.S.C.A. 4601-6a (Supp., 1974), as amended.

(b) *Licenses for commercial and public service use.* (1) Any person, business, or organization (hereinafter called the applicant) wishing a license for commercial or public service use of the Insignia must make written application to the Secretary stating:

(i) The nature and scope of the intended use.

(ii) The applicant's name and address.

(iii) The nature of the applicant's business or activities, and the relationship between the intended use and said business or activities.

(2) The Secretary, in determining whether to grant a license for the commercial use of the Insignia, will consider the following criteria:

(i) Whether the intended use will be an enhancement of the Golden Eagle program which would complement the program as it is administered by Federal recreation agencies and departments.

(ii) Whether the intended use is likely to cause confusion, or to cause mistake, or to deceive the general public by creating the impression that the use is official.

(iii) Whether the intended use is injurious to the integrity of the concept of the Insignia.

(iv) Whether the intended use is capable of generating enough royalty fee revenue to justify the administrative costs of licensing.

(3) The Secretary, in determining whether to grant a license for the public service use of the Insignia, will consider the following criteria:

(i) Whether the intended use will be an enhancement of the Golden Eagle program which would complement the program as it is administered by Federal recreation agencies and departments.

(ii) Whether the intended use is injurious to the integrity of the concept of the Insignia.

(4) Any license granted by the Secretary for commercial use of the Insignia is subject to the following terms and conditions:

(i) The license is nontransferable.

(ii) All proposed uses of the Insignia must be approved by the Secretary prior to manufacture, importation, or reproduction by the licensee. The Insignia shall not be used in conjunction with substances inherently dangerous to the public.

(iii) The license shall contain equal employment opportunity provisions in compliance with Executive Order 11246, 30 FR 12319 (1965), as amended, and regulations issued pursuant thereto (41 CFR Ch. 60) unless the royalty fees to be paid under the license are not expected to exceed $10,000.

(iv) The license shall be subject to revocation by the Secretary at any time that he finds that: (*a*) The criteria under which the license was granted are not being fulfilled; or (*b*) there has been a violation of the terms and conditions of the license.

(5) Any license granted by the Secretary for public service use of the Insignia is subject to the following terms and conditions:

(i) The license is nontransferable.

(ii) All proposed uses of the Insignia must be approved by the Secretary prior to manufacture, importation, reproduction, or distribution by the licensee.

(iii) The license shall be subject to revocation by the Secretary at any time that he finds that: (*a*) The criteria under which the license was granted are not being fulfilled; or (*b*) there has been a violation of the terms and conditions of the license.

(c) *Unauthorized use of the Insignia.* (1) Unauthorized use of the Insignia is all use except: The licensed commercial use or public service use of the Insignia; official use of the Insignia; and any lawful use of the Insignia, similar emblem, sign or words which antedates the Act of July 11, 1972, 86 Stat. 459.

(2) Whoever makes unauthorized use of the Insignia or any facsimile thereof, in such a manner as is likely to cause confusion, or to cause mistake or to deceive the public by creating the impression that the use is official, shall be fined not more than $250 or imprisoned not more than 6 months or both.

(3) Any unauthorized use of the Insignia may be enjoined at the suit of the Attorney General upon complaint by the Secretary.

(d) *Royalty fees for commercial and public service use.* (1) Royalty fees for licensed commercial use of the Insignia shall be established at reasonable rates by contract between the licensee and the Secretary.

(2) Royalty fees for licensed public service use of the Insignia shall be waived by the Secretary.

(e) *Abandonment of the Golden Eagle Insignia.* The rights of the United States in the Golden Eagle Insignia shall terminate if the use of the Insignia is abandoned by the Secretary. Nonuse for a continued period of 2 years shall constitute abandonment.

PART 72—URBAN PARK AND RECREATION RECOVERY ACT OF 1978

Subpart A—General

Sec.
72.1 Purpose of regulations.
72.2 Legislative authority.
72.3 Definitions.
72.4—72.9 [Reserved]

Subpart B—Local Recovery Action Program

72.10 General requirements.
72.11 Action program components.
72.12 Assessment of needs, problems and issues.
72.13 Action plan.
72.14 [Reserved]
72.15 Preliminary Action Program.
72.16 Preliminary Action Program requirements.
72.17 Preliminary Action Program—commitments to be included.
72.18—72.29 [Reserved]

Subpart C—Grants for Recovery Action Program Development, Rehabilitation and Innovation

72.30 General requirements.
72.31 [Reserved]
72.32 Funding and matching share.
72.33 Timing and duration of projects.
72.34—72.35 [Reserved]
72.36 Land ownership, control and conversion.
72.37 Pass-through funding.
72.38—72.39 [Reserved]
72.40 Historic properties.
72.41 Demolition and replacement of existing recreation properties.
72.42 Expansion and new development.
72.43 Fundable elements: Recovery Action Program grants.
72.44 Fundable elements: Rehabilitation and Innovation grant common elements.
72.45 Fundable elements: Innovation grants.
72.46 Citizen participation requirements.
72.47 [Reserved]
72.48 Federal coordination.
72.49 [Reserved]

Subpart D—Grant Selection, Approval and Administration

72.50 Grant selection criteria.
72.51 A-95 clearinghouse requirements.
72.52 Recovery Action Program grant applications.
72.53 Preapplication process for Rehabilitation and Innovation grants.
72.54 Rehabilitation and Innovation grants—full application process.
72.55 [Reserved]
72.56 Grant program compliance requirements.
72.57—72.59 [Reserved]
72.60 Grant administrative procedures.
72.61 [Reserved]
72.62 Amendments to approved grants.
72.63 Grant payments.
72.64 [Reserved]
72.65 Other requirements.

Subpart E—Post-Completion Compliance Responsibilities

72.70 Applicability.
72.71 Information collection.
72.72 Conversion requirements.
72.73 Residency requirements.
72.74—72.75 [Reserved]
APPENDIX A TO PART 72—CRITERIA FOR ELIGIBILITY
APPENDIX B TO PART 72—LIST OF ELIGIBLE JURISDICTIONS

AUTHORITY: Title X, National Parks and Recreation Act of 1978, Pub. L. 95-625 (16 U.S.C. 2501-2514); sec. 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

Rel. 2-291
10/7/03

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

July 8, 1993

CIRCULAR NO. A-25
Revised
Transmittal Memorandum No. 1

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: User Charges

Circular No. A-25 established guidelines for Federal agencies to assess fees for Government services and for the sale or use of Government property or resources. This Memorandum transmits the revised Circular to clarify Federal policy in light of thirty years of experience and to update the procedures by which agencies are to institute charges.

This Circular rescinds OMB Circular A-25 dated September 23, 1959, and Transmittal Memoranda 1 and 2.

Leon E. Panetta
Director

Attachment

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: User charges

1. **Purpose:** The Circular establishes Federal policy regarding fees assessed for Government services and for sale or use of Government goods or resources. It provides information on the scope and types of activities subject to user charges and on the basis upon which user charges are to be set. Finally, it provides guidance for agency implementation of charges and the disposition of collections.

2. **Rescission:** This rescinds Office of Management and Budget Circular No. A-25, dated September 23, 1959, and Transmittal Memoranda 1 and 2.

3. **Authority:** Title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C. 9701); 31 U.S.C. 1111; and Executive Orders No. 8248 and No. 11,541.

4. **Coverage:**

a. The provisions of this Circular cover all Federal activities that convey special benefits to recipients beyond those accruing to the general public. The Circular does not apply to the activities of the legislative and judicial branches of Government, or to mixed-ownership Government corporations, as defined in 31 U.S.C. 9701.

b. The provisions of the Circular shall be applied by agencies in their assessment of user charges under the IOAA. In addition, this Circular provides guidance to agencies regarding their assessment of user charges under other statutes. This guidance is intended to be applied only to the extent permitted by law. Thus, where a statute prohibits the assessment of a user charge on a service or addresses an aspect of the user charge (e.g., who pays the charge; how much is the charge; where collections are deposited), the statute shall take precedence over the Circular. In such cases (e.g., sale or disposal under Federal surplus property statutes; or fringe benefits for military personnel and civilian employees), the guidance provided by the Circular would apply to the extent that it is not inconsistent with the statute. The same analysis would apply with regard to executive orders that address user charges.

c. In any case where an Office of Management and Budget circular provides guidance concerning a specific user charge area, the guidance of that circular shall be deemed to meet the requirements of this Circular. Examples of such guidance include

the following: OMB Circular No. A-45, concerning charges for rental quarters; OMB Circular No. A-130, concerning management of Federal information resources; and OMB Circular No. A-97, concerning provision of specialized technical services to State and Local governments.

5. Objectives: It is the objective of the United States Government to:

a. ensure that each service, sale, or use of Government goods or resources provided by an agency to specific recipients be self-sustaining;

b. promote efficient allocation of the Nation's resources by establishing charges for special benefits provided to the recipient that are at least as great as costs to the Government of providing the special benefits; and

c. allow the private sector to compete with the Government without disadvantage in supplying comparable services, resources, or goods where appropriate.

6. General policy: A user charge, as described below, will be assessed against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public. When the imposition of user charges is prohibited or restricted by existing law, agencies will review activities periodically and recommend legislative changes when appropriate. Section 7 gives guidance on drafting legislation to implement user charges.

a. Special benefits

(1) Determining when special benefits exist. When a service (or privilege) provides special benefits to an identifiable recipient beyond those that accrue to the general public, a charge will be imposed (to recover the full cost to the Federal Government for providing the special benefit, or the market price). For example, a special benefit will be considered to accrue and a user charge will be imposed when a Government service:

(a) enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those that accrue to the general public (e.g., receiving a patent, insurance, or guarantee provision, or a license to carry on a specific activity or business or various kinds of public land use); or

(b) provides business stability or contributes to public confidence in the business activity of the beneficiary (e.g., insuring deposits in commercial banks); or

(c) is performed at the request of or for the convenience of the recipient, and is beyond the services regularly received by other members of the same industry or group or by the general public (e.g., receiving a passport, visa, airman's certificate, or a Custom's inspection after regular duty hours).

(2) Determining the amount of user charges to assess.

(a) Except as provided in Section 6c, user charges will be sufficient to recover the full cost to the Federal Government (as defined in Section 6d) of providing the service, resource, or good when the Government is acting in its capacity as sovereign.

(b) Except as provided in Section 6c, user charges will be based on market prices (as defined in Section 6d) when the Government, not acting in its capacity as sovereign, is leasing or selling goods or resources, or is providing a service (e.g., leasing space in federally owned buildings). Under these business-type conditions, user charges need not be limited to the recovery of full cost and may yield net revenues.

(c) User charges will be collected in advance of, or simultaneously with, the rendering of services unless appropriations and authority are provided in advance to allow reimbursable services.

(d) Whenever possible, charges should be set as rates rather than fixed dollar amounts in order to adjust for changes in costs to the Government or changes in market prices of the good, resource, or service provided (as defined in Section 6d).

(3) In cases where the Government is supplying services, goods, or resources that provide a special benefit to an identifiable recipient and that also provide a benefit to the general public, charges should be set in accordance with paragraph (2) of Section 6a. Therefore, when the public obtains benefits as a necessary consequence of an agency's provision of special benefits to an identifiable recipient (i.e., the public benefits are not independent of, but merely incidental to, the special benefits), an agency need not allocate any costs to the public and should seek to recover from the identifiable recipient either the full cost to the Federal Government of providing the special benefit or the market price, whichever applies.

(4) No charge should be made for a service when the identification of the specific beneficiary is obscure, and the service can be considered primarily as benefiting broadly the general public.

b. Charges to the direct recipient. Charges will be made to the direct recipient of the special benefit even though all or part of the special benefits may then be passed to others.

c. Exceptions

(1) Agency heads or their designee may make exceptions to the general policy if the provision of a free service is an appropriate courtesy to a foreign government or international organization; or comparable fees are set on a reciprocal basis with a foreign country.

(2) Agency heads or their designee may recommend to the Office of Management and Budget that exceptions to the general policy be made when:

(a) the cost of collecting the fees would represent an unduly large part of the fee for the activity; or

(b) any other condition exists that, in the opinion of the agency head or his designee, justifies an exception.

(3) All exceptions shall be for a period of no more than four years unless renewed by the agency heads or their designee for exceptions granted under Section 6c(1) or the Office of Management and Budget for exceptions granted under Section 6c(2) after a review to determine whether conditions warrant their continuation.

(4) Requests for exceptions and extensions under paragraphs (2) and (3) of Section 6c shall be submitted to the Director of the Office of Management and Budget.

d. Determining full cost and market price

(1) ''Full cost'' includes all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service. These costs include, but are not limited to, an appropriate share of:

(a) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement. Retirement costs should include all (funded or unfunded) accrued costs not covered by employee contributions as specified in Circular No. A-11.

(b) Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel, and rents or imputed rents on land, buildings, and equipment. If imputed rental costs are applied, they should include:

(i) depreciation of structures and equipment, based on official Internal Revenue Service depreciation guidelines unless better estimates are available; and

(ii) an annual rate of return (equal to the average long-term Treasury bond rate) on land, structures, equipment and other capital resources used.

(c) The management and supervisory costs.

(d) The costs of enforcement, collection, research, establishment of standards, and regulation, including any required environmental impact statements.

(e) Full cost shall be determined or estimated from the best available records of the agency, and new cost accounting systems need not be established solely for this purpose.

(2) ''Market price'' means the price for a good, resource, or service that is based on competition in open markets, and creates neither a shortage nor a surplus of the good, resource, or service.

(a) When a substantial competitive demand exists for a good, resource, or service, its market price will be determined using commercial practices, for example:

(i) by competitive bidding; or

(ii) by reference to prevailing prices in competitive markets for goods, resources, or services that are the same or similar to those provided by the Government (e.g., campsites or grazing lands in the general vicinity of private ones) with adjustments as appropriate that reflect demand, level of service, and quality of the good or service.

(b) In the absence of substantial competitive demand, market price will be determined by taking into account the prevailing prices for goods, resources, or services that are the same or substantially similar to those provided by the Government, and then adjusting the supply made available and/or price of the good, resource, or service so that there will be neither a shortage nor a surplus (e.g., campsites in remote areas).

7. **Implementation:**

a. The general policy is that user charges will be instituted through the promulgation of regulations.

b. When there are statutory prohibitions or limitations on charges, legislation to permit charges to be established should be proposed. In general, legislation should seek to remove restraints on user charges and permit their establishment under the guidelines provided in this Circular. When passage of this general authority seems unlikely, more restrictive authority should be sought. The level of charges proposed should be based

on the guidelines in Section 6. When necessary, legislation should:

(1) define in general terms the services for which charges will be assessed and the pricing mechanism that will be used;

(2) specify fees will be collected in advance of, or simultaneously with, the provision of service unless appropriations and authority are provided in advance to allow reimbursable services;

(3) specify where collections will be credited (see Section 9). Legislative proposals should not normally specify precise charges. The user charge schedule should be set by regulation. This will allow administrative updating of fees to reflect changing costs and market values. Where it is not considered feasible to collect charges at a level specified in Section 6, charges should be set as close to that level as is practical.

c. Excise taxes are another means of charging specific beneficiaries for the Government services they receive. New user charges should not be proposed in cases where an excise tax currently finances the Government services that benefit specific individuals. Agencies may consider proposing a new excise tax when it would be significantly cheaper to administer than fees, and the burden of the excise tax would rest almost entirely on the user population (e.g., gasoline tax to finance highway construction). Excise taxes cannot be imposed through administrative action but rather require legislation. Legislation should meet the same criteria as in Section 7b; however, it is necessary to state explicitly the rate of the tax. Agency review of these taxes must be performed periodically and new legislation should be proposed, as appropriate, to update the tax based on changes in cost. Any excise tax proposals must be approved by the Assistant Secretary for Tax Policy at the Department of the Treasury.

d. When developing options to institute user charges administratively, agencies should review all sources of statutory authority in addition to the Independent Offices Appropriations Act that may authorize implementation of such charges.

e. In proposing new charges or modifications to existing ones, managers of other programs that provide special benefits to the same or similar user populations should be consulted. Joint legislative proposals should be made, and joint collection efforts designed to ease the burden on the users should be used, whenever possible.

f. Every effort should be made to keep the costs of collection to a minimum. The principles embodied in Circular No. A-76

(Performance of Commercial Activities) should be considered in designing the collection effort.

g. Legislative proposals must be submitted to the Office of Management and Budget in accordance with the requirements of Circular No. A-19. To ensure the proper placement of user fee initiatives in the budget account structure, agencies are encouraged to discuss proposals with OMB at an early stage of development.

8. **Agency responsibility:** Agencies are responsible for the initiation and adoption of user charge schedules consistent with the policies in this Circular. Each agency will:

a. Identify the services and activities covered by this Circular;

b. Determine the extent of the special benefits provided;

c. Apply the principles specified in Section 6 in determining full cost or market price, as appropriate;

d. Apply the guidance in Section 7 either to institute charges through the promulgation of regulations or submit legislation as appropriate;

e. Review the user charges for agency programs biennially, to include: (1) assurance that existing charges are adjusted to reflect unanticipated changes in costs or market values; and (2) a review of all other agency programs to determine whether fees should be assessed for Government services or the user of Government goods or services. Agencies should discuss the results of the biennial review of user fees and any resultant proposals in the Chief Financial Officers Annual Report required by the Chief Financial Officers Act of 1990;

f. Ensure that the requirements of OMB Circular No. A-123 (Internal Control Systems) and appropriate audit standards are applied to collection;

g. Maintain readily accessible records of:

(1) the services or activities covered by this Circular;

(2) the extent of special benefits provided;

(3) the exceptions to the general policy of this Circular;

(4) the information used to establish charges and the specific method(s) used to determine them; and

(5) the collections from each user charge imposed.

(6) Maintain adequate records of the information used to establish charges and provide them upon request to OMB for the evaluation of the schedules and provide data on user charges to OMB in accordance with the requirements in Circular No. A-11.

9. Disposition of collections:

a. Unless a statute provides otherwise, user charge collections will be credited to the general fund of the Treasury as miscellaneous receipts, as required by 31 U.S.C. 3302.

b. Legislative proposals to permit the collections to be retained by the agency may be appropriate in certain circumstances. Proposals should meet the guidelines in Section 7b.

Proposals that allow agency retention of collections may be appropriate when a fee is levied in order to finance a service that is intended to be provided on a substantially self-sustaining basis and thus is dependent upon adequate collections.

(1) Generally, the authority to use fees credited to an agency's appropriations should be subject to limits set in annual appropriations language. However, it may be appropriate to request exemption from annual appropriations control, if provision of the service is dependent on demand that is irregular or unpredictable (e.g., a fee to reimburse an agency for the cost of overtime pay of inspectors for services performed after regular duty hours).

(2) As a normal rule, legislative proposals that permit fees to be credited to accounts should also be consistent with the full-cost recovery guidelines contained in this Circular. Any fees in excess of full-cost recovery and any increase in fees to recover the portion of retirement costs which recoups all (funded or unfunded) accrual costs not covered by employee contributions should be credited to the general fund of the Treasury as miscellaneous receipts.

10. New activities: Whenever agencies prepare legislative proposals for new or expanded Federal activities that would provide special benefits, the policies and criteria set forth in this Circular will apply.

11. Inquiries: For information concerning this Circular, consult the Office of Management and Budget examiner responsible for the agency's budget estimates.

Appendix A- 8

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

March 20, 2002

In Reply Refer To:
8372 (250)P

EMS TRANSMISSION 03/21/2002
Instruction Memorandum No. 2002-119
Expires: 09/30/2003

To: All WO and Field Officials

From: Assistant Director, Renewable Resources and Planning

Subject: Automatic Fee Adjustment for Special Recreation Permits (SRP)

Program Area: Special Recreation Permit Fee Adjustments

Purpose: To establish the minimal commercial SRP fee and assigned site fee for the next three years.

Background: The Bureau of Land Management (BLM), in concert with the U.S. Forest Service, adjusts the minimum annual and site reservation fee for all commercial use of SRPs every three years, effective March 1, 2002. The automatic three year fee adjustment policy was published on October 19, 1989, (54 FR 42998). The next automatic fee adjustment will occur on March 1, 2005.

Policy/Action: The BLM's minimal annual fee, based on the Gross National Product Implicit Price Deflator Index, will remain the same at $80 and the minimum assigned/reserved site fee increased $5, from $155 to $160 for all commercial use of SRPs. The BLM Field Offices will use March 1, 2002, as the effective date for the new fee, and adjust their billing statements according to their calendar or fiscal year time frames. All permits issued prior to March 1, 2002, with an effective duration extending beyond that date must contain the new provision. Please insert this provision in all new permits meeting these criteria, and amend all existing permits to include the new fee. Remember that you are to use the minimum annual fee or 3 percent of gross annual receipts, whichever is greater.

Time Frame: The new fee schedule will become effective March 1, 2002 and remain in effect through March 1, 2005.

Budget Impact: Very little impact to the budget would occur. The minimum commercial fee did not change.

Manual/Handbook: This change is expected to have little to no affect on the applicable BLM manuals or handbooks. This Instruction Memorandum updates the appropriate manual and handbook.

Coordination: The fee change was announced at the annual Outfitter and Guide Council meeting, Camp Washington, and discussed with the American Outdoors Executive Director. The fee change was coordinated with the U.S. Forest Service.

Contact: If you have any questions concerning this memorandum, please contact Lee V. Larson, Senior Recreation Specialist, National Recreation Group, at (202) 452.5168.

Signed by:
Robert T. Ratcliff
Acting Assistant Director
Renewable Resources and Planning

Authenticated by:
Barbara J. Brown
Policy & Records Group, WO-:

NATIONAL RECREATION FEE SCHEDULE

PERMIT TYPE	TYPE OF RECREATION FEE		
	MINIMUM	USE	COST RECOVERY
Commercial or Vending	$80, Adjusted every 3 years based on IPDI*	3% of Gross Receipts	
Commercial Assignment of a non-exclusive site		$160, Adjusted every 3 years based on IPDI	
Commercial Assignment of an exclusive site	$160, Adjusted every 3 years based on IPDI, actual appraised value should be assessed.		
Commercial, Competitive, or Organized Group or Events			If more than 50 hours of staff time is required to process & administer the permit, cost recovery charges begin with the first hour. This is the BLM average State work month cost.
Competitive	$80, adjusted every 3 years based on IPDI	3% of Gross Receipts or $4 per participant per day or which ever is greater	
Organized Group or Event	$4 per person per day or $80 whichever is greater		

* = Implicit Price Deflator Index

Appendix A- 9

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

November 12, 1998

In Reply Refer To:
8370 (250) P

EMS TRANSMISSION 11/24/98
Information Bulletin No. 99-033

To: All Field Officials:
Attn: Outdoor Recreation Planners

From: National Recreation Group Manager

Subject: Recreation Fee Collection Guidance

This Information Bulletin reaffirms the current guidance for the Bureau of Land Management's (BLM) recreation fee programs. While there is still no further information on a Bureauwide fee Bill, we know that Congress is watching the outcome of the "Recreation Fee Demonstration Program" and may very well issue a recreation fee bill based on second-year status reports and recommendations by the participating agencies.

It is BLM's policy to "collect fees at all specialized recreation sites, or where the BLM provides facilities, equipment or services, at federal expense, in connection with outdoor recreation use." Fees must be collected at all eligible recreation sites where it is economically feasible. See attachment # 1, Guidelines for Implementing Fee Collections.

Each BLM State Office is responsible to continue to make progress towards addressing BLM recreation fee policy which requires:

1) A review of recreation areas to identify those areas that can be designated as "recreation management areas" or otherwise qualify as fee sites and the initiation of management permit fees at those sites.

2) A biennial review of all current recreation fee sites, services and other areas affected by the LWCFA for fee comparability.

3) An assurance that there is full accountability for cash collected from recreation areas by strengthening the control environment over cash collections at each recreation site. Stronger controls must be implemented over collections at the recreation site. Controls should include use of double locked box safes, periodic audits, using marked envelopes to ensure that the fees collected at recreation sites are brought to the field offices for deposit, or having two employees collect and return the revenues to the field offices for deposit.

4) The establishment of uniform procedures for verifying outfitter and guide usage and for reconciling reported usage to actual use as determined by the BLM. Each State Office must ensure that a small sample of their outfitter and guides or other special recreation permit holders receive annual financial audits or reviews.

5) To begin immediate efforts for the expansion and implementation of additional fee sites, services, etc. In addition, develop ideas that have potential to generate additional sources of funding for the recreation program beyond just collecting fees for the use of recreation facilities.

A number of requests have been made by the field to provide a list of criteria that managers could use to help them determine whether or not a recreation site, facility, equipment, or service warrants the assessment of a fee, other than the requirements included in the LWCF Act. Participants at the National Recreation Workshop developed a list of guidelines to consider before designating a site as a "fee area" (see attachment # 1). Also attached is a list of advantages and disadvantages associated with establishment of fee sites. This attachment was developed by the California Resource Advisory Council (see attachment # 2). Attachment Number 3, Recreation Fee Decision Matrix, is an excellent tool for recreation site managers to utilize when evaluating the potential of a particular site as a designated "fee site."

We appreciate your efforts in implementing the BLM's Recreation Fee Policy and your efforts towards making the "Recreation Fee Demonstration Program" a success. This effort will have a major impact on determining future fee legislation and consequently will have a far reaching affect on the future of recreation in the BLM.

If you have any questions, need further clarification, or have additional comments or concerns please contact Lee Larson at (202) 452.5168, or e-mail at l55larso@wo.blm.gov.

Signed by:
Vicki Dixon
Acting Group Manager
National Recreation Group

Authenticated by:
Robert M. Williams
Directives, Records
& Internet Group,WO540

3 Attachments
1- Guidelines for Implementing Fee Collections (3 pp)
2 - Advantages of Establishing Fees (2 pp)
3 - Recreation Fee Decision Matrix (1 pp)

Guidelines for Implementing Fee Collections

- Prior, and in addition, to establishing fee structures at a particular site(s), BLM should consider establishing non-fee revenue opportunities to expand appropriated funds, such as, public-private partnerships for maintenance or clean-ups, sponsorship of special sites or events by non-profit groups in exchange for free use, grants, volunteers, establishing priorities for sites, being more cost effective with existing dollars, etc.

- BLM should look to establish non-fee entry opportunities, such as fee waivers, group discounts, in-kind work day, trades, etc. for groups or individuals that provide major volunteer efforts or have limited discretionary income.

- Ensure that your efforts are in alignment with Recreation 2000 Update.

- All recreation development and fee assessment should be considered in coordination with recreation projects being developed or being conducted by other management agencies.

- Before establishing a site fee, consider the potential impacts on surrounding communities.

- Before establishing a fee site or investing significant funds in capital improvements, a business plan should be prepared addressing, at minimum, the following points:

  - a general analysis of costs, income, existing private facilities that would be in direct competition, demographics, overall risk.

  - maintenance and/or replacement of capital improvements, at the end of their life cycle or for catastrophic losses.

  - identify resource assets and focus on those that are unique to the area and those where BLM has the most potential to improve. Consider the audience for this use and make plans to accentuate their experience and establish fees commensurate with the activity.

  - public outreach, marketing, and general publicity to ensure adequate public support. Develop a marketing effort that encourages public support, builds appreciation for public lands, reinforces responsible use, fosters increased financial and personal involvement in recreation issues, and improves overall management.

  - establish a need for the fees by addressing the "Decision Matrix" criteria.

- The purpose of collecting a recreation fee should support BLM's Mission and Corporate Agenda and be in harmony with "Recreation 2000 Update". It should also be tied to access

Attachment 1-1

and/or support protection of natural resources and provide for public health and safety.

- Recreation fee revenues should not be offset by a reduction in the overall recreation budget.

- Fee revenue should be spent in the following priority 1) at the site of collection, 2) within the Field Office of collection, and 3) to other high priority recreation sites within the State of collection.

- Fees should first be spent on reducing the maintenance backlog and on improving operations and user experience with existing facilities and programs, before being used to fund expansion of further developments.

- Users should receive annual feedback on how their fees were spent. The following list can be used as a guide to emphasize improvement areas that are visible by the public and should be high priority for fee dollars:

  Examples of Tangible Services
  Management/enforcement presence
  - Restrooms
  - Access road
  - Interpretive signing
  - Water
  - Parking areas
  - Site maintenance
  - Information brochures
  - Directional signing
  - Safety services e.g. EMT, fencing mines, rescue, etc.

- The fee schedule should be tied to meeting BLM's land use or activity plan objectives.

- Decision to charge or not to charge a fee should not be based on just the tangible dollars that could be collected. Benefits such as personal contact by a seasonal employee, establishing relationships with the public through a partnership etc. are equally important and should also be considered.

- Fees should be balanced and affordable for all members of the public.

- The fee project must not create a situation where one recreational use pays for another or is forced to correct impacts from past users.

Attachment 1-2

- Those who actively utilize recreation opportunities should make a greater but reasonable contribution to protect and enhance those opportunities than those who do not make use of such opportunities.

- Use Golden Eagle, Age, and Access passports where appropriate.

- Public presence should be at access points to facilitate and provide public service.

- Plan on having a variety of fees, such as, annual, daily, group, special events, meetings, interpretive programs, seasonal, weekly, etc.

Attachment 1-3

Advantages of Establishing Fees

Fees provide a consistent and stable source of funds for operation and maintenance

It has been shown over and over that fee sites have less vandalism

It is easier to maintain and sustain quality sites and recreational experiences through the years

It provides more consistent funding to ensure employment of seasonal employees

Establishing BLM credibility with Congress

The person who benefits, pays for the services and opportunities

Provides an additional tool for managers to maintain the site

Provide additional dollars to protect resources

Establishes sustainable response with partners

Allows BLM to provide additional recreation sites

Allows additional services that can compare to other concessions on public lands

It is consistent with good business practices

Provides more contact with customers and, thus, an understanding of customer service needs

Provides an opportunity to work closer with the public and private sector

Users respect facilities and the resources more at fee sites

Perceptions of Disadvantages of Establishing Fees

BLM is charging for money in and of itself rather than for resource protection and enhanced customer service

Perception that the type of user will change

It is time consuming and sometimes not worth the effort and cost

Alienates partners who provide dollars and services

Attachment 2-1

Unfairly competes with the private sector

Changes use patterns and economics of users

Difficult for economically disadvantaged to pay fee

Creates greater expectations for better quality site

Increases legal liability

May cause BLM to build without doing a market analysis

Employees lack business knowledge about how to deal with fees.

More intensive management is required

Greater commitment to keep the quality of the facilities high.

May reduce sustainability of site if Congress reduces our base funding

Alienates regular, local users

May cause unwanted/illegal activity due to displacement to other areas

BLM may build facilities to justify charging the fees

Attachment 2-2

Recreation Fee Decision Matrix

Maximum Potential For Fees	Minimum Potential For Fees
- Fee collection is cost effective.	- Cost of collection exceeds receipts.
- High volume, concentrated recreation use.	- Minimal tangible services or minimal potential for development because of remoteness or extremely low use.
- Limited entry point is desirable.	- There is no product or service provided.
- Significant public attraction with unique/natural values; place where people regularly gather; high profile area.	- Unlimited points of entry make fee collection extremely difficult and/or cost prohibitive.
- Facilities are needed to provide protection of natural resources and provide for public health and safety of visitors.	- Fee collection would preclude volunteer contributions or other sources of revenue.
- Minimal local/regional opposition.	- Conflict with local government funding that cannot be resolved.
- Area can sustain continued use.	- The project creates double or multiple charges for any particular recreation group.
- Recreation fee site is not in serious competition with existing similar facilities.	- Fee would discourage appropriate uses; uses allocated in the land use plans for the area.
- The site improves and enhances visitor access, service, and experience.	
- Educational opportunity - tangible value to the customer.	
- Site contributes to achieving management. goals and objectives; fee collection discourages inappropriate uses and vandalism.	
- Fees will be used to supplement existing appropriations.	
- Opportunity for partnerships with local private and public management. jurisdictions to aid in effective and efficient management. of the site.	

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

June 2, 2003

In Reply Refer To:
8370 (250) P

JUN 03 2003

SD	RP&M
ASD	M&LA
OEA	DSS
EEO	CF
LAW	LEAD Resp.

EMS TRANSMISSION 06/03/2003
Instruction Memorandum No. 2003-183
Expires: 09/30/2004

To: All Field Officials

From: Assistant Director, Renewable Resources & Planning

Subject: Implementation of the Golden Eagle, Age, and Access Passport Program

Program Area: Recreation Use Permits, Golden Passports

Purpose: This Instruction Memorandum (IM) updates the guidance for the Golden Eagle, Golden Age, and Golden Access Passport Program. It outlines specific documentation requirements for Golden Access Passports and requests the establishment of a register to be used wherever the passport is issued. The IM also includes a short discussion on the National Parks Pass.

Policy/Action: The Federal Recreation Passport Program brochure (stock number P-333) has been modified to reflect changes in the program, mainly the addition of the National Parks Pass information. The new brochure will be titled: "Federal Recreation - Pass Programs."

Brochures are available through the Printed Materials Distribution Service, Attention: Bob Stahl, BC650B. They can also be ordered through e-mail by bringing up "Public Group" under "address" and highlighting "PMDS."

The Golden Age (stock number B-01), Golden Access (stock number B-02), and Golden Eagle (stock number B-03) are accountable and issued only to State Offices for further distribution. The State Offices can order passports using the same procedure as the brochure.

The information in the brochure should be familiar to all employees involved in the passport program. The following key points should be emphasized.

Golden Eagle Passports

< The price of the Golden Eagle Passport (GEP) is $65.

< The Golden Eagle is a component of the BLM's "Recreational Fee Demonstration Program."

< The GEP can only be used for Federal lands or sites that charge Land and Water Conservation Fund Act (LWCF) entrance fees. BLM has seven recreation areas that accept the GEP: Anasazi Heritage Center; Milner Historic Recreation Area; Red Rock Canyon National Conservation Area; Flagstaff Hill, National Historic Oregon Trail Interpretive Center; Yaquina Head Outstanding Natural Area, Kasha-Katuwe Tent Rocks National Monument, and the National Historic Trails Interpretive Center in Wyoming.

< The GEP can only be used for entrance fees, not recreation use fees. It does not cover or reduce Special Recreation Permit fees or fees charged by concessionaires.

< Because the GEP is a component of the fee demonstration program, offices will be accountable for these funds in the same manner as pilot fee sites. State Offices can either assign the Golden Eagle Passport collections a separate project number or use the project number of a pilot site in their State. If a State has more than one pilot site, then additional numbers can be used and the funds distributed according to priority.

< **The number of GEP permits issued needs to be entered into the RMIS system; however, the revenues will not be recorded in RMIS. As of FY 02, revenues for permits are entered into the Collections and Billings System (CBS) only**. Coordinate with your Collections Officer to ensure that passport revenues are credited to the proper office, permit type, fund account, fee demonstration project, and RMIS site. RMIS tracks the number of permits issued and CBS tracks the revenues associated with the permits. By the end of FY03, the RMIS system will be completely interfaced with CBS so that information will not have to be entered in both the CBS and RMIS databases. These databases serve as the BLM's official accounting of the passports.

< All fees from the GEP program are permanent appropriations and are to be used to maintain and improve the recreation sites in the area of collection. Funds must be used to strengthen on-the-ground enhancement of BLM recreation sites.

< A lost, stolen or destroyed GEP will not be replaced even if a receipt is produced.

< A damaged passport may be replaced if the visitor provides personal signature identification and the damaged pass signature is identical.

< All Golden passports are non-transferable. Refunds may not be issued. The passports must be signed by the purchaser/holder.

< The National Park Service (NPS) has found a tremendous amount of fraud in the use of the passport program (actually recording the loss of millions of dollars). As a result, they are now requiring identification of the pass holder at many of their Parks.

< The NPS has asked us to remind the public that holders of a Federal Passport could be required to show an ID upon presenting the pass for access into an entrance fee area. A small sign that can be seen at the place of sale, should be used that states: "Proof of ID may be required when using any Federal Passport."

Golden Age and Access Passports

< The Golden Age and Golden Access Passports maintain the current status and price and are not a component of the Recreational Fee Demonstration Program.

< The Golden Age and Access Passports can only be **obtained in person** upon proof of age and/or permanent disability. They are non-transferable. The passports must be signed by the purchaser/holder.

< Golden Age Passports are a one-time fee of $10 for persons 62 years of age or older.

< Golden Age and Access Passports allow access to entrance fee areas and a 50 percent discount on recreation use fees. These Passports do not cover or reduce Special Recreation Permit fees or fees charged by concessionaires or at any campgrounds managed by concessionaires.

< Golden Access Passports are a free, lifetime permit issued to citizens or persons domiciled (permanent residents) in the United States regardless of age, who have been medically determined to be blind or permanently disabled and are eligible to receive benefits under Federal law. Note: it is not necessary for an individual to be receiving benefits, only to qualify for benefits.

< Golden Access: Persons receiving the passport must be "permanently" disabled. Definition of a blind or permanently disabled person is a modified version of the definition of "handicapped person" published in the Department of the Interior Regulations for Section 504 of the Rehabilitation Act. (43 CFR 17.503)

"Individuals eligible to receive the Golden Access Passport shall be any person who has a permanent physical, mental or sensory impairment that substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working."

< For Golden Access: Request adequate documentation of applicant's disability; documentation can include any of the following:

1. A document issued by an office of a Federal agency providing Federal benefits, which attests that the individual has been medically determined to be eligible to receive Federal benefits as a result of blindness or permanent disability. (A Veterans Disability card at the time of discharge may not qualify for proof unless the conditions still apply).

2. A statement signed by a licensed physician attesting to the fact that the person does have a permanent physical, mental or sensory impairment that severely limits one or more major life activities, as well as states the nature of the condition.

3. An official identification card or certificate issued by a State government entity identifying the person as blind or permanently disabled.

4. An identification card issued by a national or State organization for disabled persons identifying the applicant as blind or permanently disabled.

< If the person claims eligibility but can't or refuses to produce the above mentioned forms of documentation, they are required to read, or have read to them, and sign the affidavit and notice that follows. **If adequate disability documentation is provided, applicant is not required to sign the affidavit**.

AFFIDAVIT – "I do hereby swear or affirm that I am a citizen of the United States or that I am domiciled therein, and I have a permanent physical, mental or sensory impairment that severely limits one or more major life activities. Major live activities include functions such as caring for one's self, performing manual tasks, walking, seeing, breathing, learning, and working."

NOTICE - Federal law provides as follows: "Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent

statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both (18 U.S.C. 1001)."

A Golden Access Passport affidavit register can be created for applicants to sign. The register, at a minimum, should include the date issued, passport number, name, a signature block, initials block of issuing clerk, and the above affidavit/notice statement.

The BLM is a partner with other Interior agencies and the USDA Forest Service in the Golden Passport program.

National Parks Pass:

< Congress authorized the new National Parks Pass under the National Park Omnibus Management Act of 1998, for National Parks that charge entrance fees. The Pass will hopefully generate revenues to support high priority visitor services or resource management projects at the National Parks.

< The Pass costs $50 and is good for 12 months from the date of purchase.

< The Pass does not replace the Golden Eagle Passport. You may buy a Golden Eagle Passport, which will continue to be good for all Federal agencies that currently use them for entrance fees including the NPS, BLM, FS and FWS.

< The new National Parks Pass can be used at BLM recreation areas that currently charge an entrance fee, as long as the pass holder has purchased a Hologram sticker. The Hologram will upgrade the National Parks Pass to the value of a GEP.

< Hologram stickers are available for purchase where ever the Golden Passports or National Parks Passes are sold.

< The National Parks Pass will cover everyone in the car if the fee is a per vehicle charge, allowing admission to the cardholder and passengers of a single private vehicle. At a walk-in entrance, it will cover only the cardholder.

< The National Parks Pass, like a Golden Passport, is non-transferable and can only be used by the purchaser of the card. This will be verified by the signature on the back.

< A person can purchase a National Parks Pass for someone else, but the final owner must sign the card and provide proper identification when it is used at the gate.

< The fees collected from the hologram are also a component of the Recreational Fee Demonstration Program and as such should be deposited into a fee demonstration account.

Time Frame: This IM is effective upon receipt.

Budget Impact: This IM updates past guidance for the Passport Program and it will not appreciably impact the budget.

Background: The BLM is a partner with the National Park Service (NPS) in the Golden Passport Program. The BLM issues, sells, and accepts the subject passports, as applicable, at BLM recreation areas, and also sells the hologram that is a component of the new National Parks Pass. The field offices have had some questions on what type of documentation is appropriate to ask for when someone requests a Golden Access Passport. This IM provides clarification for them.

Manual/Handbook Sections: None Affected.

Coordination: This IM has been coordinated through the National Park Service passport program lead.

Contact: If you have any questions, please contact Lee V. Larson at (202) 452-5168. The lead contact in the Park Service for the National Parks Pass is Jane Moore, she can be reached at (202) 208-4205. Additional information and guidance can be found in the National Park Service Recreation Fee Manual NPS-22 Release No. 3.

Signed by:
Bud Cribley
Acting Assistant Director
Information Resources Management

Authenticated by:
Barbara J. Brown
Policy & Records Group, WO-560

Appendix B – SRP Application Processing

B-1 Categorical exclusions and administrative determinations

B-2 Sample SRP annual evaluation form

B-3 SRP application form/instructions for completing

B-4 Time line flowchart

B-5 Example of programmatic EA for SRP

B-6 Screening for exceptions to categorical exclusions

B-7 NEPA screening questions

B-8 NEPA analysis process

B-9 Permit process checklist

B-10 Example of administrative determination

B-11 Example of categorical exclusion review

B-12 Example of FONSI and decision record

B-13 Example of Decision approving application

B-14 Example of Decision denying application

B-15 Fifth Screen Question

Appendix B-1

Categorical Exclusions and Administrative Determinations

A. Categorical Exclusions

Certain recreation activities may qualify as Categorical Exclusions because of their minimal environmental and social impacts. The following may be considered for documentation as Categorical Exclusions where no further environmental analysis is required (reference 516 DM, Chapter 6, Appendix 5):

1. Routine financial transactions, including such things as procurement contracts, audits fees, bonds, and royalties.

2. Non-destructive data collection, inventory, study, and monitoring.

3. Issuance of Special Recreation Permits:

   - along rivers, trails and other specified areas where use is similar to previous permits for which environmental documents have been prepared and which would not substantially increase the level of use or continue unsatisfactory environmental conditions,

   - where uses are consistent with planning decisions or OHV designations, or where there will be no surface disturbance.

4. Issuance of Special Recreation Permits to individuals or organized groups for search and rescue training, orienteering, or other activities such as dog trials, and endurance horse races with minimal environmental and social impacts.

B. Administrative Determinations

A proposed recreation activity may also be approved using an Administrative Determination (see BLM's National Environmental Policy Act (NEPA) Handbook). If an activity has already been adequately analyzed in an existing NEPA document, the authorized officer may approve an Administrative Determination that documents that the proposed use was reviewed for compliance with the NEPA and that an existing referenced NEPA analysis has already considered the impacts of a similar proposed use and found them to not be significant. For example, an office may have issued a permit for a commercial operator to conduct guided rock climbing activities in a specific area. When another company proposes similar use, an administrative determination may be used in lieu of completing a new environmental assessment.

United States Department of the Interior
Bureau of Land Management
Wyoming State Office

Special Recreation Permit Annual Evaluation

Outfitter: _____ **Year:** _____
Business Name: _____ **Expires:** _____

1. Insurance: Expiration Date: _____ Current: ❑ Yes ❑ No
   Acceptable Limits: Liability: _____ ❑ Yes ❑ No
   Property: _____ ❑ Yes ❑ No
   U.S. named insured/co-insured/additional? ❑ Yes ❑ No

2. Fees Paid? ❑ Yes ❑ No

	Date	Amount
Credit Forward	_____	_____
Previous Balance Due	_____	_____
Minimum Annual Fee	_____	_____
Campsite Reservation Fee	_____	_____

3. Operations conform with operating plan? _____ ❑ Yes ❑ No
4. Performance bond status effective? Expires: _____ ❑ Yes ❑ No
5. Post Use Report in on date: _____ Correct: ❑ Yes ❑ No
6. Wyoming State Board of Outfitters & Professional Guide license in file? ❑ Yes ❑ No
7. Number of days on BLM land: _____ Number of participants: _____
8. Free of violations or public complaints? _____ ❑ Yes ❑ No
9. On-the-ground inspection completed for overnight camps? _____ ❑ Yes ❑ No
10. Outfitter performance rating: ❑ Yes ❑ No
    ❑ Superior ❑ Acceptable ❑ Probationary ❑ Unacceptable
11. Superior Outfitter Performance Documented? (Note in Comment Section) ❑ Yes ❑ No
12. Permittee sent results of Annual Evaluation? _____ ❑ Yes ❑ No

Comments: _____

Annual Evaluation Completed By: _____ Date: _____

Annual Evaluation Approved By: _____ Date: _____

BLM - Special Recreation Permit
Outfitter/Guide Performance Rating Guidelines

1. An Annual Post-Use Report will be required by all outfitters holding BLM-Special Recreation Permits.

2. An annual evaluation will be required by all outfitters holding BLM-Special Recreation Permits (BLM Manual 8372-1). The evaluation will assess adequacy of use fees, liability insurance policy, performance bonds, operating plans, permit violations, public complaints and other information as appropriate.

Four different performance levels are recognized: Superior, Acceptable, Probationary, and Unacceptable.

A. Superior - Performance exceeds all established standards for the permitted activities. The outfitter has made an exceptional contribution to the environment, research, education, public awareness, etc. for the good of the public lands, community or state. Award permittee with Certificate of Appreciation signed by the Area or District Manager.

B. Acceptable - Performance is satisfactory and meets at least minimum established standards for the permitted activities. This may include some minor deficiencies that need correction. If these deficiencies persist after notification or are not corrected in a reasonable time period, they may result in a probationary or unacceptable rating. Weak areas needing attention or especially strong areas will be documented on the rating form or attachments.

C. Probationary - Performance is less than acceptable for significant considerations applicable to the permitted activity. Performance does not pose an immediate threat to the safety of guests or others, is not in violation of law and does not pose a threat of significant resource damage. However, corrective action by the permittee is mandatory and continuous operation at this level of performance would be unacceptable. The basis for the rating will be clearly documented on the rating form or attachments.

A permittee who is given a summary performance rating of probationary will qualify for a permit period not to exceed one year and permits with remaining periods of more than one year will be so amended. If a holder continues to operate at the probationary level, the authorized office shall terminate the permit and/or deny future permit applications.

D. Unacceptable - Performance is clearly unacceptable for one or more significant considerations applicable to the permitted activity and cannot be allowed to continue. This level of performance may pose a threat to the safety of guests or others, involve a serious violation of law or pose a threat of significant

Form 8370-1
(January 2002)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB NO. 1004-0119
Expires: May 31, 2004

SPECIAL RECREATION APPLICATION AND PERMIT

(43 U.S.C 1201; 43 U.S.C. 1701; 16 U.S.C. 460 L-6(a); and 43 CFR Group 8300)

Permit No.

Instructions: Complete Items 1 through 8, and return to appropriate BLM Office. *(Use additional sheets, if necessary.)*

Type or Print Plainly in Ink

WHEN SIGNED BY AUTHORIZED BLM OFFICIAL, THIS PERMIT AUTHORIZES

1. Name of person and/or organization | Address *(include zip code)*

Telephone No. *(include area code)* Business | Residence

2. To use the following public lands *(provide name, legal description and/or attach map).*

3. For the following purpose *(provide full description of activity or event including number of anticipated participants and spectators).*

4. During the following times and dates *(specify below):*

ARRIVAL			DEPARTURE		
DATE *(Mon., Day, Yr.)*	TIME		DATE *(Mon., Day, Yr.)*	DEPARTURE	
	AM	PM		AM	PM

5. Type of permit: ❑ Commercial ❑ Non-commercial ❑ Other OHV events with 50 or more vehicles ❑ Other *(list type)* _____
❑ Competitive ❑ Non-competitive ❑ Individual/Private

Facilities *(describe facilities including water and sanitation facilities you intend to provide, attach plans and location maps).*

7a. Previous permits: Have you been issued a permit for a previous event or activity (If "yes," answer the following.)

b. BLM Office issuing permit | c. Date of latest permit

d. Have you, or your organization, forfeited any portion of any previous permit, bond, or surety submitted for use of public lands, or is any investigation or legal action pending against you or your organization for use of public lands? ❑ Yes ❑ No *(if "yes," attach details on separate sheet.)*

8. Certification of Information: I CERTIFY That the information given by me in this application is true, complete, and correct to the best of my knowledge and belief and is given in good faith. I acknowledge that I (we) am (are) required to comply with any conditions or stipulations that are required by the authorized officer when the permit is issued.

(Signature of Applicant) | (Date)

Title 18 U.S.C. Section 1001 and Title 43 U.S.C. Section 1212 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

This application is hereby approved subject to the conditions and special stipulations on reverse and any attachments.

(Signature of Authorized Official) | (Date)

PERMITTEE MUST HAVE THIS PERMIT *(OR LEGIBLE COPY)* IN POSSESSION DURING USE IN PERMITTED AREAS.

APPLICATION REQUIREMENTS

(The conditions and stipulations required by the authorized officer are checked below)

The following **shall** be submitted before an application is approved and a permit issued. This information **shall** be submitted within days after the date of application:

- ❑ a. A topographic map, showing area of proposed use with routes, parking, staging areas, proposed improvements, and other points of intensive use specifically identified. U.S. Geological Survey topographic quadrangle maps are available from USGS offices and from numerous private concerns. *Planning unit maps* are also available at most BLM District Offices to help determine land ownership patterns.
- ❑ b. Applicant shall inform other pertinent private landowners and/or public agencies *(law enforcement, highway, fish and game, etc.)*. Bureau of Land Management will contact other authorized users of public lands, etc.
- ❑ c. A certificate from an insurer that comprehensive insurance ha been obtained for this use or event in the minimum amount o (1) $ bodily injury for any one person; $ for any one occurrence; and (2) $ property damage for any one occurrence. The certificate **shall** also state that such insurance is in force and that the insurer will give BLM reasonable notice *(usually 7 days)* prior to cancellation or modification of such insurance.
- ❑ d. An acceptable bond, surety, cash deposit, or other acceptable guarantee of payment in amount of $ to secure payment of the special recreation use fee and/or mitigation of damages.

PERMITS SUBJECT TO THE FOLLOWING CONDITIONS:

(The conditions and stipulations required by the authorized officer are checked below.)

- ❑ 1. This permit is issued for the period specified herein. It is revocable for any breach of conditions hereof or at the discretion of authorized officer of the Bureau of Land Management, at any time upon notice. This permit is subject to valid adverse claims heretofore or hereafter acquired.
- ❑ 2. This permit is subject to all applicable provisions of the regulations (43 CFR Group 8300) which are made a part hereof.
- ❑ 3. This permit is subject to the provisions of Executive Order No. 11246 of September 24, 1965, as amended, which sets forth the Equal Opportunity clauses. A copy of this order may be obtained from the signing officer.
- ❑ 4. This permit may not be reassigned or transferred by permittee.
- ❑ 5. Permittee **shall** pay the sum of estimated user fees in advance of permit issuance. Adjustments to use fee charges will be based on actual use reported on the Post Use Report.
- ❑ 6. Permittee **shall** observe all Federal, State, and local laws and regulations applicable to the premises; to erection or maintenance of signs or advertising displays including the regulations for the protection of game birds and animals, and shall keep the premises in a neat, orderly manner, and sanitary condition.
- ❑ 7. Permittee **shall** take all reasonable precautions to prevent and suppress forest, brush, and grass fires, and to prevent polluting of waters on or in vicinity of the public lands.
- ❑ 8. Permittee **shall** not enclose roads or trails commonly in public use.
- ❑ 9. Permittee **shall** pay the United States for any damage to its property resulting from this use.
- ❑ 10. Permittee **shall** notify the authorized officer of address change immediately.
- ❑ 11. Permittee **shall** not cut any timber on the public lands without prior written permission from the authorized officer.
- ❑ 12. Permittee **shall** indemnify, defend, and hold harmless the United States and/or its agencies and representatives against and from any and all demands, claims, or liabilities of every nature whatsoever, including, but not limited to, damages to property, injuries to or death of persons, arising directly or indirectly from, or in any way connected with the permittee's use and occupancy of the public lands described in this permit or with the event authorized under this permit.
- ❑ 13. Authorized representatives of the Department of the Interior, other Federal agencies, and game wardens **must** at all times, have the right to enter the premises on official business.
- ❑ 14. Permittee **shall** abide by all special stipulations attached hereto.
- ❑ 15. Permittee **shall** not disturb archeological and historical values, including, but not limited to, petroglyphs, ruins, historic buildings, and artifacts.
- ❑ 16. Permittee **shall** leave in place any hidden cultural values uncovered through authorized operations.

NOTICE

The Privacy Act of 1974 and the language at 43 CFR 2.48(d) provide that you be furnished the following information.

AUTHORITY: 43 U.S.C. 1201; 43 CFR Group 8370.

PRINCIPAL PURPOSE: BLM will use the information you provide to determine whether or not to issue you a Special Recreation Permit. BLM will use some of the information will determine your qualifications for the permit and the other information to determine the merits of your proposal.

ROUTINE USES: BLM will disclose the information according to the release information contained in the regulations at 43 CFR 2.56(d).

EFFECT OF NOT PROVIDING INFORMATION: Disclosing the information is necessary to receive a benefit. Not disclosing the information may result in BLM's rejecting your application.

The Paperwork Reduction Act of 1995 requires us to inform you that:

Unless this form contains a currently valid OMB Control Number, you are not required to submit this information to the BLM or its designated agents. BLM will use the information to determine whether or not to issue you a Special Recreation Permit.

Response to this request is required to obtain a benefit.

BLM would like you to know that you do not have to respond to this or any other Federal agency-sponsored information collection unless it displays a currently valid OMB control number.

Public reporting burden for this form is estimated to average 30 minutes per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to U. Department of the Interior, Bureau of Land Management, (1004-0119) Bureau Clearance Officer, (WO-630), Mail Stop 401 LS, Washington, D.C. 20240.

POST USE REPORT

Permit No.

Permit holders **must** complete this Report and return to the issuing office within thirty (30) days after use date.

NUMBER			FEES CHARGED PER		GROSS
PARTICIPANTS	SPECTATORS	EMPLOYEES	PARTICIPANT	SPECTATOR	INCLUDE ALL RECEIPTS

Describe any problems such as crowd control, crimes, hazards, and accidents *(injuries, deaths, property damage)*, etc.

(Name of person submitting information)	Address *(include zip code)*	Telephone No. *(include area code)* Business Residence
(Signature) (Date)		

POST USE REPORT

Permit No.

Permit holders **must** complete this Report and return to the issuing office within thirty (30) days after use date.

NUMBER			FEES CHARGED PER		GROSS
PARTICIPANTS	SPECTATORS	EMPLOYEES	PARTICIPANT	SPECTATOR	INCLUDE ALL RECEIPTS

Describe any problems such as crowd control, crimes, hazards, and accidents *(injuries, deaths, property damage)*, etc.

(Name of person submitting information)	Address *(include zip code)*	Telephone No. *(include area code)* Business Residence
(Signature) (Date)		

Appendix B- 4 - Time line Flow chart

The Time Line Bases

Appendix 1 A.-

Preliminary Review: less than 30 days

- Meets minimum time dead line (180 days prior to use date)
- Land Use Plan ?
- Recreation Plans and Policies
- Application Content
- Determine need for further review

No further review necessary, then proceed as follows:

- Archaeological Clearance for Cultural Categorical Exclusion
- Prepare a Categorical Exclusion (CX)

or:

Some offices require a brief scoping to ensure there have been no changes in the conditions analyzed by the associated EA.

- Prepare an Administrative Determination (AD)
- Skip to: Request fees and insurance; Issue, etc.

Further Review is necessary =

Initial Scoping: +7 - 30 days

(7 days if CX or Ad; 30 days if EA likely)

- Internal scoping
- Determine NEPA documentation needs
  13 Critical elements checklist
- Time Line Calendar
  Specialists needed
  Cost recovery estimate
- Go/No Go Decision

EA required; Project Leader: +7-10 days

- Team Member Assignments

External Scoping: +45 days

- Mailings
- NEPA document framework draft
- Field inspections with/without specialists
  Archaeologist, etc.
- Native American Consultation

EA Draft Preparation: +30 days

- Prep Draft for review inserting public comments

- Internal Draft review
- Insert Internal comments

Final EA and Record of Decision: +10 days
- EA and FONSI
- Mitigation elements
- Stipulations
- Record of Decision
  Management signature

Public Review: +45 days
(This should be taking place a minimum of 60 days prior to an event or use date)
- SHPO (State cultural review)
- Native American Consultation
- Appeal Process
  Request fees and insurance if FONSI
- Prepare and send Closure Notice to Federal Register if exclusive use to be authorized (OHV races, shooting events, etc.)

Issue / Authorize Permit: (This should take place a preferred 30 days prior to use)

Precheck Area: 1-7 days prior
- Confirm use routes, etc.
- Take monitoring photos

Monitor:
- Actual use by entrants and spectators
- Compliance
- Impacts
- Positive and negative affects

Post Use:
- Compliance check 1-14 days after
- Post Use Report due 15-30 days after
- Settle fees: collection or refund
- Post Use rehab done within 30 days after event

Appendix B- 5
PRELIMINARY DOCUMENT - EXAMPLE ONLY - NOT A LEGAL DOCUMENT

Programmatic Environmental Assessment
for Continuation of Guided Hunting and other Commercial Activities in Wilderness Study Areas (WSAs) and Designated Wilderness Administered by Nevada BLM Offices

This environmental assessment has been prepared to meet a requirement in the most recent revision of the Interim Management Policy (IMP) for Lands Under Wilderness Review. Prior to the 1995 IMP revision, issuance of commercial permits met the criteria for a categorical exclusion review. The proposed action is to continue the commercial recreation permitting program. This assessment will apply to all existing as well as new special recreation permits and permit renewals issued by any Bureau of Land Management (BLM) lead office for hunting guides licensed by the Nevada Division of Wildlife. A few commercial operators have conducted photography trips or ATV rides. Most hunting guides stay in commercial lodging facilities, do no use pack stock, and do not camp on public lands. Guiding activities in WSAs consists of occasional operation of vehicles on established travel routes, and does not impair wilderness values.

Permits are issued with the following stipulations that have been used since as early as 1991 to protect wilderness qualities in WSAs and designated wilderness:

> The use of motorized or nonmotorized vehicles and mechanical transport within designated wilderness areas is prohibited. All vehicle use by the permittee will be conducted in accordance with off road vehicle designations. Within wilderness study areas (WSAs) vehicle use is limited to established routes as shown on official inventory maps. Information concerning the location of off road vehicle designations, WSAs and designated wilderness areas, and applicable vehicle use policies, are available from the various BLM offices which administer these areas.
>
> **Sanitation** Pit-type toilets or porta-johns, with or without tent covering, are mandatory at all camps having more than 10 people or being used more than one night. Toilet pits will be filled with earth when excrement reaches one foot below ground level, and a new pit will be dug. All pits will be treated with lime when in use, and will be covered with earth to the level of the original ground surface when use is terminated. Pit toilets will not be constructed in any designated wilderness area or WSA without prior written approval by BLM.
>
> **Camping** No camps or other facilities, either permanent or temporary, will be set up in a designated wilderness area or WSA without prior written approval by BLM.

Environmental Consequences Permitted commercial hunting is a very small part of general recreational hunting, and little activity occurs in WSAs. Use within the BLM Mt. Moriah Wilderness is believed to be negligible. Permit stipulations have been determined to be effective in protecting wilderness values and no additional mitigation measures are deemed to be necessary.

Cumulative Impacts Continuation of permitted guiding and other commercial activities would have no adverse effect upon wilderness values and would provide for valued recreational activities.

Decision Record / Finding of No Significant Impact (FONSI)

Decision: I have reviewed the proposed action, Plan Conformance and NEPA Compliance Record for the Programmatic Environmental Assessment for Continuation of Guided and Other Commercial Activities in WSAs, and have determined that no further environmental analysis is required. It is my decision to implement the proposal as described, subject to the recommended special stipulations.

Rationale: Approval of this proposal will allow the continuation of permitted commmercial services, which is a legitimate multiple use activity that complies with the Interim Management Policy, and will result in no significant impact to wilderness characteristics and related values.

FONSI: It has been determined that the quality of the human environment will not be significantly impacted as a result of this decision; therefore, an Environmental Impact Statement is not required.

Rationale: The determining factors weighed by the Bureau of Land Management in reaching this Finding of No Significant Impact are provided below:

- There are no unique characteristics within the project area to be affected (e.g., park lands, wetlands, prime farm lands).

- No threatened or endangered species within the project area will be impacted by the proposal.

- The project and its potential effects on the quality of the human environment are neither controversial nor do they involve unique or unknown results.

- The proposal is in conformance with all Federal, State, and local requirements, planning and laws, imposed for the protection of the environment.

- Appropriate mitigation has been incorporated into the proposed action.

-There would be no effect to the human health or environment of minority and low income populations.

_____ _____

Date

Assistant Field Manager
Nonrenewable Resources

Appendix B- 6 - Screening for Exceptions To Categorical Exclusions

SCREENING FOR EXCEPTIONS TO CATEGORICAL EXCLUSIONS: The following exceptions apply to actions being considered as categorically excluded. Environmental documents must be prepared if any of these exceptions apply. Would the Proposed Action...

		Yes	No
1.	Have significant adverse effects on public health or safety?	[ ]	[ ]
2.	Have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks?	[ ]	[ ]
3.	Have highly controversial environmental effects?	[ ]	[ ]
4.	Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	[ ]	[ ]
5.	Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?	[ ]	[ ]
6.	Be directly related to other actions with individually insignificant but cumulatively significant environmental effects?	[ ]	[ ]
7.	Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places?	[ ]	[ ]
8.	Have adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species?	[ ]	[ ]
9.	Require compliance with Executive Order 11988 (Floodplain) Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act?	[ ]	[ ]
10.	Threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment?	[ ]	[ ]

Findings: Based on review of the proposal and the 10 exceptions listed above, this action qualifies as a categorical exclusion and environmental analysis is not required. The proposed action is in conformance with current BLM Land Use Plans.

Prepared by: Outdoor Recreation Planner _____ **Date** _____

Approved by ADM: Non Renewable Resources _____ **Date** _____

Renewable Resources _____ **Date** _____

Appendix B- 7 NEPA Screening Questions

(From Phoenix class 1620-03BC)

1. Are existing analysis and documentation adequate?

    - Provide checklist of 13 Critical factors of the Human Environment

    If they are, then you can document that in an Administrative Determination (AD).

    Is it feasible to tier to an existing EA?

    - When to Tier checklist

2. Is the proposed action *excepted* from NEPA requirements?

    The three *exceptions* are: Congressionally Exempted, Emergencies, Rejection of proposed actions.

3. Is the proposed action categorically excluded from NEPA?

Federal Register/Vol.57, No. 62/March 31, 1992:

Appendix 5 - Bureau of Land Management,
5.4 Categorical Exclusions
H. Other
(5) Issuance of SRP's to individuals or organized groups for search and rescue training, orienteering or similar activities and for dog trials, endurance horse races or similar minor events.

- Provide screening list for exceptions to CX

4. Is the proposed action one that normally requires an EIS?

    - Provide screening list for EIS

5. Is the proposed action expected to significantly affect the environment?

    - Provide list of ten screening questions for evaluating impact intensity

Appendix B-8 NEPA Analysis Process

Remember, when writing an EA, cover the basics and keep it simple - less than 25 pages max.

Sequence of events:

1. Identify proposal/action - clarify
2. Determine land use plan conformance
3. Determine appropriate NEPA compliance documentation
4. Identify management concerns
5. Prepare NEPA document.

   Analyze/evaluate possible positive and negative effects.
   Follow required formats and include required verbiage

6. Specialist review; public input
7. Prepare a Finding of No Significant Impact and document the decision in the Record of Decision

If a significant impact is determined, then the FONSI is not applicable, and EIS will be required.

A. Notify the public as appropriate
B. Do not send out a Draft of the EA
C. Do not sign the EA. List preparers.
D. The Authorized Officer signs the Record of Decision

The public, including the permit applicant, gets a thirty day review in case they disagree with the decision or are negatively affected by the decision.

8. Implement the decision
9. Monitor/evaluate the decision/effectiveness for accuracy of anticipated impacts: effectiveness of the decision and mitigation in achieving the desired or anticipate results.

Appendix B-9 Permit Process Checklist

1. Final Map

2. Operating Plan

3. NEPA Documentation

4. Cultural Clearance
   a. Native American Consultation
   b. State Historic Preservation Office Consultation

7. Fish and Wildlife Service Consultation (as needed)

8. Management Decision

9. Stipulations and Mitigation Instructions

10. If a Closure is required (for a race event or exclusive use), be sure you have this done 45 days prior to the event date. Publish in the Federal register 30 days prior to event.

Request the final requirements from the applicant:

1. Proof-of-Insurance Certificate

2. Prepayment fee

3. Performance bond (as needed)

4. Copy of state licenses as needed

After receipt of required fees and insurance, etc. from the applicant, the manager signs the permit authorizing the activity.

1. Copy the permit and stipulations for your file PRIOR to signature.

Have the Authorized Officer sign both the original, which is mailed to the permittee, and the file copy (this puts **an original signature permit copy in your file).**

2. It is best to issue a permit 30 days prior to an event date, but it is not unusual to deliver the day before.

3. Do not allow an applicant to do pre-event flagging of an event route until the permit is authorized! **No fees, no insurance, no marking = no event...**

After the permit is issued:

1. Field check the event area prior to the event. Confirm flagging with mapping and approvals.

2. Take pre-event monitoring photos.

During the event:

1. Monitor for actual use and compliance.

2. Observe permittees' conduct and the administration of the event. Is it safe? Are the entrants happy? Are spectators? Are there toilets and First Aid ?

After the event:

1. Recheck for compliance

2. Were evaluations and expectations accurate (from EA)?

3. Is rehabilitation necessary?

4. Re-take monitoring photos to document effects or non-effects.

Receive Post Use Report and fee payment

If rehab is required, allow 30 days for permittee to complete.

Refund overpayment and performance bonds as needed or when clean-up and rehab are satisfactory.

Appendix B-10 Example of Administrative Determination

AD Number:NV-030-98011

Date:3/18/98

ADMINISTRATIVE DETERMINATION

Western States Racing Association

VIRGINIA CITY GRAND PRIX: MAY 09 & 10, 1998

SRUP NUMBER: NV-030-98008

I. THE PROPOSED ACTION

A. Purpose:

Western States Racing Association has applied for a Special Recreation Use Permit (SRUP). The purpose of the action is to conduct the Virginia City Grand Prix Motorcycle Race across public lands within the Virginia City National Historic Landmark on May 09 & 10, 1998. This would be the 28th consecutive running of this event in the Virginia City area.

B. Need:

The action accommodates public demand for competitive motorized recreation. The proposed route is within an Open OHV designated area and is in compliance with the Walker Resource Area Management Plan 1986.

C. Summary of Proposed Action:
The event is an off-highway vehicle (OHV) race event.

Public lands affected by the event are located within T17N R21E
S20 - 23,26 - 29,32 - 34; T16N R21E S3 - 5.

The race is approximately 100 miles on a 15+ mile course (5 - 6 laps per rider).
Usually half of the total race mileage crosses public lands. The route is interconnected with private lands mostly associated with patented mining claims. The Start/Finish and pit area are located near the old Railroad Depot in Virginia City (non public land). Attachment 1 - Map

In the past, from 400 - 700 motorcycles per day have competed.

Riders start 10 at a time every 15 seconds beginning at 9:00 am each day. Riders compete for 3 ½ hours. The winner is determined by who completes the most number of laps within the designated time frame.

No unusual or non-repairable affects are anticipated.

Riders are required to stay on the disturbed roadways and may pass each other only where there is adequate room to do so within previously disturbed areas or wide dirt roads.

A Public Land Closure will be implemented to provide for public safety and to protect adjacent resources during the running of the event.

D. NEPA

Environmental Assessments NV-030-93030 and NV-030-94028 Grand Prix Motorcycle Race, and NV-030-94-18 - Escarabajo Buggy Club Rally analyzed the environment, covered cultural clearances and the roads identified in this current proposal. Findings of no significant impact resulted from both.

The seven criteria for determining NEPA adequacy of existing EA's have been reviewed and it has been determined that all requirements have been met.

Prepared by _____ Date _____
Outdoor Recreation Planner

I concur with the reviewers finding that the proposed action has been adequately analyzed in a previously prepared NEPA document.

Reviewed by _____ Date _____
Environmental Coordinator

I have determined that the proposed action is in conformance with the Walker RMP and that existing environmental analysis and documentation are sufficient to assure NEPA compliance. It is my decision to authorize the Special Recreation Permit for this event. Stipulations are attached to the permit.

Approved by _____ Date _____
AM, Nonrenewable Resources

2 Attachments:
1) Map
2) Nepa Review Criteria

Appendix B- 11 Example of Categorical Exclusion Review

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
CARSON CITY DISTRICT

PROGRAMMATIC CATEGORICAL EXCLUSION REVIEW

#NV-030-97017 **March 13, 1997**

****

Proposed Action: Horse Endurance Events

Special Recreation Use Permit File #: Central Files & Annual Recreation Permits Log

Legal Description: Existing, well established dirt roads and trails within areas previously used for similar events: Pine Nut Mountains, Virginia City, Fallon, Reno, Yerington,

Applicant: Various Organized Riding Clubs and Individual Promoters

Description of the Proposed Action:
Special Recreation Use Permits would be issued to those applicants who demonstrate responsible performance and willingness to comply with Stipulations and permit requirements in order to conduct 100, 50 and 25 mile horse endurance rides across portions of public land. Water and Vet Check Stops are usually located within or adjacent to roads easily accessible by horse trailered vehicles. Up to 200 riders could participate in each event (60 - 140 is common). Routes are generally used only once per season (May through November). Main camping and start/finish areas are usually on private lands or within mineral material sites. No road or public land closures are imposed.

****

I. Plan Conformance:
The proposed action has been determined to be in conformance Resource Management Plans.

II. Environmental Documentation/Categorical Exclusion Determination
The proposal will not have adverse effects on public health or safety, unique resources, sensitive or T&E species, or cultural resources. It does not involve controversial environmental effects, uncertainty or risks, or significant cumulative environmental impacts. It does not establish precedents for future actions. It does

Appendix B-12 Example of FONSI and Decision Record

Finding of No Significant Impact
AND
Decision Record

EA NV-040-97-008 for the
National Muzzleloading Rifle Association (NMLRA)
1997 National Pacific Primitive Rendezvous

FONSI: Based on the analysis described in Environmental Assessment NV-040-97-008, I have determined that the proposed action will not have a significant effect on the quality of the human environment. Therefore, an Environmental Impact Statement is not required.

Rationale: The determining factors weighed by the Bureau of Land Management in reaching this Finding of No Significant Impact are provided below:

- There are no unique characteristics within the project area to be affected (e.g., park lands, wetlands, prime farm lands).

- No threatened or endangered species within the project area will be impacted by the event.

- The project and its potential effects on the quality of the human environment are neither controversial nor do they involve unique or unknown results.

- The proposal is in conformance with all Federal, State, and local requirements, planning and laws, imposed for the protection of the environment.

- Appropriate mitigation has been incorporated into the proposed action.

- The proposal will not have any adverse affect on human health or the environment of minority or low income populations.

Decision: It is my decision to authorize National Muzzleloading Rifle Association (NMLRA) to conduct a mountain man rendezvous under the provisions and stipulations attached to Special Recreation Permit Number #NV-040-97001.

_____ _____
Assistant Manager Date
Nonrenewable Resources

not require compliance with wetland, floodplain, or fish and wildlife Executive Orders or Acts and does not threaten to violate any environmental laws or requirements.

Categorical Exclusion Citation (516 DM 6 App. 5.4) :H (5); Federal Register 3/31/1992
"Issuance of special recreation permits to individuals or organized groups for search and rescue training, orienteering or similar activities and for dog trials, endurance horse races and similar minor events.

III. Review
The proposed action qualifies as a categorical exclusion and requires no further environmental analysis. The proposed actions are approved as recommended.

Prepared by: _____ Date _____
Outdoor Recreation Planner

Reviewed by: _____ Date _____
Environmental Coordinator

DECISION: Based upon the review of this proposal, I have determined that the above described activity is a categorical exclusion, in conformance with the RMP, and does not require a NEPA analysis. It is my decision to implement the action as described.

Approved by: _____ Date _____
AM Renewable Resources

Approved by: _____ Date _____
AM Nonrenewable Resources

2 Attachments:
1) Usual Stipulations
2) General Areas Map
3) Screening for Exceptions to CX Check List

Appendix B-13 - Example of Decision Approving Application

8372 - SRUP
NV-030-9619
(NV-03300)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DECISION

Ropin' and Ridin' Adventures Wild Bill Hickock, Manager 220 Cheyene Road Itty Bitty, NV 89704	: : :	Special Recreation Use Permit

PERMIT APPLICATION APPROVED

The Outdoor Recreation program, Itty Bitty Field Office, has received and evaluated Special Recreation Permit application #NV-030-96019. The permit will be issued for a one year term, renewable upon written request annually from the permittee and following successful compliance by the permittee with Bureau management stipulations.

R & R Adventures, based in Itty Bitty, Nevada shall be authorized to conduct occasional, guided hiking and horseback excursions of 2 - 8 participants along existing roads and trails in the vicinity of Eldorado Canyon near Dayton, Nevada.

The permit shall be issued pending conclusion of the 30 day appeal notification period. An annual permit fee of $75 and proof-of-insurance certificate naming the U.S. Government as coinsured shall be required of the applicant prior to permit authorization.

APPEALS: This decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43CFR, Part 4, and the enclosed form 1842-1. If and appeal is taken, your notice of appeal must be filed in this office (at the above address), within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

In addition, within 30 days of receipt of this decision, the appellant has the right to file a petition for a stay (suspension) of the decision together with the appeal in accordance with the regulations at 43 CFR 4.21.

Copies of the notice of appeal and petition for a stay must be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor, at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

A petition for a stay of a decision pending appeals shall show sufficient justification based on the following four standards:

(1) The relative harm to the parties if the stay is granted or denied,

(2) The likelihood of the appellant's success on the merits,

(3) The likelihood of immediate and irreparable harm if the stay is not granted, and

(4) Whether the public interest favors granting the stay.

Duke Hazard
Manager
Walker Resource Area

3 Enclosures:
1. Form 1842-1
2. Map
3. Distribution List

Distribution List

Permit Applicant
County Board of Commissioners
Adjacent Private Land Owners
Other permittees in area:
Grazing allotment permittees,
other commercial event or activity permittees,
Outfitter Guides.
Interested Persons

WY010-RU99-02
(010)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DECISION

High Island Ranch Frank Robbins, Owner 346 Amoretti, Suite 10 Thermopolis, WY 82443	:	Special Recreation Permit

PERMIT APPLICATION DENIAL

The Bureau of Land Management (BLM) Worland Field Office, has received and evaluated Special Recreation Permit application WY010-RU99-02. It is my decision to deny your application for a Special Recreation Permit. As stated in 43 CFR, Part 8372.3 **Issuance of permits:**

> The approval of an application and subsequent issuance of a special recreation permit is discretionary with the authorized officer.

My rational for denial is:

A significant portion of the activities proposed in your SRP plan of operation are in conjunction with and dependent on your High Island Ranch livestock grazing permit, operator number 491211. By letter dated June 17, 1999, I have issued a proposed decision to cancel that livestock grazing permit. This would render that part of your SRP inoperative.

Your past SRPs and the application for WY010-RU99-02 require that:

> Permittee shall observe all Federal, State, and local laws and regulations applicable to the premises;....

"Premises" refers to the public lands to be used under the terms of the permit.

Following your 1995 operating season, your SRP was suspended due to noncompliance with the stipulations of the permit. Upon correction of the immediate problems resulting in the permit suspension, your operation was placed in a probationary status and your permit was issued on an annual rather than a five-year basis.

DRAFT--FOR DISCUSSION PURPOSES ONLY
ATTORNEY-CLIENT PRIVILEGED

You have consistently shown a complete disregard for BLM's lawful authority to administer public lands. The record regarding the High Island Ranch Special Recreation Permit (number WY-018-RU98-09), the High Island Ranch grazing permit (grazing record number GR491211), and Right-of-way case numbers WYW-127878 and WYW-141791 (trespass) shows that since your acquisition of the High Island Ranch in 1994, you have repeatedly failed to comply with the terms and conditions which govern your various public land use authorizations, often despite explicit advance warnings from BLM that your conduct would violate the terms and conditions of your public land use authorizations. Specifically, you have, among other things:

- had your special recreation permit suspended and reduced from a five-year term to a one-year term due to infractions of the permit's conditions;
- received ten different grazing trespass notices, some of which have been in conjunction with your SRP operations;
- been in noncompliance of your grazing permit and allotment management plan on at least twenty occasions, in addition to those for which grazing trespass notices were issued; and
- committed trespass on the public lands by blading a road, that facilitates your SRP operations, without authorization.

In reaction to BLM's efforts to investigate these problems and otherwise manage the public lands, you have repeatedly attempted to limit BLM's access across your deeded lands that are intermingled with public lands in the area covered by the SRP. Along with the numerous incidents detailed in my proposed grazing decision, dated June 17, 1999, in a letter dated October 20, 1995 concerning your SRP you stated " I expect BLM to notify me of when they are expecting to be on or to cross private lands." Your past SRPs and the application for WY010-RU99-02 require that:

> Authorized representatives of the Department of the Interior, other Federal agencies, and game wardens must at all times, have the right to enter the premises on official business.

Part of BLM's duties in carrying out the various statutory mandates that govern its administration of the public lands include monitoring uses of the public lands and investigating unauthorized uses and potential permit violations. A requirement that BLM obtain advance permission from a permittee before conducting compliance inspections would clearly interfere with BLM's ability to manage and protect the public lands. The Interior Board of Land Appeals (IBLA) recognized this fact, with respect to your High Island Ranch grazing permit, when it explicitly ruled that BLM need not obtain your advance permission before carrying out its duties on the public lands (IBLA 98-180; 98-404). Nevertheless, you have persisted in your obstruction of BLM's access to the public lands despite the IBLA's specific Orders clarifying that the access stipulation is indeed a condition of your High Island Ranch grazing permit and explicitly stating that BLM does not need to obtain your advance permission before carrying out its responsibilities on the public lands. Your interference with BLM's access to the public lands makes it impossible for BLM to carry out its statutory responsibilities to manage and protect the public lands.

By your actions, you have not only shown complete disregard for BLM's lawful authority on the public lands, but have also demonstrated a total disregard for IBLA's lawful authority as well. Your interference with BLM's access to the public lands makes it impossible for BLM to carry out its responsibilities to manage and protect the public lands. If BLM has no means of reasonable access to the public lands it administers, it certainly cannot comply with its duty to manage and protect those public lands.
I do not feel that this denial will affect your big game hunting operation since you have not reported any use on BLM lands since 1995. In addition you have only reported using public lands for horse back rides

DRAFT--FOR DISCUSSION PURPOSES ONLY
ATTORNEY-CLIENT PRIVILEGED

in 1997.

Commercial operations on public lands without a SRP if convicted may be subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

APPEALS: This decision may be appealed to the IBLA, in accordance with the regulations contained in 43 CFR, Part 4, and the enclosed form 1842-1. If an appeal is taken, your notice of appeal must be filed with the Worland Field Manager, Bureau of Land Management, 101 S. 23rd Street, P.O. Box 119, Worland, Wyoming 82401, within 30 days of receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

In addition, within 30 days of receipt of this decision, the appellant has the right to file a petition for stay (suspension) of the decision together with the appeal in accordance with the regulations at 43 CFR 4.21.

Copies of the notice of appeal and petition for stay must be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor, at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

A petition for stay of the decision pending appeal shall show sufficient justification based on the following four standards:

(1) The relative harm to the parties if the stay is granted or denied,

(2) The likelihood of the appellant's success on the merits,

(3) The likelihood of immediate and irreparable harm if the stay is not granted, and

(4) Whether the public interest favors granting the stay.

Sincerely,

Field Manager

Enclosure
Form 1842-1

cc: Wyoming Board of Outfitters
and Professional Guides

DRAFT--FOR DISCUSSION PURPOSES ONLY
ATTORNEY-CLIENT PRIVILEGED

Appendix B- 15 Fifth Screening Question

The Fifth Screening Question: Is the Proposed Action Expected to Have Significant Effects?

Even if the activity is not one that has been determined to normally require an EIS, one final question must be asked before deciding that an EA is the proper document to prepare: Are environmental impacts expected to be significant?

To decide whether an action has a significant impact on the quality of the human environment, you have to look at the context in which the action is occurring and the intensity of the impact. This means you have to analyze the significance of the action in several contexts--on a national level, at the level of the affected region, and the level of the affected locality and interests. But intensity is a bit more complicated. Here are the 10 considerations the CEQ regulations list for evaluating intensity

Intensity refers to the severity of impact. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse.

(2) The degree to which the proposed action affects public health and safety.

(3) Unique characteristics of the geographic area (proximity to unique resources).

(4) The degree to which effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance can not be avoided by terming an action temporary or by breaking it down into small parts.

(8) The degree to which the action may adversely affect or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat under the T&E Species Act of 1973.

(10) Whether the action threatens a violation of federal, state, or local law or requirements imposed to protect the environment.

40 CFR 1508.27

That impacts can be both beneficial and adverse and still require an EIS is an important point.

Appendix C – SRP Administration and Management

C-1 Sample of standard stipulations for commercial permits – general

C-2 Sample of standard stipulations for commercial permits – land based

C-3 Sample of standard stipulations for commercial rafting permits

C-4 Sample of standard stipulations for competitive and OHV events and sample of OHV SRP supplemental application

C-5 Sample of standard stipulations for outfitters and guides – fishing

C-6 Sample of SRP post use report

C-7 Sample of hold harmless/indemnification agreement

C-8 Sample of letter of agreement/noncommercial recreation use

C-9 Sample of certificate of liability insurance document

C-10 Review criteria for insurance documents

C-11 Sample of SRP interoffice coordination report

C-12 Sample of visitor's acknowledgement of risk form

C-13 Sample of operating plan format

C-14 Sample of completed operating plan

C-15 Sample of trip log form

C-16 Sample of contract for audit of commercial SRPs

C-17 Lower Salmon River Plan- environmental documentation through implementation

C-18 Guidance for case file documentation and maintenance

C-19 Summary of select IBLA decisions

C-20 Uncompahgre Basin Field Office standard stipulations

C-21 Special stipulations for Gunnison Gorge commercial river permits

C-22 Example of Uncompahgre Basin/Grand Junction lion permit

C-23 Example of interagency permit

C-24 Example of letter identifying cost recovery charges

C-25 Example of insurance policy

STANDARD STIPULATIONS FOR COMMERCIAL PERMITS
Special Recreation Permit Performance Review Standards on BLM-Administered Public Lands - Pinedale Resource Area

A. FOR ALL PERMITS

General

1. Permittee agrees to make all relevant books, documents, papers, and records of his/her operation available to BLM upon request (as outlined in 43 CFR 8372.5) for analysis by qualified representatives of BLM and other Federal agencies authorized to review BLM's permitting activities.

2. For administrative purposes, including compliance checks, the permittee shall allow the BLM and its cooperators, including the Wyoming Game and Fish Department, the USDA Forest Service, and the Wyoming State Board of Outfitters and Professional Guides, reasonable administrative access to private lands which are owned or utilized by the permittee for the permitted activity.

3. After the first year of a multi-year permit, the deadline for submitting the preseason requirements to obtain an Annual Operation Authorization will be April 1.

4. Permittee, employees, and clients will not interfere with other valid uses occurring on the public lands such as grazing, mining, and other recreational uses (including commercial and private).

5. BLM reserves the right to close various sites and/or areas of the public land to prevent resource damage and use conflicts, and to promote visitor safety.

6. BLM reserves the right to put a permittee on probation, suspend, or revoke a permit for reasons such as, but not limited to, noncompliance with stipulations, failure to provide services specified in the operation plan, or untimely permit reporting or use fee payments.

7. Permittee is responsible for knowing where Wilderness Study Area (WSA) boundaries are and use restrictions that may apply to an area of operation within a WSA. Maps and information concerning restrictions are available at the local Resource Area Office.

8. Permittee is responsible for knowing and complying with Off-Road Vehicle (OHV) designations and restrictions that may exist with the area of operation. Permit issuance does not waiver any OHV use restrictions, whether local, State, or Federal. OHV information is available at the local Resource Area Office.

9. Special Recreation Permits (SRPs) for commercial recreation uses requiring a license or licenses from the State of Wyoming (i.e., outfitting related to the taking of game or river outfitting as appropriate) will be valid only when accompanied by a valid state license.

10. A multi-year permit is not valid unless accompanied by a Annual Operating Authorization.

11. A Post Use Report will be submitted within 30 days of the last day of use authorized by the permit.

12. End of season use fee payments must be received by BLM within 30 days of BLM's billing date unless prior approval for an extension is obtained from BLM's Area Manager.

13. Late payment of fees, including pre-season, partial, and end-of-season payments will subject permittee to remedial action: probation, suspension, and/or revocation. Interest and administrative handling charges will be assessed for late payments.

14. Issuance of a permit by BLM does not guarantee the permittee's use of specific public areas, nor does it grant the exclusive use of any area by the permittee.

15. Issuance of a permit by BLM does not guarantee legal access to public lands. Access to public land by the permittee is assured only when legal access for the general public is available. Where legal public access is not available, it is the permittee's responsibility to obtain permission from the landowner(s) to travel through or use private lands.

16. BLM has no authority to permit or regulate use of non-BLM land i.e., private, state, and other federal) unless provided for by cooperative agreement.

17. Unless use allocations are in place, the public lands will generally remain available on a first-come, first-served basis to as many other commercial and private users as desire to use them, except as otherwise provided for in these stipulations. Nothing herein implies that the first permittee into any area has been authorized an exclusive use privilege.

18. Permittee is responsible for all actions of employees and clients on both public and private lands.

19. No one shall intentionally or wantonly destroy, deface, remove, or disturb any public building, sign, equipment, marker, or other government property, cultural sites, historic structures, natural features of the land, vegetation, or wildlife, except as legally taken.

20. State and local laws and ordinances apply to all BLM-administered public land. This includes, but is not limited to, laws and ordinances governing (a) operation and use of motor vehicles, aircraft, and boats: (b) hunting and fishing; (c) use of firearms; (d) injury to persons or destruction of property; (e) air and water pollution; (f) littering; (g) sanitation; and (h) use of fire.

21. Permittee shall post a copy of the authorizing permit in plain view where all clients, BLM and its cooperators and employees have the opportunity to read it. Copies of the authorizing permit will be carried by permittee's employees when operating or performing under the authority of the permit away from the base of operations.

22. Nothing in this permit will be construed as a license for the permittee, employees, or clients to use areas of the public lands which are otherwise restricted or closed (e.g., restrictive off-road vehicle designation areas.).

23. Failure to meet the terms, conditions, or stipulations of the permit may result in probation or suspension of the permittee or cancellation of the permit. It may also result in BLM's refusal to issue a permit and/or Annual Operating Authorization for subsequent years.

24. For multi-year permits, the following actions may result in cancellation of the permit and would require the permittee to apply for a new permit:

(a) Change in fee structure

(b) Two consecutive seasons of non-use.

25. Permittee will notify BLM of any accidents occurring on the public lands which result in loss of life, loss of consciousness, disabling of individuals in excess of 24 hours, having to secure medical treatment, or property damage in excess of $100.00, and will submit a detailed written report to BLM within 10 days from the date of the accident.

26. BLM reserves the right to alter the terms, conditions, or stipulations of a permit at any time for reasons such as significant policy, administrative procedure, or stipulation change.

Sanitation and Aesthetics

1. Operation and maintenance of all sanitation, food service, and water supplies, systems, and facilities shall comply with the standards of the local department of health and the United States Public health Service.

2. Permittee shall dispose of refuse resulting from the permitted use, including waste material, garbage, and rubbish of all kinds in the following manner, and shall guard the purity of streams and other bodies of water:

(a) Tin cans, spent brass, bottles, metal, foil, and other unburnable materials will be packed out, not buried. All refuse not burned is also to be packed out.

(b) Pit-type or portable toilets, with or without tent coverings, are mandatory at all camps having more than 10 people or being used for more than one night. Toilet pits will be filled with earth when excrement reaches one foot below ground level, and a new pit will be dug. All pits will be treated with lime or intermittently covered with earth when used, and will be covered with earth to the level of the original ground surface when use is terminated.

(c) No waste or byproducts shall be discharged if they contain any substances in concentrations that would result in substantial harm to fish and wildlife or to human water supplies, including streams, reservoirs, and lakes.

3. Permittee shall protect the scenic aesthetic values of the area under permit and the adjacent lands, insofar as practical, while exercising privileges granted during setup, operation, and maintenance of the permitted operation. When camps or other facilities are dismantled, the area should be left in a natural state.

Fires

1. All types of open fires will be built only in areas that are presently free of trees and shrubs. No new fire rings will be started where existing rings are available (use of gas stoves or charcoal briquettes is encouraged, and packing of fuels may be necessary to supplement naturally available firewood). Open fires may be prohibited during certain periods depending on fire danger.

2. No campfires will be left unattended. Permittee is solely responsible for all fires which permittee employees, or clients start.

3. Fires and stoves are prohibited within old cabins or historic structures.

4. Cutting or gathering firewood from historic structures or from standing trees (live or dead) is prohibited.

5. Permittee may be held responsible for fire suppression costs resulting from wildfire caused by permittee, employees, or clients.

6. Wildfire should be reported immediately to the nearest BLM office. Permittee is responsible for informing employees, clients, and participants of the current fire danger and required precautions that may be placed in effect by the BLM or the State of Wyoming.

Campsites

1. No year-round, permanent camps may be established on BLM-administered public lands.

2. All temporary improvements must be described in the permit application and are subject to approval by BLM's Area Manager.

3. Standing trees (live or dead) may not be cut for use in constructing temporary facilities unless prior approval is obtained from BLM's authorized officer.

4. Permittee will maintain all premises to standards of repair, orderliness, neatness, and sanitation acceptable to BLM's Area Manager. Camp areas will be regularly cleaned and no trash or litter will be allowed to accumulate.

5. Food and/or equipment caches will not be allowed unless prior approval is obtained from BLM's Area Manager. Location of proposed caches must be described in the permit application.

6. Authorization for use of livestock for transportation is temporary and will not establish a priority for future use.

7. Livestock shall not be tied up for extended periods to trees. Use of picket lines or other livestock restraints or containment methods will be used to prevent trampling of root systems and other damage to living trees.

8. Issuance of an SRP does not authorize the permittee's use of public campgrounds.

9. Issuance of a permit by BLM does not guarantee the permittee's use of any specific campsite(s) unless the permittee has reserved the site.

Guidelines Only

1. First-aid equipment needs should be determined by the size of the group. A 24-unit first-aid kit is usually adequate for most field emergencies.

2. Guides should be trained in first-aid and Cardio-Pulmonary Resuscitation procedures and hold a valid Standard American Red Cross First-Aid card or its equivalent.

Appendix C- 2

STIPULATIONS FOR COMMERCIAL PERMITS

A. FOR ALL LAND BASED PERMITS

General

1. The BLM strongly advises that the permittee not advertize prior to approval of the permit. Authorization of the permit is not secure at any time prior to its issuance.

2. Permittee agrees to make all relevant books, documents, papers, and records of his/he operation available to the BLM upon request (as outlined in 43 CFR 8372.5) for analysis b qualified representatives of BLM and other Federal agencies authorized to review BLM's permitting activities.

3. End of season use fee payments are due within 30 days of BLM's billing date.

4. Permittee, employees, and clients will not interfere with other valid uses occurring on public land such as grazing, mining, and other recreational uses (including commercial anc private).

5. A post use report is due within 30 days of the last day of use authorized by the permi

6. The BLM reserves the right to close various sites and/or areas of the public land to prevent resource damage and use conflicts and to promote visitor safety.

7. For administrative purposes, including compliance checks, the permittee shall allow th BLM and its cooperators, including USDA Forest Service, Utah Division of Parks and Recreation, and Utah Division of Wildlife Resources, reasonable access to private lands which are owned or utilized by the permittee for the permitted activity.

8. The BLM reserves the right to put a permittee on probation, suspend or revoke a perm or refuse to issue a permit for subsequent years for reasons such as, but not limited to th following: failure to meet permit terms, conditions, or stipulations; failure to provide services specified in the operating plan; untimely permit reporting or use fee payments.

9. Permittee is responsible for knowing where wilderness study areas (WSA) and other special management areas (i.e., Area of Critical Environmental Concern, Research Natural Area, etc.) are and use restrictions that may apply to such areas. Maps and information concerning restrictions are available at local BLM offices.

10. Permittee is responsible for knowing and complying with off-highway vehicle (OHV) designations and restrictions that may exist within the area of operation. Permit issuanc does not waiver any OHV use restrictions. OHV information is available at the local BLM office.

11. Special recreation permits (SRPs) for commercial recreation uses requiring a license licenses from the State of Utah (i.e., outdoor youth programs), will be valid only when accompanied by a valid State license (public utility commission (PUC) certificate).

12. A multi-year permit is not valid unless permittee is in compliance with all permit tern and conditions.

13. Late payment of fees, including pre-season, partial, and end-of-season payments, will subject permittee to remedial action: probation, suspension, and/or revocation. Interest and administrative handling charges will be assessed for late payments.

14. Issuance of a permit by BLM does not guarantee the permittee's use of specific public lands areas, nor does it grant the exclusive use of any area by the permittee.

15. Issuance of a permit by BLM does not guarantee legal access to public lands. Access to public lands by the permittee is assured only when legal access for the general public is available. Where legal public access is not available, it is the permittee's responsibility to obtain permission from the landowner(s) to travel through or use private lands.

16. Unless use allocations are in place, the public lands will generally remain available on a first-come first-served basis to as many other commercial and private users as desire to use them, except as otherwise provided for in these stipulations. Nothing herein implies that the first permittee into any area has been authorized an exclusive use privilege.

17. Permittee is responsible for all actions of employees and clients on both public and private lands.

18. The BLM has no authority to permit or regulate use of non-BLM land (i.e., private, State, and other Federal) unless provided for by cooperative agreement.

19. No one shall intentionally or wantonly destroy, deface, remove, or disturb any public building, sign, equipment, marker, or other government property, cultural sites, historic structures, natural features of the land, vegetation, or wildlife, except as legally taken.

20. State and local laws and ordinances apply to all BLM-administered public land. This includes, but is not limited to, laws and ordinances governing (a) operation and use of motor vehicles, aircraft, and boats; (b) hunting and fishing; (c) use of firearms; (d) injury to persons or destruction of property; (e) air and water pollution; (f) littering; (g) sanitation; and (h) use of fire.

21. Permittee shall inform all employees and clients of the terms and conditions of the authorizing permit.

22. Nothing in this permit will be construed as license for the permittee, employees, or clients to use area of the public lands which are otherwise restricted or closed (e.g., restrictive off-highway vehicle designation areas).

23. For multi-year permits, two consecutive seasons of nonuse may result in cancellation of the permit and would require the permittee to apply for a new permit.

24. Permittee will notify BLM of any accidents occurring on the public lands which result in loss of life, loss of consciousness, disabling of individuals in excess of 24 hours, individuals having to secure offsite, professional medical treatment, or property damage in excess of $200. Permittee will submit a detailed written report to BLM within 10 days from the date of the accident.

25. The BLM reserves the right to alter the terms, conditions, or stipulations of a permit at any time for reasons such as significant policy changes, administrative procedure changes, stipulation changes, impacts to resource values, user conflicts, etc.

Sanitation and Aesthetics

1. Operation and maintenance of all sanitation, food service, and water supplies, systems, and facilities shall comply with the standards of the local department of health and the United States Public Health Service.

2. Permittee shall dispose of refuse resulting from the permitted use, including waste materials, garbage, and rubbish of all kinds in the following manner, and shall guard the purity of streams and waters:

(a) All noncombustible refuse and all unburned combustible refuse must be carried out of the area and disposed of in a approved disposal site. Burying garbage pits is prohibited.

(b) The use of small portable toilets is encouraged. At a minimum, sanitation facilities will consist of a slit trench or pit toilet 8 to 20 inches deep. Facilities will be placed in porous soil in high ground at least 200 feet from all water sources. After use, fill the hole with loose soil and tramp in the top soil or sod on top. Nothing other than human waste may be deposited in a pit toilet. Toilet paper should be carried out. Use a single large latrine around camp rather than several small ones.

(c) Soaps, detergents, food scraps, or any substances that would result in harm to fish and wildlife or to human water supplies will not be introduced into streams, rivers, or springs.

3. Permittee shall protect the aesthetic values of the area under permit and the adjacent lands, insofar as practical, while exercising privileges granted during set up, operation, and maintenance of the permitted operation. When camps or other facilities are dismantled, the area should be left in a natural state.

Fires

1. Because of the impacts campfires create, their use should be kept to a minimum. Using cook stoves or fire stoves is recommended as an alternative to cooking over campfires. When allowed, campfires shall be small and kept under control. Use fire pans or existing fire rings. Do not build new rock fire rings. Open fires may be prohibited during certain periods depending on fire danger.

2. No campfires will be left unattended. Permittee is solely responsible for all fires which permittee, employees, or clients start.

3. Fires and stoves are prohibited within old cabins, prehistoric or historic structures, alcoves, and caves or near rock art sites.

4. Cutting or gathering firewood from prehistoric or historic structures or from standing trees (alive or dead) is prohibited. Burn only dead and down wood.

5. Campfires must be cleaned up. Depending on the location and the situation of your campsite, several methods of campfire clean up are possible:

(a) The preferred method is to carry ashes out.

(b) In some locations it may be desirable to burn the fire down to white ash and to scoop the ashes when "cold" from the fire pit, depositing them in a discreet location along a stream bank or wash where flood waters will scatter them.

(c) In some locations it may be desirable to burn the fire down to white ash and to scatter "cold" ashes in a brushy area.

(d) Existing fire rings at frequently used campsites should be cleaned of ashes and trash but left intact. Do not bury campfires. At all other locations, evidence of fire should be eliminated and the area restored to a natural appearance.

6. Permittee may be held responsible for fire suppression costs resulting from wildfire caused by permittee, employees, or clients.

7. Wildfire should be reported immediately to the nearest BLM office. Permittee is responsible for informing employees, clients, and participants of the current fire danger and required precautions that may be placed in effect by BLM or the State of Utah.

Campsites

1. All campsites will be located at least 100 feet from streams or lakes and 300 feet from springs. Campsites will be out of sight of trails, roads, and other campers, where possible.

2. Standing trees (alive or dead) may not be cut for use in constructing temporary facilities unless prior approval is obtained from BLM's authorized officer.

3. Permittee will maintain all premises to standards of repair, orderliness, neatness, and sanitation acceptable to BLM's authorized officer. Camp areas will be regularly cleaned and no trash or litter will be allowed to accumulate.

4. Food and/or equipment caches will not be allowed unless prior approval is obtained from BLM's authorized officer. Location of proposed caches must be described in the permit application.

5. Authorization for use of livestock for transportation is temporary and will not establish a priority for future use.

6. Issuance of an SRP does not authorize the permittee's use of public campgrounds.

7. Issuance of an SRP does not guarantee the permittee's use of any specific campsite(s) unless the permittee has reserved the site.

8. Cook tents, latrines, corrals and hitching racks must be located at least 200 feet from the nearest spring, stream, lake, or reservoir, unless such use is otherwise prohibited. Camps will be located to avoid conflict with normal trail traffic and stream or lake access, and out of sight of major trails when possible.

Livestock Use

1. When feed for livestock is provided by the permittee, it must be certified weed-seed free by the County Weed and Pest Control. It is recommended that weed-free oats or pell feeds be used rather than hay. In some areas, weed-free oats or pellet feeds are required and grazing of riding or pack stock is prohibited.

2. When the permittee is authorized to graze riding or pack stock on public lands, fees for that use will be based on rates prescribed for grazing under the regulations for range management.

3. All animals will be under control in route and in camp to protect wildlife, other livestock and range forage.

4. Do not tie, corral, or picket animals within 200 feet of any lake, stream, main trail, or developed campground. If it is necessary to keep stock tied for an extended length of time select a site where damage to vegetation is minimized.

5. Do not lead, ride, tie, corral, or picket animals within 100 feet of any archaeological site.

6. Stock may not travel in streams except when crossing.

7. Construction of permanent fences or corrals is not permitted. Temporary improvement including frames, corrals, or hitching racks may be constructed, provided they are dismantled when the camp is vacated.

B. RIVER-RELATED PERMITS

Permit stipulations for commercial recreation use on BLM-administered rivers are available by contacting the office administering the river segment of interest.

B. RIVER-RELATED PERMITS

General

1. Each permittee will sign-in at all recreation site registers, where posted, at river ingress/egress points occurring on public lands administered BLM, indicating the trip leader's name, company name, and the number in each party.

2. Issuance of a SRP by BLM does not authorize use of the actual river surface; rather, the use of adjacent public lands is authorized.

3. Responsibility for promotion and maintenance of river safety rests with the state of Wyoming. Each permittee should be familiar with the State's regulations governing river outfitters, specifying river outfitting and operation requirements including outfitter/guide qualifications, equipment, safety standards, and record keeping. If federal and state requirements governing permittee conduct differ, the most restrictive requirement is to be followed.

4. It is the permittee's responsibility to be aware of and notify employees and clients of known hazards and to take appropriate measures to avoid and protect employees and clients from these hazards. Such hazards may include, but are not limited to, bridge abutments, log jams, and known hazardous white water stretches.

Camping

1. The use of fire pans is encouraged and may be required on certain river segments. Ashes should be packed out.

2. If pit toilets are unavailable along the river, use of portable toilets (e.g., porta-potties, ammo cans) is encouraged. They may be required on certain stretches and/or on certain rivers. Check with the local Resource Area outdoor recreation planner for up-to-date requirements and technology regarding human waste disposal.

BUREAU OF LAND MANAGEMENT
TAOS RESOURCE AREA
226 Cruz Alta Road, Taos, New Mexico 87571
(505) 758-8851

COMMERCIAL FLOATBOATING STIPULATIONS [*DRAFT*]
1998 PERMIT SEASON
(REVISED 10-31-97)

These stipulations are a part of your approved multiple-year permit to provide commercial float-boating opportunities to the public on the Rio Grande and/or the Rio Chama. Before you may *"activate," or* operate under your permit *each season*, you MUST provide us (or have on file) the following items. *Failure to provide any of the following will prevent the "activation" of your permit and could lead to fines or suspension of the permit;*

1) a $75.00 pre-season payment [B-1], *and full payment of any outstanding fees, or fees from previous seasons [K-2];*
2) a detailed operating plan [A-7];
3) proof of insurance: liability, workman's compensation, vehicle [C-1, C-3];
4) *guide list with copies of first aid and CPR certifications and front and back of drivers' licenses (commercial if applicable) [I-5]; and*
5) a schedule of prices for all trips/services offered under the permit and a copy of current brochure [B-7].

A. GENERAL

1. The trip leader for each trip is required to complete a trip registration form with the river ranger at the launch site, or at the registration box at the launch site. This information must indicate any adjustments in allocated launch times or passenger numbers.

2. The permittee's rafts *and vehicles* MUST be clearly labeled with the business name or approved abbreviation. Letters should be at least 4 inches in height and 4 inches in width and visible from any angle at a distance of at least 150 feet. Duct tape will not be allowed for marking vessels nor will logos be used instead of names. Boats requiring temporary marking will have a banner secured to the boat with the company name and covering any other company name. Permittee's vehicles which are used in recreation areas must have day use passes displayed on windshields; these passes are for commercial use only. Passes must be placed and maintained on the vehicle whose license is indicated on the day use pass form. Vehicles will only be operated on federal land by drivers possessing a commercial driver's license.

3. The permittee, in advertisements, signs, statements, circulars, brochures, letterhead, and like materials, oral, electronic and written must not misrepresent in any way either the services provided, the status of the permit, or the area covered by the permit. These representations may not portray activities as being conducted by the Bureau of Land Management. However, we encourage the permittee to indicate that activities are occurring under BLM permit on BLM-administered lands.

4. Any property of the permittee left unattended on BLM or Forest Service-administered lands longer than 10 days, or 72 hours in recreation areas, without permission of the Authorized Officer is subject to disposition under the Federal Property and Administrative Services Act of 1949 as amended; or at the option of BLM or Forest Service, will be removed and delivered to the permittee or disposed of at the permittee's expense. Any property of a permittee left unattended in a high traffic or no parking area for any length of time is subject to impoundment and constitutes a violation. Recurring or will willful violations of the parking regulations may result in fines, probation, suspension or cancellation of permit privileges.

5. Unless otherwise provided, nothing in this permit is to be construed as authorizing the permittee to erect, construct, or place any building, structure, or other fixture on BLM-administered lands. Any use of the BLM-administered lands is subject to the condition that upon leaving, the lands must be restored as nearly as possible to conditions existing before the permitted activity.

6. The Special Recreation Use Permit does not create an exclusive right of use of the area by the permittee. The permittee shall not interfere with other valid uses of BLM-administered land by other users. The United States reserves the rig to use any part of the area for any purpose.

7. Permittee must file or have on file an operating plan to accompany their application or permit renewal form. Existing permittees will submit operating plan revisions prior to each permit season, *or inform BLM in writing that the previous year's operating plan will be followed.* BLM has the authority to request *a* new or revised operating plan if *one is* determined to be necessary.

8. This permit authorizes use of BLM-administered lands only. It is the responsibility of the permittee to secure other landowner's permission for use of their properties, and to provide upon request evidence of permission to use such land.

9. The permittee must observe signed quiet zones *and take steps to ensure compliance by customers.* In quiet zones there will be no loud, disruptive behavior such as water fighting, loud talking or yelling; all noise must be kept to a conversational level. One quiet zone extends from the downstream boundary of Orilla Verde Recreation Area through the village of Pilar, near the Quartzite launch site. The other quiet zone extends from the County Line Recreation Site to the Embudo Station bridge. Recurring or willful violations of the quiet zone regulations may result in probation, suspension or cancellation of permit privileges.

10. The Special Recreation Use Permit may be modified by the BLM at any time. Permittee will be notified of these modifications and given a minimum of 14 days to comment on such modifications.

11. The permittee is required to be familiar with and abide by all rules and/or regulations that apply to BLM and USFS special management areas, wilderness areas, or recreation area campground(s) they may use or occupy in connection with this permit(s), *and ensure that customers are informed of the rules and regulations.* Information on such areas is available upon request from this office. Rio Grande permittee who use Orilla Verde or Wild Rivers Recreation Areas should obtain a copy of those area's special rules/regulations. The special rules/regulations are hereby incorporated by reference as part of these stipulations.

12. The permittee must maintain a current address of record and telephone number with the Taos Resource Area office. The address of record must be the address where the permittee intends to receive business mail for the company, or concern holding the permit. The permittee must notify this office of any change in address or telephone number within fifteen (15) days of the change.

B. FINANCIAL

1. The non-refundable, minimum pre-season fee is $75. This fee will still be required if non-use is declared for the season. A permit will not be issued or activated for the season until the pre-season fees are received, all fees owed from the previous season are paid and all required documents are submitted.

2. All permittees are required to complete Commercial Trip Logs for each month that business is conducted under the permit(s), and submit them to this office by the 15th of the month following use. When use has been concluded on the permit(s) for the season, so state on the final Trip Log you submit. Permittee should notify the BLM of intentional non-use of a permit in advance of the season (where possible) or submit monthly Trip Logs stating "no-use" for that period. *Permittees who have fewer than 20 launches per season may submit a post-use report by September 15. The BLM must be notified prior to the season if this is the case. A second log must be submitted documenting any use that occurs between Sept. 15 and Dec. 31.* For permittees who choose to submit Trip Logs using their own computer-generated reporting programs, reports MUST contain the same information (in a similar format) requested on BLM Trip Log forms Authorized launch and take-out locations are abbreviated in *part* G-1-7, and the commercial trip log form. Incomplete Trip Logs will not be accepted and shall be returned to outfitters. In the event of a discrepancy between the Trip Log and the affidavit of use form, the latter will be considered the most accurate. If the Trip Logs are more than 30 days past due, the permit may be placed on suspension until the logs are received and/or any related fees are paid. Monthly gross receipts fees shall be calculated by the outfitter and paid at the time Commercial Trip Logs are submitted.

3. Permittee must report <u>all</u> monies collected from clients for a commercial trip, including taxes and BLM fees.

4. RIO GRANDE PERMITS ONLY - Fees will be computed at 3% of the trip charges after approved deductions are applied. The trip charge may include discounts from the advertised rate. A deduction shall be allowed for time spent off Federal land or related waters which occurs between the time when a customer leaves a permittee's headquarters or local community at the beginning of the trip, and when they return at the end of a trip, per the following chart:

Non-Federal Land Use Deduction		
If Percent of Total Time on Federal Land or Related Waters is:	Fee Reduction is:	Your fees (% of Gross Receipts) are:
1-5 percent	80 percent	0.6%
6-60 percent	40 percent	1.2%
61-100 percent	None	3.0%

To apply for this deduction, supporting documentation must be submitted, including the following: time and location of trip start point, time at which trip arrives on and departs from BLM land, time and location of trip end point.

5. RIO CHAMA PERMITS ONLY- Fees shall be calculated using the following flat fee schedule: $3.00 per person per day. There are no deductions allowed because fees are based on an average of trip charges that do not involve transportation, lodging or non-Federal land use.

6. Internal Records - The permittee must maintain the following internal accounting records pertaining to the permit:
   a. W-2 records or a similar record of employment for all employees conducting trips under the permit;
   b. a record of all financial relationships with booking agents, advertisers or contractors;
   c. a record of all receipts or compensation received from passengers on trips conducted under the permit;
   d. a record of all payments made by the permittee and claimed as deductions in the permittee's fee submission; and
   e. *a trip log including all trips in the Taos Resource Area, commercial and private.*

   The permittee shall allow the authorized officer or other duly authorized representatives the right to verify permit compliance from the books, correspondence, memoranda, and other records of the permittee, and from the records pertaining thereto of a proprietary or affiliated company during the period of the permit and for three (3) years thereafter. The permittee must supply a copy or allow inspection of any internal records within 30 days of receipt of a request from BLM.

7. Schedule of Prices - The permittee is required to furnish BLM with a schedule of prices for sales and services authorized by the permit by April 1st each year. This should include a copy of the permittee's brochure

8. The fees paid to third party booking agent may be deducted from the gross receipts amount an outfitter collects from a customer. This deduction is only acceptable if the fees collected from the booking agent are included in the gross receipts report to the BLM.

C. LIABILITY/WORKERS' COMPENSATION INSURANCE

1. Certificates of insurance as described below must be provided to BLM before use can take place under this permit. BLM will accept telefaxed copies of certificates (505-758-1620). Failure to provide certificates before operations begin will subject the permit to immediate suspension or cancellation.

   a. Comprehensive insurance in the minimum amounts of $100,000 bodily injury for any one person, or $300,000 for any one occurrence; and $25,000 property damage for any one occurrence.

   b. Vehicle insurance for all cars, trucks or buses that will be used for operations covered by this permit. The policy must identify the vehicles which are so covered.

c. Workman's Compensation insurance. Some businesses may be exempt from New Mexico state requirements - if this is the case, a statement must be provided by the permittee explaining why they are eligible for the exemption.

2. All certificates shall state that (1) such insurance is in force, (2) that the insurer will give BLM 7 days notice prior the cancellation or modification of such insurance, and (3) name the United States (or BLM) as an additional insured, holding harmless the United States and/or its agencies and representatives against and from any and all demands, claims, or liabilities of every nature whatsoever, including, but not limited to, damages to property, injuries to or death of persons, arising directly or indirectly from, or in any way connected with the permittee's use and occupancy of the public lands described in this permit.

3. Policies will cover all participants and/or employees or contracted personnel. Any associated services contracted for by the permittee shall also be covered by the relevant policy, unless this contractor is already covered by a BLM permit. Nothing in this section shall alter or modify Part F (Assignment and Subletting) of these stipulations.

D. TRANSFER

1. Existing permittees may wish to sell or otherwise terminate their business and desire the permit privileges to be transferred to a new owner. All transfers are subject to the approval of the Authorized Officer. For more information on permit transfers, contact the BLM Taos Resource Area recreation staff.

E. OWNERSHIP

1. The permittee, if a corporation, partnership, limited partnership, or association, must initially furnish the BLM with a list of officers and directors of the corporation and their addresses and, in the case of corporations, a notarized list of the corporate stockholders and amount of stock owned by each.

2. The permittee is required to notify the BLM within fifteen (15) days of the names of company officers appointed or terminated.

3. The permittee must furnish a listing of individuals authorized to represent the permittee in conducting business with the office issuing the permit. The permittee may provide a chain of command or company hierarchy specifying or limiting the authority of any individual listed. The BLM will only recognize listed representatives of the permittee as able to conduct business for the permittee.

4. In the event that the permittee enters Chapter 7 bankruptcy, the permit shall be automatically terminated. In no case may the permit be treated as real property to be disposed of through sale or auction.

F. ASSIGNMENT AND SUBLETTING OF PERMIT PRIVILEGES

1. The permittee may not assign permit privileges to a third party. For the purposes of this permit, an assignment of permit privileges is indicated if one or more of the following occur:
   a. A third party advertisement used to book a trip does not clearly indicate that the trip will be operated by the company holding the permit;
   b. A third party provides both passenger transportation to the trip departure point and equipment used on the trip;
   c. More than two (2) representatives or employees of the third party act as guides/crew on the trip. Representatives or employees of a third party must constitute less than 50 percent of the guides/crew on the trip;
   d. A trip is represented to the participants as being conducted by other than the permittee.
   e. Equipment or guide clothing carries the name, markings or logo of the third party involved with the trip (this does not apply to booking agents who are permitted outfitters in the permit area). See #3 below for use of equipment not marked with the permittee' name or approved abbreviation.
   f. The passengers or guides/crew are not covered by the insurance carried by the permittee.

2. Written notice to use equipment with outfitter markings (company names, logos, etc.) other than those of the permit holder must be made no later than the time of the launch. Such notification can be made on the affidavit of use form to the ranger on duty. If the markings are those of an outfitter not permitted to operate on that section, the markings of equipment used must not be visible while on the BLM-administered lands and waters. Such equipment must be labeled according to Stipulation A-2.

3. The use of the pool system, as described in Part G-1, is not considered an assignment of permit privileges as described in this section.

G. USE LIMITS AND ALLOCATIONS

1.
   - Use limits - These limitations are in effect from January 1 to December 31, 1997 unless otherwise specified.
   - Training trips for guides are allowed *on the Rio Grande* without an assigned/allocated launch before May 1st or on a weekday before May 15th, *the BLM must be notified in advance of these launches.*
   - *Up to 4 additional passengers may be added per launch with an overlimit fee: on the Rio Grande-Taos Box ($100) and Racecourse ($50) and on the Rio Chama ($150).*
   - *Each boat is allowed one paid staff person, including guides, who is not considered a passenger.*

a. RIO GRANDE ONLY

(1) Ute Mountain (Lobatos Bridge [LB] to Lee Trail [LT])
- Two commercial launches per week beginning June 1 of up to 16 passengers.
- Trips must be reserved through the BLM launch calendar.
- This section is closed to all boating from April 1 to May 31.

(2) La Junta (Little Arsenic [LA], Cebolla Mesa [CM], Miner's Trail [MT] to John Dunn Bridge [JD])
- Two commercial launches per day, up to 16 passengers each, advance reservations needed for San Cristobal Creek camp.
- Trips launching from within the La Junta section may not pass John Dunn launch site between 8:00 am and 12:00 pm on weekends and holidays from Memorial Day weekend through the first weekend in July.
- Any trip launching from any trail within this segment above John Dunn Bridge must be reserved *in advance* through the BLM launch calendar.

(3) Taos Box (John Dunn Bridge [JD] to Taos Junction Bridge [TJ])
- Eight commercial launches per day, with assigned launch times.
- Up to 21 passengers per weekend day and 26 passengers per weekday unless borrowing from the pool system.
- Overnight limit of 16 passengers, advance reservations needed for Ski Jump camp.
- Over limit fee of *$100* per passenger for up to 4 passengers.

Taos Box Pool System:
Permittee "A" (who already has a scheduled launch) may request up to 14 passenger slots (weekday/weekend) of an allocated launch from another permittee (permittee "B"). If permittee "B" agrees, then permittee "A" may be allowed to launch and carry up to the prescribed maximum party size stated below. A commercial permittee may give up any number up to all of the passenger slots allowed on the allocated launch.

The maximum launch size using this pool system, regardless of any combination of launch types, shall not exceed 35 passengers on weekends (Saturday - Sunday) and 40 passengers on the weekdays and holidays (Monday - Friday).

The permittee giving up passenger slots is responsible for notifying the BLM prior to the launch. Both permittees involved in the trade must inform the ranger on duty (if one is present) of the change and note it on their affidavit of use forms.

Super launches:
Based on historical use, certain permittee are eligible to increase the party size of regular weekday launches from 26 to 40 passengers. These "inflated launches" will be terminated upon completion of a revised boating management plan. The permittee must notify this office at least 24 hours in advance prior to use of a super launch.

(4) **Orilla Verde Recreation Area (OVRA-Taos Junction Bridge [TJ], Lone Juniper [LJ], Arroyo Hondo [AH], Orilla Verde [OV], to Quartzite [Q])**

Normal Flows (less than 2,000 cfs at the Orilla Verde Gaging Station)

- Four launches per outfitter per day, a maximum of two of these four launches may travel downstream of the Orilla Verde Campground launch site.
- 32 passengers is the maximum launch size. No enhanced launches will be allowed at normal flows.

High Flows (above 2,000 cfs at the Orilla Verde Gaging Station)

- Four launches per outfitter per day, a maximum of three of these four launches may travel downstream of the Orilla Verde Campground.
- 50 passengers is the maximum launch size
- During each season, each permittee is allowed up to four enhanced launches of up to 90 passengers on this segment (e.g., one of the 4 launches allowed per day can have up to 90 passengers, but only 4 times per year).

(5) **Racecourse (Quartzite [Q] to County Line [CL])**

- Each permittee is allowed two launches per day with assigned launch times (8:30-10:45 am and 12:30-2:45 pm). Each permittee is also allowed one launch per day outside of the designated launch times.
- 50 passengers is the maximum launch size for assigned launch times. 90 passengers is the maximum launch size for launches outside of the assigned launch times.

(6) **Bosque (County Line [CL] to Lover's Lane [LL], Embudo Station [ES], Velarde diversion dam [V])**

- A permittee is assigned a specific number of launches based on their historical use.
- 24 passengers is the maximum launch size.

(7) Over-limit fee for Taos Junction - Velarde is $50 per passenger for up to 4 passengers.

b. RIO CHAMA ONLY

(1) **Upper Rio Chama (El Vado [EV] to Chavez Canyon [CC])**

- The maximum party size including guides is 20.
- Each permittee is assigned a specific number of launches for both the EARLY and RELEASE seasons based on their historical use. *Unallocated launches may be added to a company's calendar upon request.*
- One non-allocated guide training trip per season is allowed which must launch before May 1, the BLM must be notified in advance of these launches.

(2) **Lower Rio Chama (below Chavez Canyon [CC], to Big Eddy [BE])**

- The maximum party size including guides is 35.

(3) The over-limit fee is $150 per passenger per night spent after launching, for up to two passengers per season.

(4) Launch assignments are made prior to the use season and may be modified by trades, cancellations and assignments from the commercial or joint pool.

2. **Allocation Adjustment** - An individual permittee's use may be reduced if allocated user days are consistently not used. New use levels will be assigned based on the average of the two highest use years out of the previous five year period. This adjustment will occur every five years (or, as conditions warrant) on all allocated river segments . *If an outfitter does not launch any commercial trips on a particular river segment for two consecutive seasons, permit privileges for that section will be cancelled.* In determining new use levels, factors such as economic fluctuations, weather or other natural phenomenon and the commercial vs. private allocation split will be considered. For the Upper Rio Chama, the early and release seasons will be treated as separate seasons for the purpose of allocation adjustment.

H. ENVIRONMENTAL AND RESOURCE PROTECTION

For all river segments, the following minimal impact procedures shall be followed:

1. All parties will carry out human feces and dispose of them at an approved facility. Day trips should encourage use of launch and take-out rest rooms. Toilet facilities provided by the permittee shall be temporary, self-contained units. Use of the Rio Chama human waste disposal facility requires use of a toilet system which allows waste to be dumped into the facility and be composted (i.e. no plastic bags). Toilet systems that can be flushed out at an RV dump station are also acceptable.

2. All garbage and debris generated from the boating operation will be carried out and disposed of in a lawful manner.

3. All campfires will be contained in firepans, and ashes and coals must be carried out. Only driftwood may be used for fires except in developed recreation sites where firewood collection is not allowed. On all river segments, permittee must comply with fire and campsite closure notices posted at the launch point.

4. ~~All liquids and "grey water" will be strained to remove waste matter before being returned to the river.~~
The collection of artifacts or disturbance of archaeological or cultural resources is prohibited by Federal law.

5. The collection or disturbance of archaeological or cultural resources is prohibited by Federal law.

6. Use of motorized watercraft is not authorized by this permit.

7. RIO GRANDE ONLY:
a. Use of pack animals is restricted to transporting equipment and in the Wild Rivers Recreation Area, may only be used on Little Arsenic Trail. When using the Little Arsenic Trail, pack animals must be kept at least 100 ft from the spring (no watering at the spring) and boat launching may not occur within 100 ft of where spring enters the Rio Grande. All packers operating on BLM-administered lands must obtain a Special Recreation Use Permit.
b. Camping is not allowed within 1/4 mile upstream or downstream of John Dunn Bridge and Manby Hot Springs, or at County Line, Quartzite or Lover's Lane Recreation Sites. *Picnicking or lunching of customers at John Dunn Bridge or Manby hot Springs is not allowed under any circumstances.*

8. UPPER RIO CHAMA ONLY - There are several areas closed to camping in order to protect wildlife and other resources. These areas are marked by signs and are noted on the Rio Chama map.
a. Both sides of the river below the mouth of the Rio Nutrias at mile 3.5 to 0.1 mile below the hot springs, a distance of approximately 0.5 mile.
b. A 0.3 mile section on the left side beginning near mile 9.
c. A 1.5 mile section on the right side beginning near mile 16.5.
d. Both sides of the river below the mouth of Huckbay Canyon to the lower Monastery boundary, a distance of approximately 4 miles.

I. SAFETY AND EQUIPMENT

1. Permittee are required to carry the following on all trips:
   a. A first-aid kit, dry *and in a water-proof container,* adequate to handle common river injuries, *including:*
      -Adhesive bandages
      -Sterile pads
      -Roller Gauze
      -Gloves
      -Rigid Splint (wire or Sam)
      -First-Aid tape
      -Antiseptic
      -Triangle Bandages
      -Microshield
   b. An approved US Coast Guard life preserver Type I, III or V must be worn by every person in the party *at all times while on or in the river.*

c. *One spare approved US Coast Guard life preserver Type I, III or V must be included per trip.*
d. One bailing bucket of at least 3 gallon capacity must be on board non self-bailing vessels, and [at least a 50 ft.] throw line must be on board each vessel.
d. Patching and repair equipment must be carried during the trip to make emergency repairs. This will include an air pump for parties with inflatable craft, *and glue,patches and solvent.*
e. *A minimum of one* extra oar or paddle must be available on each boat to replace lost or broken ones.

2. Manufacturer recommendations on load limits for boats must be followed.

3. Each boat in a multiple boat trip should maintain visual contact with boats preceding and following. Guides on all boats should be prepared to rescue swimmers from another boat. Safety gear should be carried in the sweep (last) boat, including pump, patch kit, and first aid kit.

4. Guide staff training/re-training shall be provided to the guides by the permittee, to cover such topics as: boat handling, water reading, *river hazards, river rescue & emergency procedures, proper fit & wearing of personal flotation devices,* protection of the environment and rules and stipulations of the managing agencies. Permittees are responsible for guide qualifications. *Guides will sign "commercial guide stipulations: prior to their first trip to demonstrate their understanding of stipulations and requirements. These forms must be submitted to BLM prior to any use under this permit.*

5. Permittee will submit a current Guide Certification Form with a list of current, eligible guides to this office by May 1st or prior to their first commercial trip. This certification form is enclosed and the list may be updated at any time. Each commercial trip shall have a designated *trip leader, or head guide* who shall be responsible for the conduct of all trip participants and the compliance with all applicable regulations. The head guide must have a full season's prior commercial or equivalent experience *(minimum of 10 trips)* on the section to be run or one of equal or greater difficulty. *Commercial* guides *must provide the following:*
   a. Proof of current certification in cardio-pulmonary resuscitation and first aid; and
   b. Certification that the guide has made at least three complete trips through the section within the *present season or* past two seasons as well as at least one annual training trip on the Lower Taos Box and the Racecourse (if guiding on those segments) prior to carrying commercial passengers.
   d. *Copy of driver's license of any guide or person driving an outfitter vehicle.*

6. No guide shall operate a vessel on a commercial trip while under the influence of alcohol, a controlled substance, or any other drug which renders him incapable of safely operating a vessel. State of New Mexico motor vehicle operator standards will be used to define allowable levels of alcohol in the bloodstream.

7. Accident Reporting: In case of an accident resulting in injury requiring medical attention or death to a person, or damage to property in excess of $200.00, the permittee shall, within 48 hours, submit a report (Coast Guard Form 3685) to the New Mexico State Park Recreation Division, P.O. Box 1147, Santa Fe, New Mexico 87504-1147. A copy of this report must be submitted to the Taos Resource Area within five (5) calendar days of the incident.

8. Activities in violation of this section of the stipulations which present a threat to human safety are cause for immediate suspension or cancellation of the permit in whole or in part.

9. *A commercial passenger orientation or trip talk must be provided by a trip leader. Trip talk must include:*
   a. *the conditions of weather, river, terrain, equipment, travel, and vessels that commercial passengers may expect to encounter;*
   b. *the personal equipment, clothing and gear that commercial passengers should have for the trip;*
   c. *The proper fit, wearing, and use or personal flotation devices;*
   d. *Passenger riding and positioning in the vessel;*
   e. *Safety procedures for swimming through river rapids and getting back into the vessel;*
   f. *Instructions on what to do in the event of a vessel accident;*
   g. *Sanitation, litter prevention and human refuse disposal; and*
   h. *rules and regulations that apply to special management areas, quiet zones, trespassing behavior on private land, etc.*

J. *BEACH AND PARKING ETIQUETTE*

1. *On BLM administered land the permittee will park, load and unload craft, and drive vehicles in a safe, courteous manner without causing traffic congestion, and obeying signed and verbal traffic directions.*

2. *Outfitter vehicles may not be parked on beach for longer than 30 minutes.*

3. *Boats may occupy beach for no longer than 45 minutes provided they are within the outfitter's launch window. If boats are on beach prior to launch window they must be stacked or tethered out of the way at one end of the beach or across the river from the put-in.*

4. *Vehicles may not be left unattended on the beach.*

5. *Vehicles must park in areas designated for parking or waiting for shuttle driver. Permittee is not allowed to park in any area not designated for parking or park in violation of any posted sign. Any driver of a permittee owned vehicle must be able to provide proof of a commercial driver's license at the request of a BLM official.*

6. *Commercial customers will not park at river access points.*

7. *Beach space may not be used for snacks or meals for commercial customers, picnics must be set up in designated areas, out of the way of beach and vehicle traffic.*

K. PERMIT RENEWAL/ANNUAL PERFORMANCE EVALUATION

1. This permit does not constitute a commitment by the Bureau of Land Management (BLM) to continue authorization of the permitted use beyond the permit period indicated on line 4 of the permit. The permittee will be the preferred applicant for a new permit provided that permit requirements have been met. BLM has the authority to accept or reject the application and change the terms of the new permit.

2. Permit renewal: privileges granted by this permit are subject to annual *renewal at least 2 weeks prior to the first commercial trip each year.* Permittees must submit all necessary documentation and certifications, and have it authorized prior to conducting the first commercial trip. To maintain the permit the holder must have performed satisfactorily under the terms and conditions of this permit and be in conformance with applicable laws and regulations including:
   a. Having no outstanding, past due or unpaid billing notices, including pre-season fees.
   b. Operating at least one commercial trip and a total of 10 paying passengers in one of the two preceding seasons. If no use is reported for a particular river segment(s) for two consecutive seasons, that portion of the permit is subject to cancellation.

3. Annual evaluation ratings are based on the degree of compliance with conditions of the permit and operating plans as well as relevant Federal, State and local laws. The final rating is at the discretion of the Authorized Officer. One of the following ratings will be given as a result of the evaluation process:
   a. A rating of "Acceptable" is represented by no violation of law, regulation or permit stipulations.
   b. A rating of "Probationary" will subject a permittee to a one-year, conditional permit. If the permittee receives probationary rating 2 consecutive years, the authorized officer may suspend or terminate the permit (*all or in part*) and/or deny future permit applications.
   c. A rating of "Unacceptable" may result in the following actions:
      1. Immediate termination (cancellation) of the permit, without compensation (43 CFR 8372).
      2. Permit suspension until the problem identified has been corrected.
      3. Probation.
      4. Reduction of permit allocation.
      5. Civil or Criminal Penalties as provided for under 43 CFR 8351, 8365, 8370, 8372.0-7 and Titles 16 and 18 of the United States Code. Copies of these sections can be provided upon request.

Appendix C-4

PERMIT STIPULATIONS FOR COMPETITIVE AND OFF-HIGHWAY VEHICLE EVENTS

1. The permittee is responsible for ensuring that participants and spectators stay within designated use areas.

2. The permittee is responsible for crowd control, ensuring that the event is orderly, does not endanger bystanders or participants, and is conducted in a peaceable manner to enhance recreation satisfaction and promote well being.

3. The permittee agrees to reroute and/or relocate use areas to avoid sensitive areas identified by BLM before or during the event.

4. All range fence gates opened for the race will be monitored during the race to prevent passage by livestock and closed immediately at the end of the race.

5. The permittee will take all reasonable measures to ensure that entrants, spectators, and casual users attracted by the event will not harass wildlife or livestock in the vicinity.

6. The permittee will take all reasonable measures, including publication of notices in the local news media, to inform other recreationists of the event and of associated temporary road restrictions. Cautionary signs to forewarn other motorists of the race are required on major access routes and intersections.

7. The permittee will sign and/or flag sensitive areas including but not limited to routes, staging areas, parking, and pit areas. The permittee will ensure that all signing materials are immediately removed upon completion of the event.

8. During the event, the permittee will provide on-the-ground staff monitoring to ensure that use occurring is confined to the areas actually authorized by the permit. The permittee will provide flagmen at all road and railroad crossings.

9. The permittee is responsible for ensuring that all authorized motorized use conforms to the Conditions of Use set forth in 43 CFR Sub-part 8341.1.

10. Nothing in this permit will be construed as license for the permittee, employees, or clients to use areas of the public lands which are otherwise restricted or closed.

11. The permittee is responsible for ensuring the safety of all spectator, entrant, concessionaire, and/or support personnel assuring that all permit actions are in conformance with local, State, and Federal health and safety standards and by providing appropriate emergency medical personnel and facilities. The permittee shall provide adequate communication facilities on-site to coordinate the event safely and cope with emergencies.

12. The permittee is responsible for furnishing self-contained chemical sanitation facilities and trash receptacles at locations as necessary, to keep these serviced, neat, and clean during the event, and to provide for off-site disposal of all refuse and human waste generated from the event, in accordance with all applicable local, State, and Federal ordinances, laws, and regulations.

13. The permittee shall indemnify, defend and hold harmless the United States and/or its agencies and representatives against and from any and all demands, claims, or liabilities of every nature whatsoever, including, but not limited to damages to property and injuries to or death of persons that arise directly or indirectly from or that are in any way connected with the permittee's use and occupancy of the lands authorized by this permit.

SAMPLE OHV SPECIAL RECREATION USE PERMIT SUPPLEMENTAL APPLICATION

1. Name and address of applicant, organizational affiliation, and president of presiding officer:

_____

_____

_____

_____

2. Telephone Number (include area code): (Bus.) _____

   (Home) _____

3. (a) Date(s) of the event: _____

   (b) Time of day event to be conducted: _____

   (c) Time of riders or drivers meeting: _____

4. Description of Public Lands (BLM) involved.

_____

5. (a) Enclose a topographic map showing the event's route, pits, parking, main access, staging areas and other points of intensive use: _____

   (b) Total miles of course on public land: _____

   (c) Total miles of course on private land: _____

   (d) Total number of laps: _____

   (e) Total length of event: _____

6. Type of event (explain fully): _____

_____

7. Kind of course markings to be used (specify color of ribbon, if used).

_____

8. Type(s) of vehicles involved: _____

9. Estimated maximum number of entries: _____

10. Estimated maximum number of spectators: _____

11. What fees will be charged for participating? _____

_____

12. What fees will be charged for viewing? _____

_____

13. What will be the disposition of your fees? (club treasury, trophies, commercial profit, etc.)?

_____

14. What concessions (food, beverages, vehicle repairs, etc.) will be in operation?

_____

15. What type and amount of first aid, rescue, and ambulance services are you providing?

_____

_____

_____

16. What type of spectator and course safety patrol do you propose?

_____

_____

_____

17. What type of radio communications will you use?

_____

_____

18. Are the participants and/or spectators involved in the event covered by insurance? YES _____: NO _____.

19. What type and how many toilets will be supplied? _____

_____

20. Does the course pass near any springs or known water developments? YES _____: NO _____. If "YES", give location: _____

_____

_____

SPECIAL CONDITIONS AND STIPULATIONS

Special Recreation Permit # ID-3-RE-08-11
Three Rivers Ranch

1. This special Recreation Permit only authorizes the use, for the time and in the area, as specifically described therein. Should circumstances warrant, the permit may be modified by the BLM at any time. The authorized officer may suspend a permit if necessary to protect public resources, health, safety, the environment, or due to noncompliance with permit stipulations.

2. Unless expressly stated, the Special Recreation Permit does not create an exclusive right of use of an area by the permittee. The permittee, or employees of the permittee, will not interfere with other uses of the Federal land by other users.

3. The permittee may not assign or sublease any portion of the permit authorization or interest therein, directly or indirectly, voluntarily or involuntarily.

4. The authorized officer, or other duly authorized representative of the BLM, may examine any of the records or other documents related to the permit, the permittee, or the permittee's operator, employee, or agent for up to 3 years after the expiration of the permit.

5. The permittee, and a permittee's employees or agents, will comply with all Federal, State, and local laws, ordinances, regulations, orders, postings, or written requirements applicable to the South Fork of the Snake River from Palisades Dam to the confluence of the Henry's Fork.

6. Violation of other Federal, State, or local regulations by a permittee or a permittee's employees or agents on ***any*** federally administered lands or related waters can result in administrative penalties issued against the permittee(s) by the authorized officer.

7. Administrative Penalties issued against the permittee by the authorized officer for failure to comply with one or more conditions or stipulations of this permit include but are not limited to the following:

   PROBATION: Probation is defined as putting a permittee under special scrutiny for a specified period (one season of use) for failure to comply with one or more permit conditions or stipulations.

   SUSPENSION Suspension is a temporary removal of all permit privileges. While operating in a probationary status failure to comply with one or more operating conditions or stipulations will result in permit suspension.

   TERMINATION Termination is a permanent removal of permit privileges. Based on a review of the violation(s) a permit in suspension status may be terminated.

8. The permittee will receive an annual performance evaluation. Evaluation will be based on adherence to permit conditions and stipulations. Three performance levels will be recognized:

Acceptable, Probationary, and Unacceptable

Failure to adhere to one or more permit conditions or stipulations will result in the permittee receiving a probationary performance level. If the permittee receives a rating of probationary or unacceptable, notification of such rating will be forwarded to the Idaho Outfitters and Guides Licensing Board.

9. The permittee is required to keep a daily log of the number of boats and clients per section of the river. This information will be included as part of the year end post use report. A log is provided for compiling this information and is supplemented by a fee calculation form. This log (entitled Post Use Report) must be received within 30 days of permit expiration and be accompanied by payment in full for the unpaid portion of the fee. Permittees filing a post use report later than the 30 days indicated will receive a probationary performance rating for the season.

10. Training trips conducted during the dates of permitted use will account toward the assigned allocation.

11. Payment of fees is required in a three step process. An initial payment based on one-third of actual use figures from the previous year will be required prior to issuance of the permit. A second payment of equal amount to the first is required prior to September 1 each year or the permit becomes invalid. Actual use figures as reported in the Post Use Report will determine the final payment, or in some cases reimbursement. This payment will accompany the Post Use Report as indicated in stipulation 9 above.

12. All guides actively engaged in outfitting for the permittee will possess a South Fork Guide Tag. The tag must be displayed on the left side of the boat in a visible manner. The tag must be displayed on the boat at all times during an outfitted trip.

13. Guides must possess a current license issued by the Idaho Outfitters and Guides Licensing Board (IOGLB) prior to receiving a South Fork Guide Tag. The outfitter will be responsible for identifying each guide to the BLM at least 3 days prior to his/her working on the river. Outfitter logos and guide tags will be covered or removed during private trips.

14. Guides must possess a current license issued by the Idaho Outfitters and Guides Licensing Board (IOGLB) prior to receiving a South Fork Guide Tag. The outfitter will be responsible for identifying each guide to the BLM at least 3 days prior to his/her working on the river. Outfitter logos and guide tags will be covered or removed during private trips.

15. All outfitters with a reserved overnight campsite will be required to provide and use an approved port-a-pottie for the means of waste disposal when using their designated campsite. The porta-pottie may not utilize a plastic bag system. The unit must be such that waste is contained until such time that it can be disposed of in an RV dump station, septic tank, or other approved disposal system. A dump station is provided at Byington Boat Access. Outfitters are also encouraged to use a port-a-pottie system for their lunch breaks.

16. Reserved overnight campsites will be kept clean and orderly at all times. Trash and litter will

not accumulate or be accessible to animals. Aluminum cans, bottles, metal, foil, and other unburnable materials will be packed out. All other refuse not burned will be packed out.

17. No permanent caches will be permitted in conjunction with a reserved overnight campsite. All non-native materials will be removed at the end of the season. Tent frames constructed of native material will be disassembled and stored in an inconspicuous area outside the perimeter of the camp.

18. Reserved overnight campsites may be randomly inspected during the permit season. A final inspection will occur within 10 days of permit expiration.

19. Guides will not stop for lunch or engage in any other bank activity in areas closed to bank occupancy from February 1 to July 31.

Appendix C- 6

United States Department of the Interior
Bureau of Land Management
Wyoming State Office

Special Recreation Permit
Post Use Report

Due Date: Permit holders need to submit a Post Use Report December 31, annually

Name: _____ **SRP #** _____ **Use Year**_____

Use Fee Calculations: (Instructions on reverse)

1. Total Gross Income (a) ..... _____

2. Deductions (b) Transportation Costs ..... _____

3. Deductions (b) Lodging Costs ..... _____

Note: Documentation in the form of copies of receipts must be included with the Post Use Report to claim deductions for transportation or lodging. - See instructions on reverse.

4. Total Deductions ..... (line 2 plus line 3) _____

5. Line 1 minus line 4 ..... _____

6. Percent of total use that occurred on BLM land ..... _____

Note: Documentation in the form of a Trip Log must be included with the Post Use Report to support request for a deduction for non public land use. - See instructions on reverse.

7. Fee adjustment factor (c)..(enter .2, .6 or 1.0,) ..... _____

8. Adjusted Gross Income (line 7 times line 5) ..... _____

9. Use fee multiplier (d) ..... .03

10. Use fee (line 8 times line 9) ..... _____

11. Prepaid minimum annual fee is $80.00 (for period 3/2002 till 3/2005) ..... _____

12. Other prepaid fees ..... _____

13. Add lines 11 and 12 ..... _____

14. Subtotal (e) (line 10 minus line 13, if less than $0 enter $0) ..... _____

Note: Minimum fee is due before next use year starts.

15. Next year's minimum annual fee **($80)** ..... _____

16. Reserved campsite fee ($160 each site) ..... _____

17. **Total amount due BLM (add lines 14, 15 & 16)** ..... _____

_____ Permittee

_____ Date

Use Fee Calculation Instructions

Total Gross Income – This is a total of all receipts from your permitted activity.

Deductions

Transportation Costs – Either the actual amount paid to others or the current mileage rate allowance that the General Services Administration (GSA) allows for advantageous use of a privately owned vehicle, for government travel will be allowed for the permittee to provide client transportation to the local community or the permittee's headquarters. The intent is to allow adjustments for costs paid or borne by commercial permittees in bringing their clients to local communities or permittee' s headquarters prior to the trip, or returning them from such points after the trip.

The intent is NOT to allow deductions for transportation costs between the local community or permittee's headquarters and the public lands.

This transportation cost adjustment is to be used for pre-trip or post-trip transportation only. The percent of total time adjustments discussed in (c) below does not apply to pre- and post-trip transportation, as this would create a double adjustment. Allowable transportation adjustments apply to both single day and multi-day trips.

Lodging Costs – The actual amount paid. Lodging costs paid for or borne by commercial permittees which are incurred on non-public lands before or after the permitted activity may be deducted.

Costs paid for or borne by commercial permittees for lodging on non-public land during the trip may not be deducted; However, the time spent at such lodging may be applied to the percent of time eligible for a fee reduction, as discussed in (c) below.

NOTE: The permittee is required to provide a signed BLM Trip Log, Operating Plan, lodging receipts or other information specified by the authorized officer to support requests for fee reductions and deductions.

) **Non-Public Land Use** – A deduction will be allowed for time spent off BLM administered public nd from the time and date of entry to time and date of exit. This adjustment will be based on percent total time on public lands from the following table:

Percent of total time on (BLM) Public Lands	Fee Reduction	Fee Adjustment Factor (for use on Pg. 1, part 5b)
Less than 5% (1 hr. 15 min. per 24 hr.day)	80%	.20
5-60%	40%	.60
61-100%	None	1.00

) **Use Fees** – will be three 3% (percent) of the permittee's adjusted gross income.

) **Amount Due** – Permittees must pay a minimum annual fee of $80.00 (starting in 1999) paid in lvance for each year the permit is in effect. The actual permit fee will be $80.00 or 3% of adjusted gross come, whichever is greater. Payments in excess of this amount will be carried over to the following year, less a refund is requested.

ANNUAL COMPLETION OF THIS POST-USE REPORT IS REQUIRED IN ORDER TO KEEP YOUR SRP VALID.

Thank You!

HOLD HARMLESS/INDEMNIFICATION AGREEMENT

The undersigned shall indemnify, defend, and hold harmless the United States and/or its agencies and representatives against and from any and all demands, claims, or liabilities of every nature whatsoever, including, but not limited to, damages to property, injuries to or death of persons, arising directly or indirectly from, or in any way connected with the permittee's use and occupancy of the public lands and waters described in this permit or with the event authorized under this permit.

DESCRIPTION OF EVENT

_____

_____

_____

_____
PERMITTEE OR ORGANIZATION NAME

_____ _____
SIGNATURE OF ORGANIZATION AGENT DATE

_____ _____
SIGNATURE OF AUTHORIZED OFFICER DATE

LETTER OF AGREEMENT
FOR NON-COMMERCIAL RECREATION USE

between

AREA MANAGER, _____ RESOURCE AREA
_____ DISTRICT/BUREAU OF LAND MANAGEMENT

and

_____
NAME OF INDIVIDUAL OR GROUP

Welcome to the public lands! We hope you enjoy your visit.

The Bureau of Land Management is responsible for the balanced management of your public lands and resources. Management is based upon the principles of multiple use and sustained yield, a combination of uses that takes into account the long-term needs of future generations for renewable and non-renewable resources. These resources include recreation, range, timber, minerals, watershed, fish and wildlife, wilderness, and natural, scenic, scientific, and cultural values.

Special recreation permits are required for certain recreational activities on public lands. Based on our evaluation such a permit does not appear to be necessary to conduct your planned activity:

Type of Activity: _____

Place: _____

Date and Time: _____

Number of People: _____

Activity Contact Person: _____ Phone: _____

BLM Contact Person: _____ Phone: _____

IT IS HEREBY AGREED that certain actions are necessary to have a safe and successful outing with a minimum impact to the environment:

1. All sites are filled on a "first come, first served" basis. Plan ahead to assure that your group can secure a spot without infringing on other visitors.

2. Schedule activities at previously used sites where possible and stay on existing trail routes to reduce damage to vegetation and soils. Be aware of local off-highway vehicle designations.

3. Avoid building new fire rings; use a fire pan to eliminate scars on the soil. Use only dead-and-down wood for campfires. Burn wood to ashes and douse with water, making sure that your fire is **DEAD OUT** and that the area is restored to a natural condition before leaving.

4. Proper disposal of human waste is critical. At your activity this will be accomplished by: _____

_____

5. Help us clean up public lands by packing out ALL trash. Picking up trash left by less thoughtful people helps maintain the scenic beauty of your public lands.

6. If any directional signs are erected as part of this activity, they will be removed at the completion of the activity.

7. There are certain natural phenomenon that could be encountered that present risks which the participants assume. All participants must be advised of conditions which might be encountered.

8. Nothing in this agreement shall be construed to imply permission to build any structure or conduct any activity not specifically named.

9. Disorderly or otherwise objectionable conduct such as harassment of wildlife or livestock will not be tolerated and could be the basis for denial of similar agreements in the future.

10. Precautions must be made to protect natural resource values, cultural or historic objects, aesthetic values, and any improvement on public lands.

11. If there is any question concerning regulations on public lands, please contact our office immediately.

12. Other: _____

_____

_____ _____

Area Manager Date

_____ _____

Activity Representative Date

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY) 11/25/1997

PRODUCER ( )

FAX ( )

Appendix C-9

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

Attn:

Ext: 129

INSURED

COMPANIES AFFORDING COVERAGE

COMPANY A: Insurance Company

COMPANY B: Insurance Company ( )

COMPANY C: Insurance Company ( )

COMPANY D:

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS		
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS MADE X OCCUR OWNER'S & CONTRACTOR'S PROT	55	10/01/1997	10/01/2000	GENERAL AGGREGATE	$	2,000,000
					PRODUCTS - COMP/OP AGG	$	2,000,000
					PERSONAL & ADV INJURY	$	1,000,000
					EACH OCCURRENCE	$	1,000,000
					FIRE DAMAGE (Any one fire)	$	100,000
					MED EXP (Any one person)	$	10,000
B	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS	SH	10/01/1997	10/01/1998	COMBINED SINGLE LIMIT	$	1,000,000
					BODILY INJURY (Per person)	$	
					BODILY INJURY (Per accident)	$	
					PROPERTY DAMAGE	$	
	GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT	$	
					OTHER THAN AUTO ONLY:		
					EACH ACCIDENT	$	
					AGGREGATE	$	
A	EXCESS LIABILITY X UMBRELLA FORM OTHER THAN UMBRELLA FORM	51	10/01/1997	10/01/2000	EACH OCCURRENCE	$	10,000,000
					AGGREGATE	$	10,000,000
						$	
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY THE PROPRIETOR/ PARTNERS/EXECUTIVE OFFICERS ARE: X INCL EXCL	WC -00	12/01/1997	12/01/1998	X WC STATUTORY LIMITS OTHER		
					EL EACH ACCIDENT	$	1,000,000
					EL DISEASE - POLICY LIMIT	$	1,000,000
					EL DISEASE - EA EMPLOYEE	$	1,000,000
A	OTHER Professional Liability	55	10/10/1997	10/01/2000	$1,000,000 aggregate $1,000,000 each occurrence		

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

U.S. Dept. of Interior, Bureau of Land Management & U.S. Government are named Additional Insured with respect to Bureau of Land Management in all 50 States. Re: Use of Land for Campsites.

CERTIFICATE HOLDER

U.S. Department of Interior
Bureau of Land Management
Office of Public Affairs
Attn:
Washington, DC 20240

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

ACORD 25-S (1/95) ©ACORD CORPORATION 198

APPENDIX C - 10

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
ARIZONA STATE OFFICE

In Reply Refer To:
8370 (931) P

December 1, 1998

Information Bulletin No. AZ-99-013

To: Field Managers
San Pedro Project Office

From: Deputy State Director, Resources Division

Subject: Special Recreation Permit Insurance

The need for additional guidance and training to Field Office staffs on Special Recreation Permit Requirements has been identified by individual outdoor recreation planners, a Statewide workgroup on Special Recreation Permits, and at the May 1998 Recreation Wilderness Workshop.

In response to this need, the Senior Recreation Specialist has queried the Bureau of Land Management (BLM) National Office and other State leads as to whether there was any guidance other than Title 43 C.F.R. Part 8370 and BLM Handbook 8370-1. The results of the query are that there has been no additional guidance developed by other BLM offices. The query, however, did result in obtaining a copy of a U.S.D.A. Forest Service (Region 5) training aid titled "*The Liability Insurance Companion.*" This document has an excellent section on "How to Review Liability Insurance Policies."

In addition, a request was made of the Field Solicitor on June 29, 1998, to review liability insurance issues for recreation based special use authorizations. A copy of the Forest Service document, "*The Liability Insurance Companion*" was included with the request to the Solicitor.

On November 12, 1998, the State Director received a response from the Field Solicitor with the following conclusion:

> Given the increasing complexity of the liability insurance market place, including numerous limitations and exceptions to coverage, and the concomitant burdens on BLM authorized officers to conduct policy reviews under subpart 8372 (43 C.F.R. 8372.5(d)), we suggest consideration of an instruction memorandum (hereintafter "IM") for Arizona which would provide essential guidance in insurance policy review. Some of the basic elements of a possible IM, including a policy review check list, are suggested in this memorandum.

United States Department of the Interior

OFFICE OF THE SOLICITOR
Phoenix Field Office
One Renaissance Square
Two North Central
Suite 1130
Phoenix, Arizona 85004-2383

November 12, 1998

Memorandum

To: State Director, Arizona State Office, Bureau of Land Management
Attention: Code 931 (Terry O'Sullivan)

From: Field Solicitor, Phoenix

Subject: Review of liability insurance issues for recreation-based special use authorizations (reference to request dated June 29, 1998)

This is in response to the above-styled request. We regret the delay in responding to your request but, as you know, it is our pending litigation workload which must take the priority. We have returned the original materials submitted with your request for your files.

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Conclusion

Given the increasing complexity of the liability insurance marketplace, including numerous limitations and exceptions to coverage, and the concomitant burdens on BLM authorized officers to conduct policy reviews under Subpart 8372 (43 C.F.R. 8372.5(d)), we suggest consideration of an instructional memorandum (hereinafter "IM") for Arizona which would provide essential guidance in insurance policy review. Some of the basic elements of a possible IM, including a policy review checklist, are suggested in this memorandum.

See Discussion below.

Discussion

A. Question presented. The question presented relates to BLM policy, plans and processes for review of liability insurance policies offered as a condition for issuance of special recreation permits under 43 C.F.R. Part 8370 (Use Authorizations).

B. Federal Register announcement of special recreation permit policy. On February 10, 1984, and pursuant to 49 Federal Register 5300-5306, BLM issued its Special Recreation Permit Policy. This policy described how BLM administers permitted recreational use of public lands and waters; states a general policy regarding special recreation permits and how these permits will be issued, the term of permits, how they are renewed, and transferred; and bonding and related requirements including insurance. The policy also addressed methods necessary to gain compliance with permit terms and conditions. Issuance of the policy occurred prior to final recreational use authorization rulemaking with respect to Part 8370 at 49 FR 34337 (August 29, 1984). With respect to insurance, the policy provides, at paragraph 9, that a bond "may" be required, and, at paragraph 10, that insurance "is" required; see 49 FR 5306:

> 9. *Bonds*. In addition to a payment bond, the authorized officer may require the posting of a cash or surety bond or other guarantee in such form and in such amount as the authorized officer determines to be sufficient to defray the costs of restoration and rehabilitation of the lands affected by the permitted use. Bonds and guarantees will be returned to the permittee upon satisfactory compliance with all permit stipulations, including restoration and rehabilitation requirements.
>
> 10. *Insurance*. Insurance is required of all commercial and competitive permittees to provide restitution for damage or injury to the public or to privately owned resources, and to protect the United States from suit resulting from actions taken or caused by the permittee or participants in a permitted use.

C. Regulatory and manual requirements. Similar language is found at 43 C.F.R. 8372.5(c)(d):

> 9. *Bonds*. In addition to a payment bond, the authorized officer may require the

posting of a cash or surety bond or other guarantee in such form and in such amount as the authorized officer determines to be sufficient to defray the costs of restoration and rehabilitation of the lands affected by the permitted use. Bonds and guarantees will be returned to the permittee upon satisfactory compliance with all permit stipulations, including restoration and rehabilitation requirements.

10. *Insurance*. The authorized officer shall require all commercial and competitive applicants, and may require other applicants, to obtain and submit a property damage, personal injury, and public liability insurance policy which he judges sufficient to protect the public and the United States. The policy shall name the U.S. Government as a co-insured and stipulate that the authorized officer of the Bureau of Land Management shall be notified 30 days in advance of the termination or modification of the policy.

Applicable regulations contain no specific dollar requirements with respect to insurance. Rather, it is merely required that all "commercial and competitive applicants"[1] obtain "property damage, personal injury, and public liability insurance". As for dollar amounts, the authorized officer is merely directed to require such coverage as is deemed "sufficient to protect the public and the United States."

The requirements for insurance and bonding at Subpart 8372 receive some additional elaboration at BLM Manual H-8372-1, Special Recreation Permits for Commercial Use, Chapter 6, C. (Bonds) and D. (Insurance):

C. Bonds - The authorized officer may require the posting of a cash or surety bond, irrevocable letter of credit, or other guarantee in such form and in such amount as the authorized officer determines to be sufficient to defray the costs of restoration, reclamation, or rehabilitation of the lands affected by the permitted use. Bonds and guarantees will be returned to the permittee upon satisfactory compliance with

[1] Under 43 C.F.R. 8372.05(a); and 8372.05(c), definitions of "commercial" and "competitive" uses are provided.

all permit stipulations, including any reclamation and/or rehabilitation requirements.

If approved by the authorized officer in advance, a payment bond or irrevocable letter of credit from a financial institution, or other guarantee may be used to pay estimated advance fee payments in excess of the minimum annual permit fee of $50.

D. Insurance and Liability - A property damage, personal injury, and comprehensive public liability insurance policy is required of all commercial permittees to provide restitution for damage or injury to participants, spectators or both, or to privately owned resources, and to protect the United States from litigation resulting from actions taken or caused by the permittee or participants in a permitted use. The reviewing office should consult with the State insurance authority in determining the acceptability of standard or unique policy provisions, clauses and industry practices.

The minimum general liability limits are: $100,000 per occurrence and $300,000 annual aggregate for bodily injury, $10,000 property damage per occurrence and $25,000 annual aggregate, if the policy specifies aggregate limits. The authorized officer may require a larger amount as a condition of the permit. The insurance policy shall name the United States Government and the permittee as named, additional, or co-insured. All liability policies are to specify that the insurance company shall have no right of subrogation against the United States of America. If the insurance company declines to issue the waiver, the United States Government must be named as additional insured on the permittee's policy. The permittee shall indemnify and hold harmless the United States against any liability for personal injury, loss of life, or property damage arising in any way from activities under the permit. [Emphasis added.]

The permittee shall furnish a copy of the insurance policy directly to the authorized officer. The policy should stipulate the

> authorized officer should be notified 30 days in advance of the termination or modification of the policy. The name on the insurance policy must be the same as the name on the permit. For multiyear permits the insurance policy must be provided the first year, but on each subsequent year the authorized officer may accept a valid certificate of insurance. Those permittees holding insurance policies which only insure the permittee and not the permittee's employees must ensure that their employees also have the required insurance in effect, and that a certificate of insurance is furnished to the authorized officer. For multiyear permits the insurance need only be valid during periods of actual use. Because of the importance of the time factor in filing claims, protection of the permittee, and visitors, permittees should be encouraged to immediately report to their insurance company any incident that could possibly result into a claim at a later date.

The above Manual section carries a publication date of September 9, 1987 and therefore seems a bit dated. Nonetheless, we note the authorization at paragraph D for the authorized officer to require a larger amount as a condition of the permit. It might be instructive to know to what extent, as a practical matter, the authorized officer has discretion to exceed minimum coverage limits. Has any consideration been given at the national level to revising the Manual and increasing the minimum coverage amounts?

D. Policy review responsibility and the role of BLM's authorized officer. As can be seen, existing BLM regulations and the BLM Manual impose substantial burdens on the authorized officer to determine whether an acceptable policy has been provided. Fortunately, the Forest Service has developed a publication that provides some authoritative guidance which seems applicable to BLM as well.

In "The Liability Insurance Companion", January 1990, U.S. Department of Agriculture, Forest Service, Pacific Southwest Region (hereinafter "FS Insurance"), the FS has articulated some key guidelines as to what BLM authorized officers might consider when reviewing liability insurance policies. We find the guidance instructive and suggest that BLM, even at the state office level here in Arizona, consider preparation of an IM which addresses the following key points from the FS publication:

- "What the Forest Service Requires" (FS Insurance, pp. 2-4).

- "Limits of Liability and Risk Management Programs" (FS Insurance, pp. 6-7). This section supports the observation above that the BLM Manual minimum coverage limits established in 1987 are, no doubt, less than the typical judgments awarded to plaintiffs in 1998.

- "The Insurance Industry" (FS Insurance, Chapter 2). Probably the key point for BLM is that the policy offered by any proposed permittee must be from a company authorized to do business in the State of Arizona.[2]

Another key point from Chapter 2 are the differences discussed (pp. 14-16) between "occurrence" and "claims-made" policies. At pp. 15-16, the FS discusses why the claims-made form presents problems:

> To prevent . . . huge and unexpected costs from occurring in the future, many companies begin marketing policies on a "claims-made" form. Under this type of policy, which usually has lower premiums than the occurrence policy, a claim for injury must be made during the time that:
>
> - the policy is in effect, or the company has renewed the policy which was in effect at the time of injury.
> - the policy has a basic "extended-reporting period" in effect, or the permittee has purchased an "optional extended-reporting period" feature (sometimes called a "tail"). This "tail" allows claims to be made after the policy expires but during the period of time covered by the extended-reporting period, as long as the occurrence was reported within 60 days of the end of the policy period.

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[2] As FS Insurance notes at p. 10, an insurer may be authorized by virtue of holding a certificate from the relevant State Department of Insurance (California in that case), or they may be authorized by reason that they are regulated by the appropriate authorities of the State within which they are domiciled (so-called "surplus lines" or "excess lines" companies).

The optional extended-reporting feature can cost as much as 225% of the policy premium for a two-year period. And, not all underwriters are offering a two-year extended-reporting period, which is an especially critical fault of the claims-made form.

Why is this kind of policy form a problem for the Forest Service? It's because the Federal Tort Claims Act makes the U.S. Government liable for the negligence of its officers and employees acting within the course and scope of their employment.

The Act provides a two-year statute of limitations during which time administrative claims against the government must be filed. For minors, the two-year statute-of-limitations period begins on their eighteenth birthday. Unless a claims-made policy has a basic two-year extended reporting period that will respond to claims no matter when an occurrence was reported, or a mechanism to force a special-use authorization holder to purchase the optional tail, the government is not covered by the claims-made insurance policy for the necessary two-year period.

Recently, some companies have modified their claims-made policies to include a "notice of circumstance" provision. Under this provision, as long as the insured has notified the underwriters of any circumstance that might result in a claim, the policy will respond as long as the claim is made within the period specified -- usually two to five years. Even this modification is inadequate, because if a permittee was not aware of an occurrence, it obviously wouldn't have met the reporting requirement.

- "The Policy Review Process" (FS Insurance, Chapter 3, pp. 19-40). This chapter includes several key components worthy of consideration by the BLM, whether on a State or even national level.[3] The "Master Policy Program", which supplements (and precedes individual policy review), is an innovative concept. It

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[3] Given that FS is organized into regions, multi-state initiatives below the national level are, obviously, more available to that agency.

screens out "policies which are unacceptable, before they are sold to permittees. In addition, the program includes working with companies and brokers in the development of acceptable policies." FS Insurance, p. 21.

At pp. 21-22, FS Insurance identifies the four key areas which, we suggest, should be considered in any BLM policy review:

- The kind of policy form used.
- all the endorsements that change the standard conditions of the policy form.
- the limits of liability.
- other special conditions that might leave permittees and the U.S. Government unacceptability opposed to liability.

At p. 24, FS Insurance indicates what is included in the entire insurance policy package submitted to the agency for review. It would be well for BLM personnel reviewing policies submitted in the context of Subpart 8372 to have a clear idea of the following components:

- a Certificate of Insurance
- one more Declaration pages
- a schedule of forms attached
- a commercial general liability coverage form
- several endorsements

- "The Comprehensive General Liability Form" (FS Insurance, Chapter 4, pp. 41-58). Similarly, this chapter provides substantive guidance as to the following which BLM personnel reviewing policies submitted in the context of Subpart 8372 should have:

- coverages
- who is insured
- limits of insurance
- commercial general liability conditions
- definitions.

We suggest special attention on the "exclusions" to coverage (see FS Insurance at pp. 45-48) as part of any policy review. The concern with any exclusions section is to insure that the entire scope of permitted activities are covered.

Another area in this chapter of particular relevance to BLM is section IV (at pp. 50-53), relating to commercial general liability conditions.

- "Insurance Policy Review Checklist" (FS Insurance, Appendix G, pp. G-1 to G-7. This is the key section of FS Insurance most applicable to BLM's recreational special use program. Indeed, this section could form a rather complete basis for a possible BLM IM. We suggest special emphasis on pp. G-1 to G-2:

Information You Should Have Available:

- The holder's name.

- The type of organization under permit. Is the permittee an individual, a corporation, a partnership, or other?

- The holder's address and phone number.

- The address and telephone number of the involved insurance agents, brokers, or companies.

- The location of the holder's operations, which may involve several different locations on various Districts/Forests.

- The holder's specific types of business. For example, if it's an outfitter/guide permit, is it for boating, stock use, guided snowmobile trips? If it's a whitewater program, how large are the boats, and what method of propulsion is used? If the holder has a lodge, list all the provided services. Are alcoholic beverages serviced? Is there a swimming pool, are rental canoes involved, does the resort have a riding stable?

- What is the holder's operating season? Although liability insurance is required year-round, you'll need to be aware of insurance policy renewal dates, since it's best they don't fall in the middle of the operating season when you'll face delayed renewal problems.

- What are the minimum levels of liability required for the kind of permit involved?

- Does the holder transport clients to and from the operating area?

E. The basis for a possible IM. The next section of the IM might include the following key elements from FS Insurance at pp. G-2 to G-5, which, for illustrative purposes, we have revised slightly to conform to possible BLM use:

Information to Look for During the Review:

- The Master Policy List. Is the policy listed as having been reviewed and accepted by the BLM. Does the Master Policy number also appear on the Certificate of Insurance? If it does, the rest of your review is limited in scope. If it doesn't, but the policy appears to be the same as one on the Master Policy List, then it might be a different policy or perhaps the number was inadvertently left off. In either case, call the agent to verify.

- The Insurance Policy Form. Look for the "CG" number. Is it a "claims-made", or an "occurrence" policy. If it's "claims-made", chances are it's not acceptable, but turn to Section V of the form, and read what it says about Basic Extended Reporting periods. Is the "tail" provided at no extra cost? For at least two years? No matter when the "occurrence" happened? If the answers to these questions is "yes", than it's probably a good "claims-made" policy.

- Policy Holder/Permittee. Is the insurance policy issued in the holder's name? If the permit is issued to John Doe, the policy should not be issued to "John Doe's Dude Ranch".

- Policy Period. Does the policy period span the primary season of operations? Even though many permittees prefer to renew their policies mid-season, when their cash-flow is often best, it's best that this not occur because of the possible delays involved in reviewing and approving policies. Try to get the holder and the insurance agent to switch to an off-season date.

- Required Coverage. Minimum liability levels are found in the BLM Manual, although BLM authorized officers can set higher limits, depending upon the permitted activity, but the higher limits must be supportable.

- Additional Insured. The "U.S. Government" must be shown as an "additional insured" on the policy. It is not correct to have the Bureau of Land Management or some BLM official the "additional insured", although the responsible BLM field office address may be shown as a point of contact.

- 30-Day Advance Written Notice of Cancellation. The Certificate of Insurance "cancellation block" and the policy, usually by endorsement, should state that cancellation will be preceded by at least 30-days written notice to BLM. The 30-day written notice is only applicable to policies which have been effect for 60 days and which are not being canceled because premium payments have not been made. You should not accept documents that state that the company will "endeavor" to notify.

- Covered Activities. Are all the authorized activities covered by the policy? Are the covered activities the same as those listed in the permit? Review the "exclusions" section for standard policy conditions. Always check for "endorsements" which add information to a policy. The information might be an additional exclusion, or it might exclude a standard "exclusion".

- Policy Territory. This information usually appears on the Declaration pages. Be sure that the "policy territory" described matches the permitted area. It almost always will, if the permittee has given accurate information in applying for insurance. But sometimes errors occur, and the policy territory may be the same as the insured's home address. When the insured is an outfitter/guide, that's a problem.

- Miscellaneous Concerns. Some insurance policies contain "warranties", particularly outfitter's and guide's policies.

"Warranties" are provisions written into the policy with which the insured must comply: otherwise, coverage under the policy conditions is void. Many warranties are good, sound safety practices which will benefit both the outfitter and the client if they are followed. However, verifying that permittees are operating in accordance with the "warranties" requires major administrative efforts, and you probably don't have that kind of time available. Therefore, BLM will not accept policies which contain "warranties" if the policy is written in such a way that a violation of a warranty results in voiding the policy coverage. Check the endorsements regarding "warranties" for this information.

- Waivers-of-liability" are increasingly used by a variety of permittees, particularly outfitters, guides, and sponsors of recreation events. By signing these forms, a client or event participant agrees to waive any rights he or she might have to sue for injury, even if the injury was a result of a permittee's negligence. Basically, "waivers" are not acceptable except for high-risk recreation events, such as "enduros" (endurance races), road rallies, equestrian events, and hang-gliding contests, where participants are extremely knowledgeable of their sport and of the risks involved when engaged in it.

- "Acknowledgment-of-Risk" forms, which are different than "waivers", are also commonly used by outfitters and other permittees. By signing these forms, clients acknowledge that they are aware of the risks involved in a particular activity. These forms may be acceptable if they're properly worded.

- Claims Expenses and Limits of Liability. Some policies reduce the amount of money available for claims payments by the amount necessary to pay for defending the claim. This means that the legal defense costs will be paid first, and monetary awards for claims for injury, damage, or death will be paid last. The result of this is that the available coverage is reduced by the cost of defense. BLM may require, with respect to

policies of this type, higher than normal minimum limits of coverage. For example, a particular outfitting and guiding activity normally requires $300,000 CSL. The permittee is insured by a company which offers three levels of coverage ($300,000, $500,000, and $1,000,000) and his policy has a defense-cost clause in it. Since BLM can't tell how much it might cost to defend a claim, but assumes it could be as much as 30 percent of the available coverage, BLM policy requires an increase in the minimum coverage required to the next level of coverage available; in this situation, $500,000. If the normal coverage for an activity is $500,000, but the policy has a defense-cost clause, then the required minimum would be increased to $1,000,000.

After your office works through an initial draft of policy guidance on this topic, we could provide here an additional legal review.

Additional comments or questions. If you have any comments or questions on the matters set forth hereinabove, please contact the undersigned.

Katherine Ott Verburg
Field Solicitor

Richard R. Greenfield
For the Field Solicitor

RRG:mo

United States Department of the Interior
Bureau of Land Management
Wyoming State Office

Special Recreation Permit Interoffice Coordination Report

Purpose: The Wyoming BLM's goal of providing one-stop-shopping customer service has created circumstances when applications for SRP's are accepted and processed by a field office in a different location than the proposed use. The purpose of this report is to provide all field offices affected by a proposed SRP use, the opportunity to comment on those uses.

AUTHORIZING OFFICE (complete this section)

SRP Applicant: _____ SRP Number: _____
Address: _____
Phone: _____
Proposed Uses: _____

Field Offices Affected By Proposed Uses: _____

Hunt Areas (please list areas):
Antelope: _____ Lion: _____
Deer: _____ Elk: _____
Bear: _____ Moose: _____
Sheep: _____ Fish Areas: _____
List additional hunt areas here: _____

Rivers/Segments: _____
Trails/Segments: _____
Overnight Base Camp Locations (legal or map): _____
Issuing Field Office: _____
Application Processed By: _____ Date: _____

AFFECTED FIELD OFFICE (complete this section)

Reviewed By: _____ Date: _____
Affected Field Office: _____
Comments (including recommended SRP stipulations): _____

Instructions:

1. Authorizing Office contacts affected offices prior to issuing permit. If coordination can be accomplished by a phone call to the affected office, please document results.
2. Authorizing Office completes "AUTHORIZING OFFICE" section of this report and sends a copy or places a phone call to each affected field office for review and comment.
3. Each affected field office reviews proposed use, makes comments (within 2 weeks), keeps a copy for their file and returns report to the authorizing office.
4. Comments and stipulations from affected field offices are included in SRP and Interoffice Coordination Report is filed in the permittee's file by the authorizing office.
5. If the permittee requests overnight uses/camps/or facilities outside of the issuing office's jurisdiction, permit should not be approved until interoffice coordination is complete.

Note: Copies of the SRP Application, Plan of Operations and Map should be mailed to affected field office for complex or controversial recreation use proposals.

INTEROFFICE COORDINATION IS REQUIRED IN ORDER TO KEEP THE SRP VALID.

THANK YOU!

WY 8300-1 (9/97)

Appendix C- 12

Visitor's Acknowledgement of Risk

In consideration of the services of _____ their officers, agents, employees, and stockholders and all other persons or entities associated with those businesses (hereinafter collectively referred to as "_____"), I agree as follows:

Although _____ has taken reasonable steps to provide you with appropriate equipment and skill guides so you can enjoy an activity for which you may not be skilled, we wish to remind you this activity is not without risk. Certain risks cannot be eliminated without destroying the unique character of this activity. The same elements that contribute to the unique character of this activity can be causes of loss or damage to your equipment, or accidental injury, illness, or in extreme cases, permanent trauma or death. We do not want to frighten you or reduce your enthusiasm for this activity, but we do think it is important for you to know in advance what to expect and to be informed of the inherent risks. The following describes some, but not all, of those risks. (description of risks)

I am aware that _____ entails risks of injury or death to myself. I understand the description of these risks is not complete and that other unknown or unanticipated risks may result in injury or death. I agree to assume responsibility for the risks identified herein and those risks not specifically identified. My participation in this activity is purely voluntary, no one is forcing me to participate, and I elect to participate in spite of the risks.

I possess at least the following qualifications, which I understand are prerequisites to participate in this activity.

a. _____ b. _____

I certify that I am fully capable of participating in this activity. Therefore, I assume full responsibility for myself, including my minor children, for bodily injury, death, and loss of personal property and expenses thereof as a result of those inherent risks and dangers and of my negligence in participating in this activity.

I have read, understood, and accepted the terms and conditions stated herein and acknowledge that this agreement shall be effective and binding upon myself, my heirs, assigns, personal representative and estate, and for all members of my family, including any minors accompanying me.

Signature: _____ Date: _____

Under 18, signature
parent or guardian: _____ Date: _____

United States Department of the Interior
Bureau of Land Management
Wyoming State Office

Operating Plan
for Commercial Outfitters and Competitive Permittees
(Addendum to Bureau Form 8370-1)

BLM Permit,# _____
(Agency Use Only)

This operating plan is what BLM uses to decide whether to issue you a permit. Once the permit is issued, this plan along with your compliance with permit stipulations will be evaluated at the end of the year/event.

COMPANY _____ **DATE** _____

Check all items that apply and fill in the blanks with details. If additional space is needed, attach supplemental pages. If a section does not apply, indicate with N/A.

1. **Company Information:** (Circle one) Individual Partnership Corporation
   a. Owner/Partner(s)
   Names: _____
   _____
   b. Phone number where messages are regularly picked up: (_____) _____ Cell (_____) _____
   c. Other contact if you are unavailable (emergencies only):
   Name: _____ Phone (_____) _____
   d. Do you use radio communications for operations or emergencies? ❑ Yes ❑ No
   e. If yes, what frequencies do you use? _____ _____ _____ _____
   f. Year company was established: _____ Years with current owner: _____
   g. What services does your company offer that is unique for clients/visitors on public lands?
   _____
   _____
   _____
   _____

2. **Estimate the amount and season of use expected this year.** This can be done by day, week, season, month, or type of activity. (Attach another sheet if needed.)

ACTIVITY	USE DATES BEGIN	END	EST. TOTAL # OF CLIENT DAYS	LOCATION
_____	_____ to	_____	_____	_____
_____	_____ to	_____	_____	_____
_____	_____ to	_____	_____	_____
_____	_____ to	_____	_____	_____
_____	_____ to	_____	_____	_____
_____	_____ to	_____	_____	_____
_____	_____ to	_____	_____	_____
_____	_____ to	_____	_____	_____
_____	_____ to	_____	_____	_____

River Related Services and Competitive Events (List # of craft owned and check all other services provided): If you are not providing services on rivers, please go on to #3b.

❑ Boating: ❑ Oar Rafts ❑ Canoes ❑ Kayaks ❑ Inflatable Kayaks ❑ Motorboats ❑ Jet Skis
❑ Drift Boats ❑ Paddle Boats ❑ Other: _____
❑ Fishing ❑ Photography ❑ Shuttle Service
❑ Instructional Classes (Describe): _____
❑ Services for People with Disabilities (Describe): _____
_____
❑ Competitive Event (Describe): _____
❑ Other (Describe): _____

b. **Duration:** ❑ Day Use ❑ Overnight Use

c. **Do you rent boats or other equipment?** ❑ Yes ❑ No
If yes, describe: _____
_____
_____

d. **Location where you propose to operate:**

RIVER NAME/SECTION	PUT-IN	TAKE-OUT	FREQUENT STOPS/CAMPS

Upland Outfitting and Competitive Events (Check all that apply):

❑ Guide Service ❑ Deer/Elk ❑ Lion/Bear ❑ Fishing ❑ Other Game
❑ Packing Service (camps, game, etc.) ❑ Horseback Trail Rides ❑ Mountain Bike Rides
❑ Cross Country Skiing ❑ Snowmobile Tours ❑ 4-W Drive Tours ❑ Horse & Pack Animal Rent/Deliv.
❑ Services for People with Disabilities (Describe): _____
_____
❑ Competitive Event (Describe): _____
_____
❑ Other (Describe): _____

b. **Duration:** ❑ Day Use ❑ Overnight Use

c. **Are you proposing to set up temporary facilities, caches, or staging facilities?** ❑ Yes ❑ No
(Please list by Township, Range, Section and subdivision to nearest 40 acre parcel.)

Location	Dates of Use	BLM, USFS, State, or Private Lands?
	___ to ___	
	___ to ___	
	___ to ___	
	___ to ___	
	___ to ___	
	___ to ___	

d. Are you proposing to set up base camp or spike/drop camps? ❑ Yes ❑ No If yes, please complete the following and describe facilities that you are providing for each:

		Dates of Use	BLM, USFS, State, or Private Land?
Location:	_____	_____ to _____	_____
Facilities:	_____		
Location:	_____	_____ to _____	_____
Facilities:	_____		
Location:	_____	_____ to _____	_____
Facilities:	_____		
Location:	_____	_____ to _____	_____
Facilities:	_____		
Location:	_____	_____ to _____	_____
Facilities:	_____		

(Camps and facilities located on BLM public lands are subject to BLM Field Office Manager's approval.)

e. Are you requesting authorization to camp more than 14 days at one place? ❑ Yes ❑ No

Location:	_____	_____ to _____	_____
Location:	_____	_____ to _____	_____
Location:	_____	_____ to _____	_____
Location:	_____	_____ to _____	_____
Location:	_____	_____ to _____	_____

5. Pack and Riding Animals

Do you provide riding horses? ❑ Yes ❑ No Do you provide pack animals? ❑ Yes ❑ No

Type(s) available: Write in # Horses _____ Mules _____ Other _____

Describe how animals are fed, watered, and controlled when on the public lands (corrals, tethers, etc.):

_____

_____

_____

6. Transportation: List all vehicles used - trucks, buses, vans, trailers, ATVS, snowmobiles, etc.:

Year	Make	Model	Type	Color	License or Snowmobile Registration #	State

Food/Beverages

a. Do you provide food? ❑ Yes ❑ No

Check if provided: ❑ Breakfast ❑ Lunch ❑ Dinner ❑ Snacks

b. Cooking facilities (Check all that apply): ❑ Stove ❑ Wood Fire ❑ Charcoal Fire ❑ Firepan

c. Do you provide potable water? ❑ Yes ❑ No

If yes, check method: ❑ Bottled Water ❑ Filter ❑ Boiled ❑ Chemicals ❑ Other: _____

Sanitation

Toilets (check): ❑ Pit ❑ Portable ❑ Chemical ❑ Carryout ❑ Other: _____

If human waste is carried out, please describe:

Solid Human Waste Removal _____

Liquid Human Waste Practices _____

Safety and Rescue information

Check safety and rescue equipment carried on each trip (Indicate # of item or check all the apply)

❑ First Aid Kits ❑ First Aid Station ❑ Signaling Device ❑ PFD's ❑ Fire Extinguisher

❑ Spare Motor ❑ Throwable Rescue Device ❑ Other: _____

l. **Persons that are authorized to represent your business:** (List the name, address and position of all employees, guides, part time, and contracted help): Attach another sheet if needed.

Name	Address	Position

List must be updated within 2 weeks of hiring or firing employees.

. **Background information:** List other permitted areas or rivers (Please include the authorizing state or federal agency and office location.) _____

the past two years, have you or any of your company representatives or employees been convicted of a federal, ate, or local violation in connection with guide/outfitting operations or associated activities? ❑ Yes ❑ No

ave you had a BLM or USFS permit denied, suspended, or revoked? ❑ Yes ❑ No

yes to either question, explain: _____

ertify that the information given by me in this application is true, accurate, and complete to the best of my knowledge. I acknowledge that we) am (are) required to comply with requirements and stipulations on Form 8370.1 and any additional stipulations that are required by e authorized officer when the permit is issued. I further understand that the provision of false information, or the failure to keep this Operating an or other permit information updated, are grounds for probation, suspension, or revocation of the permit.

_____ Permittee/Applicant

_____ Date

Professional Guide Institute

A Plan To Succeed In Outfitting

Prepared by
Doug Tims

For
The Professional Guide Institute
Idaho Outfitters and Guides Association
America Outdoors

Funded in part by a grant from
Arthur Carhart National Wilderness Training Center
U.S.D.A. Forest Service
Huson, Montana

Preface

This paper is part of the "Outfitter Operations" program of the Professional Guide Institute. Outfitter Operations is one of five core areas of study for the Institute. Origins and Mission, Our Wildlands Heritage, Backcountry Leadership and Wildland Interpretation are the other areas of study.

The mission of the Professional Guide Institute is to identify, enhance and disseminate the natural interpretive and educational resources of the outfitting industry so that outfitters and guides can offer the highest quality experience to the public.

The goals of the Institute include 1) Natural resource protection, 2) Quality public service, and 3) Responsible, shared use of public lands.

You can learn more about the Professional Guide Institute by contacting:

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Introduction

This course on outfitter operating plans is based upon my experience as an outfitter operating under a Forest Service special use permit in the Selway-Bitterroot Wilderness and the Frank Church - River of No Return Wilderness. Through several years as an outfitter industry activist, I have worked with other outfitters who operate under BLM, National Park Service and U.S. Fish & Wildlife permits. This experience has led me to believe that the single most effective tool an outfitter can use to build a positive, successful relationship with agency managers is the operating plan. Beyond the benefit of a good working relationship with the managing agency, the development of a good operating plan will improve your business and add value to your company in the eyes of your employees and customers.

I hope that this course will be of benefit to the new entrant into the outfitting industry. It should also help the outfitter who has had only limited involvement in developing a plan, to the outfitter who wants to upgrade an already good plan, and even to those who might pick up just an idea or two to add to an existing excellent plan. To all I would urge that you contact The Professional Guide Institute with suggestions to improve the course and to share your experiences in building a good plan.

I have tried to use examples in the course from both land and water based operations. The approach and the core elements of a good plan are common to operations that use either horses or boats to move clients.

My view of an operating plan began to change when Art Griffith, owner of Iron Horse Outfitters in Hamilton, Montana, stood up at an Idaho Outfitters and Guides meeting, waved his plan at the crowd and declared, "This is the best insurance policy I've ever had!" I've since worked with Art to share our ideas on plans through the "Operations Network" events at Idaho Outfitters and Guides meetings and similar sessions at Confluence – the annual meeting of America Outdoors.

I've also put into this course ideas I have picked up from Dick Clark, Grant Simonds and Scootch Pankonin from the outfitting industry. Dale Robertson, Steve Morton, Linda Merigliano, Monte Barker, Steve Mealey, Nora Rashure, Dennis Dailey and Lyle Laverty with the Forest Service. LuVerne Grussing and Gary Marsh with BLM have also shaped my thoughts. I thank you all for influencing my views of professionalism and partnership in the outfitter/agency relationship.

A Good Relationship?

Several years ago, I was asked to speak to a group of wilderness rangers about the role of the outfitter and was standing for questions after my presentation. "Doug, what do you do about all the poor people who will never get a chance to float the Selway with you?" was the first question – delivered in a hostile tone.

My first inclination was to respond that it was not an outfitter's job to correct the socio-economic injustices in America. Further, I hadn't seen many urban poor piloting their own $5,000 rowing rigs down the river under the self-guided side of the allocation. Instead, I told the group about the school bus mechanic from North Carolina who had saved for five years to take his once in a lifetime adventure on the Selway with us.

I felt pretty good about my response, but in the back of my mind it haunted me that perhaps this was an indication that at least some of the people responsible for managing the area where I work did not have a very good understanding of what I did. We always enjoyed visiting with the summer temps we encountered at the ranger station. We welcomed them and other agency representatives into our camps, sharing stories about the river. We watched and listened as our guests spoke of their appreciation of the job our agency friends and we as guides had chosen to pursue.

But I still had doubts. Maybe they didn't know about all we did to make a professional trip appear easy. Maybe they thought we were just lucky folks who showed up at the trail head or launch ramp, ready to take a fun filled trip with little effort. Maybe they thought we were just getting rich hauling rich fat cats through the backcountry.

Connections

My five year permit was up for renewal. I was concerned that my relationship with the agency might not be what it could be. I worried that I was not getting the respect I thought I deserved for my experience and the job I was doing on the river. I had spent years traveling across the country promoting the National Recreation Strategy's call for partnership -- yet my own relationship at the ground level might need help.

I remembered an Idaho Outfitters and Guides Association session where a packer, Art Griffith, had proclaimed the value of a good operating plan. Art and I shared the same District Ranger, Dennis Dailey. Dennis had a reputation for being tough. He was also a horseman and knew little about running a river. Art was a bit of a tough character himself, but what impressed me was his statement that Dennis would come into the field, look at his concerns first hand and worked out a solution. Dennis balanced his toughness with fairness and a willingness to hear your side. I decided to take my renewal as an opportunity to educate Dennis about a river outfit, and in the process, teach all his underlings, too.

I wanted to change their view of me and my guides —

Instead of: A Bunch of Lucky Guys Getting Rich Hauling Fat Cats into the Backcountry

By: Adding to their understanding of what is involved in running a professional river operation,
By: Adding value in their eyes of having a professional on the river,
By: Setting their expectations of what I would be doing

I could change their view of me and my company --

To: A Valued Partner Helping Meet the Mission and Purpose of the Area.

Why Do You Need A Plan?

If you operate under a special use permit, you are required by law and regulation to have an operating plan. The National Outfitter Policy, section 41.53j, states that each outfitter will have a plan that specifies -

- The modes of transportation authorized
- The amounts and class of use
- The number of launches and people per launch
- Camps used and people per camp or trip
- Description of proposed use of assigned sites

So by regulation, all I really needed was a plan that said, "Northwest River Company will float the Selway River in rafts, launching eight times a year with twelve guests and four guides using non-assigned, dispersed use camps." Actually, the plan I had been using for the past ten years was not much more than that -- barely half a page!

That may be the requirements of a plan, but what about other goals?

Goals of a good operating plan:

1) Meet legal and regulatory requirements,
2) Improve the chance of <u>success</u> for your business,
3) Add <u>value</u> to your business,
4) Lead to longevity through <u>renewal</u> of your permit.

Success - Failing to plan is planning to fail. If you do not take the time to write down in a structured manner how you plan to accomplish your business mission, you increase the likelihood that you will not. Successful outfitters are good at

thinking through the possibilities, assessing the risks, and determining the best course of action when faced with the myriad of options that present themselves in a backcountry trip. We are better when those thoughts have been committed to paper in a plan.

Example: My company, Northwest River Company does not make decisions at the launch site on whether to launch on the river or not. In the calm, undisturbed atmosphere of a winter meeting, my partner and guides have discussed and committed to paper when to go and when to stay. When the pressure is on at the river bank with clients who have traveled thousands of miles, anxious to run the river, there is no decision to be made – just implement the plan. There can also be pressures from the guides who may have varying levels of comfort. With a plan, written by the boss, the pressure is off. The same discipline that comes to dealing with a key safety issue is valuable as well in "how" things work, "when" we do it, "what" we do, "where" we do it and "who" does it.

Value - A good operating plan will add value to your business:

1) in the eyes of your employees,
2) in the eyes of your customers, and
3) in the eyes of your agency manager.

You need to think through what are the qualities of your operation that:

- Determine merit and desirability?
- What is it about your operation that makes employees want to work there?
- What makes customers choose your operation over others?
- What makes a manager desire your operation as a public service provider in the area?

By placing those qualities in your operating plan and sharing them with your employees and managers, you will demonstrate to them the value of your operation. Implementation of the plan with these qualities as its core, will produce an experience that your customers will value.

Renewal - Some managers will have the time and opportunities to experience first hand the value of your operation. They may visit your base, encounter the trip in progress, or hear reports back from other agency persons and customers. Many managers will experience your operation only through your operating plan. By involving the manager in plan development and by making the plan reflect a common outfitter/agency view of a professional, high value operation, there can be only one decision at renewal time – affirmative.

- The operating plan can establish a manager's view of your operation as one that is respected, reliable and renewable.
- The operating plan can establish in advance the ground rules by which your operation is judged.
- The operating plan will get recognition for all the effort you put in to make

your clients' experiences good ones.

- The operating plan will provide documented evidence of how you and the manager have agreed your operation will be run. This can be important should there be a future dispute, or as often happens, new personnel comes into the area lacking understanding of an outfitter operation.

What needs to be in a plan that will meet requirements, improve chances of success, add value to your business and insure renewability?

1) Your company mission,
2) Required elements, and
3) Value added items.

Company Mission

Mission could also be called your job, duty, purpose or function. It could be stated as simply as "taking people safely into the backcountry by boat, horse, on foot" or whatever conveyance you choose. But you should state a mission in writing as part of your operating plan. You will gain a connection to the values that many people place on the area where you work if you state your mission using the terms set forth in law or regulation as the purpose of the area.

The public statement of purpose could come from documents controlling operation of a hydro power project that controls the flow of the river where you work, or the forest plan that controls management of the area where you hunt. If you work in wilderness, the Wilderness Act is the place to look, or the Wild and Scenic River Act for a designated wild and scenic river. Legislation establishing a national park or a national recreation area is another source. The management plan for a BLM area or wildlife reserve could contain the stated purpose you are looking for. You can get a copy of these documents at your manager's office.

In my case, it is the Wilderness Act. According to the 1964 act, wilderness areas "shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character ....." The mission statement for Northwest River Company says that our mission is "to facilitate the public's use and enjoyment of the Selway River and the Selway Bitterroot Wilderness area in a manner that will leave the river and wilderness unimpaired for future use and enjoyment as wilderness. It is our mission to provide a safe, high quality wilderness experience for the public with an emphasis on solitude, enhancing the public's understanding of the wilderness resource and protecting wilderness resources and values." Sound familiar?

I also pay attention to the Wilderness Act's statement "wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use." Outfitters have long understood their mission of providing recreation, and today, we focus more attention on conservation, education

and history. So does my operating plan.

The Wild and Scenic Rivers Act contains this language, "..rivers ... possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values shall be preserved .... protected for the benefit and enjoyment of present and future generations."

Required Elements

Every plan is required to state:

– Modes of transportation authorized
– Amounts and class of use
– Number of launches and people per launch
– Camps and people per camp or trip
– Describe proposed use of assigned sites

Modes of transportation authorized

This is simply a statement of the type transportation you will use to transport people in the backcountry – horses, rafts, backpacking, llamas, bikes, power boat, etc. You should be aware of what type of transport is appropriate for your area. For instance, motorized equipment is obviously not allowed in wilderness areas.

Amounts and class of use

This is a general description of the type of use and how much you plan to do.

For instance, for Art Griffith's Iron Horse Outfitters, he is running a Fall Hunting Operation and Summer Pack Trips, using a maximum 20 head of stock and he lists how many people will be in each camp.

For a river operation like Northwest River Company on the Selway River, it is described as

Launch Schedule and Trip Lengths -

DATE	Length	Public	Guides	User Days
Mid-May Training Trip	3 days (approx)		5	
June 2 to June 5	4 days	12	4	48
June 8 to June 11	4 days	12	4	48
June 14 to June 17	4 days	12	4	48
June 20 to June 23	4 days	12	4	48
June 26 to June 29	4 days	12	4	48
July 2 to July 6	5 days	12	4	60
July 9 to July 13	5 days	12	4	60
July 16 to July 20	5 days	12	4	60

Camps & People Per Camp

Describe proposed use of assigned sites

The Iron Horse Outfitters plan has a separate section describing each of their four assigned camps. For example:

Battle Creek Camp - Base Camp (hunting camp) - Exhibit "C"

This camp is located on Boise Meridian in SE, SE, Section 5, T33N, R15E.

This camp is currently used as a main hunting camp and a summer pack trip camp for fishing, sightseeing, camping, photography, trail riding and exploring nature. The summer camps for pack trips are on an itinerary basis during the summer months. This camp is also used as a jump-off point for taking hunters to spike camps.

During the fall hunting season facilities at this campsite include tent sites for seven (7) tents, temporary outhouse, meat poles, hitch rails and a portable electronic ribbon corral with nylon mangers, holding a maximum of twenty (20) head of stock.

At this campsite, the maximum number of hunters to be served at one time would be eight (8) and the maximum number of employees to serve the hunters would be seven (7). A maximum number of summer guests to be served from this site would be ten (10) and the maximum number of employees to serve the summer guests would be four (4).

Note the detail that Iron Horse uses in describing the camp, and the variety of uses for the site. He could have said it was just a hunting camp, but a better understanding of the many activities that occur is achieved by listing them (fishing, sightseeing, camping, photography, trail riding and exploring nature).

Value Added Items

This is where we have the chance to dispel myths, educate and inform anyone who reads the plan. Teach them the true complexity and depth of an outfitted experience. We take for granted that our manager and staff know how much we do – but do they? Assume they do not and include as much as possible in writing. Much of it will come from existing documentation: pre-trip information sent to guests, cargo lists, a list of what is in your camp library, information you have received at a local or national outfitter meeting, etc.

Think about who administers your permit and who you encounter during normal operations. Some areas are fortunate to have managers and staff who share your love of the area and have been around long enough to understand your business. But only recently have federal land management agencies begun to train staff specifically in the administration of outfitter and guide operations. You might be dealing with the newest employee on the district. There may be a lot of turnover in your area. If that is the case, then you have the opportunity to do some of the

training – through your operating plan.

Iron Horse Outfitters has a section in its operating plan titled "CONCERNS." In this section, owner Art Griffith candidly lays out the challenges he faces in running a consistent operation when the personnel he works with in the agency is constantly changing and often not trained, "In the past some inexperienced field personnel often performed permit compliance inspections. The Forest Service should have personnel with working knowledge of outfitter operations and problems, handle the outfitter permits, and work closely with the outfitter in bringing his or her operation in line with the area management plan and Forest Service Policy." He states, "It is crucial that the Forest Service have personnel that have a good working knowledge to grade and rate an outfitter operation in a fair and adequate manner." To the agency's credit, the area where Art works is now leading the way in personnel training for outfitter administration.

At Northwest River Company, we use this section to inform everyone on guide requirements, our desired relationship with the agency, the "extra effort" we make in the field, our relationship with other users and our interpretive program.

This is what we include:

Legal Requirements under Idaho Law - Outfitters and Guides in Idaho are regulated under Idaho Code, Title 36, Chapter 21 and Idaho Code, Title 6, Chapter 12. These laws, and regulations promulgated by the state licensing board under them, make activities of outfitters and guides different and more challenging than those of the "self-guided" wilderness user. Section 36-2101 of Idaho Code states, "The intent of this legislation is to promote and encourage residents and nonresidents alike to participate in the enjoyment and use of the deserts, mountains, rivers, streams, lakes, reservoirs and other natural resources of Idaho, and the fish and game therein, and to that end to regulate and license those persons who undertake for compensation to provide equipment and personal services to such persons, for the explicit purpose of safeguarding the health, safety, welfare and freedom from injury or danger of such persons." (emphasis added)

Guide Qualifications & Training - Northwest River Company guides will meet or exceed the minimum requirements for licensed guides in the State of Idaho as set forth in Idaho Code, Title 36, Chapter 21 and Idaho Code, Title 6, Chapter 12 and the rules of the Idaho Outfitters and Guides Licensing Board. The minimum requirements for Idaho guide licensing includes -

- Valid First Aid/CPR Training (renewable every three years);
- Have a minimum of three complete trips on the river under the direct supervision of a boatman licensed for the river;
- If already licensed as a lead boatman on other Idaho classified rivers, the guide may qualify on the Selway with one complete trip on the river under the supervision of a boatman licensed for the river;
- Lead boatmen must have a minimum of six complete trips on the river and be

recommended in writing for that designation by a licensed outfitter;

- Be recommended to the Licensing Board for guide licensing by a licensed outfitter who certifies that he/she is:
- Qualified to perform the type of guiding for which he/she applies;
- Has extensive first hand knowledge of the area and waters where he/she will be guiding;
- Is able to read and understand a map and compass;
- Is clean and well mannered with a desire to please those whom he is called upon to serve.

Partnership With the Forest Service - It is the policy of Northwest River Company to pursue a partnership relationship with the Forest Service and its employees. The mission and purpose of Northwest is identical in spirit to the "Caring for the Land and Serving People" mission of the Forest Service.

It is our desire to have Forest Service personnel visit the camps and area we use and interact with the public that we serve. Our experience is that our guests are keenly interested in the job the Forest Service is doing in the Selway-Bitterroot Wilderness area. We view our Forest Service partners as a source of knowledge of the area, coworkers in our role of meeting the purposes of the Wilderness Act and often as friends with a mutual love and appreciation for the Selway.

We also recognize and respect the authority of the Forest Service in their administrative role in the SBW and expect a professional evaluation of our operations. We expect that authority to be exercised in an atmosphere of positive interaction among professionals working towards a common goal. We expect respect from the Forest Service personnel we deal with, as well as their recognition of -

- Northwest and its personnel's experience on the Selway River,
- Northwest and its personnel's knowledge of the Selway River and SBW;
- Northwest and its personnel's commitment to the protection of the SBW resource;
- Northwest and its personnel's commitment to quality service to the public.

It is the desire of Northwest River Company that any concerns the Forest Service has with our operations or procedures on the Selway be communicated by professionals at the District Ranger's or resource manager's level directly to Northwest's owners, Mike McLeod and Doug Tims, not through our respective field staffs. Immediate concerns involving resource conditions or other matters may be discussed at the wilderness ranger / guide level. Northwest River Company owners expect written follow-up from the wilderness ranger through the resource manager or District Ranger of any suggested changes relative to Northwest operations or procedures.

We do not wish to work in an atmosphere where we nit-pick the efforts of each other, looking for the opportunity to "bust the other's chops". We commit that our guests will end their wilderness experience on the Selway with a positive view of the role of the Forest Service. We expect the same of Forest Service personnel in

their interactions with agency personnel and the self-guided public regarding our role on the Selway.

It is our expectation that we will be given the benefit of the doubt that any negative resource or service conditions found on the Selway most likely did not come from us, and certainly are not due to any intentional act on our part. We are human, and will make mistakes, but our commitment to our Forest Service partners is that the balance sheet of our presence and role on the Selway River will be one reflecting an overwhelmingly positive professional contribution to the values of wilderness and the goals of the area's legal and management mandates.

Non-Compensated Wilderness Services - Part of the role of a professional outfitter and guide in wilderness is to make the extra effort in protecting the resource and demonstrating responsible, shared use of the area. We believe our presence on the Selway is a "leveraging" of the resources that the government and the Forest Service are spending and committing to protect and manage this area. We often encounter situations where less caring wilderness visitors have left litter or damaged the resource. This is particularly true on the early trips and in camps frequented by walk-in fishermen and self-guided stock users. It is the policy of Northwest River Company to utilize the human, time and equipment resources of the company to engage in practices including, but not limited to -

- Clean up trash left by other users and pack it out using NW equipment;
- Restore fire pits and rings to a naturalized condition;
- Remove wrecked or damaged equipment left in the wilderness;
- Educate other users who request information on the wilderness resource;
- Provide safety related assistance in emergency situations.

There are several ideas that a horse based operation could put in their plan in this area –

- Trail maintenance
- Clean up trash left by others and haul out using your company's stock and employees
- Emergency help for others, not only the human users, but also stock health or injury.
- Education and information for lost users or those unfamiliar with the country

Interaction With Other Wilderness Users - It is our goal that every encounter we have with other wilderness users, including agency personnel, ends with the other party having a view of Northwest River Company personnel as professional, courteous and knowledgeable. We will go out of our way to assist self-guided floaters if it appears they are open to interaction or in need of assistance. We will always offer assistance in accident situations.

We will be cautious, but open when offering information on the river and conditions. Information about water levels, rapids and potential hazards will likely

be used by self-guided boaters to make decisions in a risky and hazardous environment. The result of a decision to run a rapid is primarily dependent upon the skill level of the individual, which we have no way of judging for sure. Ultimately decisions to accept challenge and risk is the responsibility of the self-guided boater. We will always state the option of portaging ("We've done it"). We will not accept responsibility to lead anyone down river except Northwest River Company guests.

If it appears the desire of other boaters or wilderness users we encounter is solitude, we will respect their desire and not intervene in their wilderness experience.

When encountering stock on the trail, we will communicate with the lead packer, requesting proper positioning as the stock passes. Travel by horse and mule is a historical use of the Selway-Bitterroot Wilderness, representing a cultural value of the area, and we will present it to guests in a positive light.

Interpretive Services - It is of primary importance to Northwest River Company that our Selway River guests have the opportunity for a broad based wilderness experience, including knowledge of the area, its history, flora, fauna and management. We do not do "classroom" style talks. Our goal is to weave within the fabric of our guests' experience, multiple opportunities to learn about and understand the natural world around them. Some of the tools we use include -

- A knowledgeable and personable staff. In selection of guides, we choose naturally inquisitive persons who demonstrate a knowledge and appreciation for the natural world and a never ending thirst for more knowledge. We choose "people" persons who enjoy sharing the wilderness and our knowledge of it with our guests;
- Pre-Trip information - beginning with our newsletter, we set our guests' expectations to learn about wilderness. More information is given in the "Northwest Question and Answer" form. We send all guests a pre-trip reading list and list of vertebrates compiled on the river by a group of biologists we took from Bucknell University;
- Every trip is accompanied by a Library which includes a waterproof copy of the 1964 Wilderness Act, maps, books on Lewis & Clark, Nez Perce Indians, plant identification guides and more.
- Our drive to the river includes stops at "Travelers Rest" site, the West Fork District Office and Nez Perce Pass, where we discuss Lewis and Clark, river management, wilderness management and fire ecology;
- One of our guides is a University of Idaho graduate in Biology and is expert in identification of the plants in the Selway Bitterroot;
- All guides have read the "Moose Creek Ranger District Historical Information and Review" to improve their knowledge of the area;
- Fossils from the large find near Choteau, MT are carried on each trip with a waterproof National Geographic Society map of the North American continent 75 million years ago as an aid in our geology and dinosaur campfire discussions.

Archeological Sites - If, during our wilderness travels, or through the process of

digging a sump hole, we should encounter any artifacts or evidence of use of the area by primitive man, we will engage our guests in an interpretive process. We will involve them in making note of the nature and location of the find and restoring the site to its natural condition. We will notify the Forest Service of the find.

Note two items in this section. 1) We tell the agency we will make mistakes. It is impossible to run a backcountry operation without occasional problems and human error. However, we make it clear to the agency that the net value of our presence will be positive. 2) The last section on "Archeological Sites" was suggested to us by our District Ranger during a review of the draft plan. It is a good section and including it gives partial ownership in the plan to our ranger – a partnership effort!

LOGISTICS INVOLVING GUIDED PUBLIC

Pre & Post Trip Lodging - The public will be met in Missoula at the Village Red Lion at 6:00 PM on the evening prior to their launch date. They will be encouraged to use the Village Red Lion prior to and after the trip, however some public may make their own arrangements. Information on lodging is supplied with the information packet (Exhibit "A"). Lodging confirmations at the Village Red Lion will be made by Northwest River Company personnel.

Pre-Trip Orientation - Pre-trip information begins with the packet sent to potential clients who call or write for information about the Selway (Exhibit "A"). Client receives an orientation talk which shall consist of:

1) Introduction - Leader introduces himself and his position with Northwest River Company. Ask each guest to tell their name, where they are from, what is their occupation, what brought them to the Selway, what are their expectations of the trip.

2) Setting - Welcome to Lewis & Clark Country, the Selway-Bitterroot Wilderness, and the Selway River. We are on the Lewis and Clark Trail and we will be stopping at interpretive sites. The Selway-Bitterroot Wilderness received instant inclusion in the National Wilderness Preservation System in 1964. The Selway River received instant inclusion in the Wild and Scenic River System in 1968. Northwest River Company's goal with this trip is to provide our guests a safe, high quality wilderness experience with an emphasis on solitude and enhancing their understanding of the wilderness resource.

3) River Gear - Each guest is given a dry bag, ammo can and NW duffel bag explaining their use and purpose. Dry bag - If you take proper care of it, taking time to close it and not poke holes in it by dragging or abuse, it will take care of your gear. Ammo Can - for day use items such as camera, sun lotion, glasses, etc.. NW Duffel Bag - For your own personal items and to take with you at the end of the trip (some years a T-shirt is given instead).

4) Slide Show - Present the slide show and narrative - Explains all logistics,

camp procedures and minimum impact talk.

Transportation to the River and Back - The NW 15 passenger van will be used to transport all guests. The day prior to the trip the van will be cleaned and filled with fuel. Oil, tires and lights will be checked. Departure from the hotel is at 8AM on the launch date. First stop is at Bob Ward Sporting Goods in Hamilton for fishing licenses and supplies. While guests are shopping, the van will be driven across the street to top off gas tanks.

On the day prior to the launch date, the NW River Company truck will be cleaned and serviced. Oil, tires, lights, trailer connections and safety chains will be checked. Stop on the way out of Missoula, prior to Lolo and on the Selway River Road after the take out to check the load to see that it is riding properly, all tie downs are secure and no equipment is rubbing or chafing against surfaces that will damage it. The truck will be filled with gas in Hamilton on the way to the river.

Driver gets gas receipts for all purchases and leave them in the glove box. Drivers are not permitted to drink alcohol.

Drivers should drive safely, courteously and within the speed limits. Remember, you are representing our company and industry. Gravel roads represent the most dangerous conditions.

Special Concerns - Highway 93 from Missoula to the West Fork Road turnoff is recognized as one of the most dangerous stretches of highway in the country.

The West Fork Road is narrow and the home of our Selway area neighbors. Be courteous and cautious.

The road over Nez Perce pass to Paradise is narrow, winding and often rutted or slick. Obey the speed limit. Be extremely cautious on sharp turns and watch for vehicles pulling trailers. Drive defensively!

The road from Race Creek takeout to Lowell is the home of our Selway area neighbors, as well as narrow, winding and often rutted or slick. Be courteous and cautious. Obey the speed limit. Be extremely cautious on sharp turns and watch for vehicles pulling trailers. Drive defensively!

Highway 12 is winding and frequented by grain truck and other large vehicles traveling at a high rate of speed. Numerous vehicles are pulling on and off the highway to launch or pick up river craft and may be pulling trailers. Be cautious! Highway traffic violations will be paid by the driver. Any violations due to vehicle irregularity will be paid by Northwest River Company.

If an accident occurs, there is insurance information in the glove box. Never leave the scene of an accident until a police officer arrives and the paperwork is taken care of. Render first aid if necessary, but do not assume guilt or responsibility for the accident ... that is the responsibility of the police. Call the Northwest office to report an accident as soon as possible.

The guests of Northwest River Company are paying for our expertise and knowledge of the hazardous wilderness environment. We can not eliminate risks associated with wilderness travel, but it is our goal to manage the risk involved by informing our guests and utilizing our skills to make their trip as safe and enjoyable as possible.

Introductory Safety Talk at the Launch Site - This talk is tailored to meet the needs of the group. The group is gathered at the bottom of the Paradise launch ramp and their undivided attention is gained. We introduce the other guides. Water conditions and weather dictate some of the content of the talk. We always end the talk with a question to the other guides, "Have I left anything out?" How each guide gives his or her talk may vary, but the following topics must always be covered -

- Check to assure life jackets are properly secured and snug. Show how to adjust.
- Explain the difference between an oar boat and paddle boat (if included on the trip).
- Explain to the group how many will be riding in each raft and suggest that they change boatmen throughout the trip (Offering your ammo can to the boatmen, "Do you have room for me to ride with you today?")
- Show an oar boat and explain how to enter and exit - "Don't grab or lean on the oars!" Clean your shoes before entering the raft. Be cautious about slippery surfaces. Be cautious about slipping on rocks. Explain that each individual boatmen will tie down the ammo cans and show them where to sit.
- Discuss high-siding and if the raft does flip, how to come up with their hands over their heads in case they come up under the raft ... then use their hands to work their way to the outside of the raft. They should move to the upstream end of the overturned raft using the hand line or frame .. don't be caught between the raft and a rock!
- If a paddle raft is on the trip, demonstrate how to sit and brace in a paddle raft. Helmets will always be worn in the paddle boat in whitewater.
- Caution people not to brace a leg under a thwart and to be careful not to extend a leg sideways. More injuries occur when guests collide in a raft than from people falling into the river. Focus on how each guest in each position should brace in.
- Explain how the paddle raft is a team effort and it is the guide's job to coordinate the individual efforts. Show the various maneuvering strokes. Talk about what happens if a passenger falls out: hold on to the hand line if possible, if not onto the paddle that can be extended by someone in the raft.
- Show how to pull someone back in the raft using the lapels of the life jacket, bracing your legs against the tubes and leaning backwards.
- Talk about the flip potential -- same drill as oar rigs. With paddle rafts it might be more efficient to do a mid-river recovery flip than swim everyone to shore or to the oar boats.
- A very careful talk should be given about an unplanned swim. **Emphasis that if a person is thrown into the water it is a SELF-RESCUE situation- be aggressive to save yourself, it is your life!**. They should lie on their back and float feet first downstream while backstroking towards the nearest raft or shore. They need to angle their body upstream in the direction they want to go. They should never attempt to stand in moving water! If they are in deep or slow water, they should do a crawl stroke towards the nearest shore. Show a throw bag and

demonstrate its use, explaining what to do if a rope is thrown to them (grab the rope, not the bag and roll onto your back when being pulled toward the thrower).

- Off river safety should be discussed as well. The most common accident is slipping or tripping getting in and out of the raft, or in camp or on the trail. Be cautious of wet rocks around the river, and sand on your shoes that can cause slipping on dry rocks. Snakes, including rattlesnakes, are native to the Selway area. No rock climbing or diving and jumping off rocks into the river. Filtered water is available in camp. It is the responsibility of all guests under Idaho law to inform the guides prior to leaving camp.

Secondary Safety Talk - In higher water conditions, an extra safety talk will be given at the camp immediately above the Moose Juice section. The same areas will be covered as in the Introductory Safety Talk, with greater emphasis on the increased speed and power of the river in this area and a higher risk of raft upset or passengers taking an unplanned swim. Guest will be moved into rafts depending on the guides' observation of their skills over the past two days.

RIVER & CAMP LOGISTICS

Launch Site Preparations - Guides arrive at the Paradise launch site the evening prior to the launch day. Camping is available next to White Cap Creek one mile up the creek. It is preferable that rafts be rigged at the camp site on White Cap Creek if water level permits, then floated to the Paradise site. If this alternative is not possible, rigging may occur at the Paradise launch ramp.

During the rigging process, do not block the Selway river trail in the event a pack string exits the trail and needs to traverse the parking area. If another party is at the launch site, be courteous, sharing and helpful.

Water Levels Decisions - Northwest River Company deals with varying water levels by making the decision to launch or not, by adjusting the type and size of rafts used and by adjusting running procedures. Water levels are difficult to predict because they are controlled by natural forces and the reports by federal agencies on gauge readings are intermittent and taken by people with varying levels of knowledge of the river.

Decisions on launch and equipment will be made based on the best information available to Northwest River Company the day prior to launch (see Pre-Trip Information Sheet - Exhibit "A").

Launch Decision - At levels below 1.2 feet on the Paradise gauge, the guests and some gear will be flown into Shearer landing strip. Guides will leave Paradise at first light on the launch day with empty rafts, deadheading to meet the guests at Shearer. If the group for the day prior to our scheduled launch has canceled due to low water, or we have had the opportunity to ask and received their permission, the guides will launch that afternoon and go part way to Shearer. At levels below .9 feet, all equipment, guides and guests will be flown to Shearer to start the trip. The numbers of flights necessary to accomplish a low water situation launch from

Shearer will be determined by the air taxi service with the safety of Northwest River Company guests and personnel as the primary factor.

At levels above 1.2 feet on the gauge, the launch, if it occurs, will be staged at Paradise.

At levels between 1.2 feet and 4.5 feet on the gauge, a mix of 14', 15.5' and/or 17' rafts may be used.

At levels less than 4.5 feet, a paddle raft may be used depending upon 1) Water temperature, 2) Weather, 3) Guests Experience, 4) Guest requests.

At levels between 4.5 feet and 5.5 feet, a mix of 15.5' and 17' rafts may be used.

At levels between 5.5 feet and 6.5 feet, a mix of 15.5' and 17' rafts and/or a safety kayak may be used.

The critical high water launch decision occurs between 6' and 6.5' on the Paradise gauge. The general rule (supplemented by decision process laid out in pre-trip information sheet - Exhibit "A") is there will be no launch if the gauge reads 6' or more and is rising.

The general rule (supplemented by decision process laid out in pre-trip information sheet - Exhibit "A") is there will be a launch if the gauge is 6.5' or less and is dropping. Factors included in the launch decision include weather forecast from the National Weather Service, NWS river forecasting models, snow measurements, gauge readings at Lowell and charts showing relations between Paradise and Lowell readings from past years (exhibit "B").

In the event of a high water launch, the first night's camp will be between Running Creek and Shearer. The water level will be marked at camp upon arrival. The next day, if the water is rising, the group will lay over in the same camp. If the water continues to rise the second day and night, the group will lay over again in the same camp. If the water drops to acceptable levels by the fourth day, the group may float out in one day, or two days (including an extra, unscheduled river day) by total agreement of the group. If the water level is still unacceptable on the fourth day, air taxi flights will be arranged back to Missoula.

In high water conditions, a similar review of options will occur at Moose Creek.

On Water Procedures - Each day on the river a lead boat will be designated. The lead boat is responsible for determining river and rapid conditions and warning following boats of any unusual or unique situations (dead fall, log jams, changed rapids, etc.). As a general rule, all boats will gather in the eddy above Galloping Gertie, prior to running that rapid and Washer Woman and Cougar Bluff. As a general rule Ham, Ladle and Wolf Creek will be scouted. The general rule may be waived by consensus of the boatmen if water levels are below 3'.

The normal procedure for running Ham is 2 + 2. Prior to the first two boats running, a safety rope position will be set up below the rapid and a chase boat made ready at the top of the rapid. The first two boats will attempt to catch eddies left and right below the rapid. Then the last two boats will run the rapid.

The normal procedure for running Ladle is 2 + 2. Prior to the first two boars

running, two safety ropes will be set up below on the right. If available, an experienced guest will be asked to man one safety rope, allowing the other guide to man a chase boat ready at the top of the rapid, otherwise, both extra guides will be below manning safety ropes. The first two boats will set up below on the right prior to the second two boats running Ladle.

The normal procedure for running Wolf Creek is 2 + 2. Two boats run first, setting up safety positions below as soon as possible, then the other two boats following.

Camp Set Up - On arrival in camp, organize the group to do a "chain gang" unloading of gear from the rafts. Indicate where the kitchen will be and suggest locations for tents. On the first night organize a tent pitching class for the guests using Northwest tents. It is preferable to use already impacted areas rather than impact a new one. Do not locate tents near standing dead trees (this may be impossible, due to the large number of fire impacted camps on the river, leaving guests open to high risks).

Tell everyone where the porta-potty will be located, as well as the hand wash station. Be observant of guests activities in case someone has not picked up the message on litter or minimum impact practices - make the correction a positive experience. Make sure guides know when and where guest hiking activities are occurring so we can expect their return.

Guides "walk the camp" prior to departure making a last minute check for any litter or items left behind.

Camp Schedules - Coffee will be available at 7:00 AM, Breakfast at 8:00 AM. Launch can occur between 10:00 AM and 1:00 PM, depending on weather, water conditions and the trip leader's goal for the next night's camp. Lunch can be prepared at a lunch stop during the day, after arrival in camp on a day when the start was early, or prior to leaving camp on a late departure day.

Food Handling and Preparation - A clean kitchen is of the utmost importance. All guides will wash their hands prior to food preparation and wear neat, clean clothes while cooking. Dish washing will be done using three buckets using hot soapy water, hot rinse, and chlorine rinse. Cooking will be done on a propane stove, in dutch ovens and on a grill over the fire pan.

Garbage - All garbage that is not burned will be stored in plastic bags, removed from the river, and deposited at a dumpster in Missoula.

Human Waste - Although the Selway River management plan allows the burying of human waste, Northwest River Company has a policy of removing solid human waste. We use a "Johnny Partner" system that contains the material until disposal at a dump station in Missoula.

Waste Water - Waste water from hand wash operations may be cast into the

bushes well above the high water line. Waste water used in washing dishes that may contain food particles will be strained to remove food particles, then poured into a sump hole dug away from camp for the purpose of disposing of waste water.

Fire Pan and Firewood - Although the Selway River management plan allows fires to be built on the ground and ashes thrown in the river, at Northwest River Company, all camp fires will be built in the metal fire pan supplied by the company and carried on every trip. Ashes will be collected from the fire pan prior to leaving camp and stored in the large ammo cans provided for this purpose. Any coals or ashes that have fallen from the fire pan will be collected by shovel and by hand and placed in the large ammo can for removal from the river. Ashes will be dumped at a dumpster in Missoula at the end of the trip.

EMERGENCY FIRES -

In cases where NW guests are caught in unusual climatic conditions involving cold and damp conditions that may lead to hypothermia, a fire may need to be built outside of a normal camp setting. If readily available (not buried in the duffel pile to the extent it will delay meeting the guests' health needs) the fire pan and ash box will be used. If not readily available, at the discretion of the trip leader, a fire may be built on the ground for temporary warming use. If this occurs, it is the joint responsibility of the guide building the fire and the lead guide to assure that the fire is 1) properly contained, 2) fully extinguished at the end of the period of use, 3) fire site is cleaned and naturalized prior to leaving the area. Coals may be dispersed by throwing them into mid stream, as outlined in the river management plan.

FIREWOOD - Only dead, downed wood will be used. Driftwood is preferable. Prior to leaving camp firewood will be either stacked to simulate natural conditions or dispersed along the high water mark simulating natural conditions.

Fishing Practices and Regulations - Everyone who fishes is required to have a valid, current fishing license issued by the State of Idaho. Fishing regulations vary on the Selway depending on time of year and location (main stream, tributary or distance up tributary). It is the policy of Northwest River Company to inform all guests that all fishing on the Selway and its tributaries is catch and release with artificial lures only and single barbless hooks. This is to be done as part of the NW Newsletter, Q&A literature sent to prospective clients, pre-trip orientation talk in Missoula, river side pre-launch talk and in any one on one questioning by fishing guests.

Take-Out Procedures - Like the launch area, we need to be respectful of others at the take-out site. Keep all our gear together and leave room in case another party shows up to share the site. Our first priority is feeding the guests and getting them comfortably on the bus for the return trip, them complete the packing of gear for the trip back to Missoula.

SAFETY

Risk Management - Through the procedures outlined in this plan and the experience of our staff, Northwest River Company seeks to manage the risk of a wilderness trip on the Selway River. Northwest River Company cannot eliminate the inherent risk of travel by boat in a wilderness setting with numerous naturally occurring hazards. Recognizing the inherent risk of wilderness and that it is to be managed as a natural environment, untrammeled by man, it is not consistent to alter the wilderness environment to minimize risk, or to hold the outfitter permit holder responsible for abatement of naturally occurring wilderness risks. These risks are part of the natural environment that may not be abated, nor shall the outfitter permit holder be held liable or responsible for such risks or abatement, notwithstanding any clause of the special use permit of which this operating plan is made a part.

Accident Procedures - All guides are expected to be familiar with the following items located in a waterproof bag on the lid of the safety gear box -

"Guidelines For Handling An Accident" provided by the Northwest River Company insurance carrier (Albany Insurance);
Accident Report Forms;
Witness Statements;
Emergency Phone List;
Trip Log Forms;
Landing Zone Guide for Life Flight evacuations.

Evacuation Sites And Radios - Private inholdings and administrative sites are manned intermittently. Backcountry radio access is not guaranteed at any site. In an emergency requiring communication or evacuation, these sites will be considered

- Running Creek Ranch
- North Star Ranch
- Shearer Landing Strip and Guard Station
- Selway Lodge
- Moose Creek Ranger Station

Evacuation Procedures - If motorized evacuation is necessary within a wilderness boundary, approval from the Forest Service will be sought if possible. If prior approval is not feasible, the Forest Service will be notified as soon as possible after the evacuation. If it is necessary to fly a guest out due to injury or illness, see Accident Procedures above. If a guide must leave the trip, two options may be considered -

1) Get a message out to Doug or Mike to replace the guide.
2) Leave one boat and consolidate the trip to three boats, Notify the Forest Service of the location and plans for removal of the boat that is left.

As I was preparing my operating plan for the next year, I took a small disposable camera on the river and documented several activities, then included the photos in the plan. We use pictures of:

1. Hauling out trash left by others
2. Human waste disposal system
3. Straining waste water
4. Dispersing firewood
5. Cleaning up an old fire ring
6. Water filtration system
7. Propane cook stoves

In the final copy, we used color copies of this page to add a more professional, colorful look to the plan.

Plan Development Process

Putting together a good plan is easier than most people think. You already have most of the components. It is just a matter of organizing them and building on them. I make extra exhibits at the back of the plan out of many of the common items I commonly use in our operation –

- Pre-trip information sent to guests
- Gauge reading chart for the river
- Equipment and repair kit list

Here are the steps as you begin to formulate ideas of what to include –

1. Make a list or outline,
2. Don't forget to sit down with your partner and guides to get their input,
3. You don't have to be computer literate to make it look nice. Most communities have well equipped copy and printing companies, like Kinkos, that have all you can possibly need in the way of computers, scanners, binding and reproduction of color photos. I spent about $120 for 12 finished copies with a card stock cover, spiral bound and color photos in the back. A little extra effort can go a long way to make your plan appear neat, organized, and professional looking.
4. Do a draft copy in black and white;
5. Contact your ranger and set up a time to review it and seek input;
6. Send the ranger an advance copy prior to the meeting;
7. Honestly seek their input - include it in the final draft;
8. Send your final draft for verbal approval;
9. Do a final master copy with color photos, binding, cover, signatures;
10. Distribute the finished product.

Why did I make 12 finished copies? I thought through all the contacts I have with agency persons before, during and after a trip and made sure each one had a copy. There is a backcountry ranger station we pass on the river that is manned by volunteers throughout the summer. I placed a copy on their reading shelf and came back later to find it dog-eared from use.

Copies go to our guides and we keep a waterproof edition for camp.

Fair Evaluation

Your operating plan is an insurance policy for fairness in the evaluation process. It literally gives you the opportunity to help write the ground rules. You are setting the expectations of the people who will ultimately judge your performance. Don't forget, be frank - you will make mistakes.

How Will You Be Evaluated?

Different agencies in different areas will review your operations in different ways, but they will all have some fundamentals in common. You should ask your manager for information on the evaluation process. Reviewing the process will help you understand what is expected of you. You can use this understanding in the development of your operating plan and in the training and information you give your guides. Think of it as a pre-exam review by a good teacher who may not give you the test up front, but does take the time to review the course and let you know what is important.

Here are some categories that are in an evaluation form in Region One of the U.S. Forest Service. As you can see, most, if not all, are considered in one way or the other in this course. If we as outfitters can derive a clear understanding, in common with our manager, of what is expected of us and how we are going to achieve it, there is much less room for disagreement or disappointment when it comes time to have you operation evaluated and your permit renewed.

General Categories

Service to the Public
Compliance with permit conditions
Compliance with operating plan
Equipment/Livestock
Safety
Resource Protection
Major incidents, if any

Service to the Public

Are rates, services and accommodations provided as represented?
Did holder show courtesy to non-outfitted public?
Did clients receive educational and interpretive information about area?

Compliance With Permit

Was application, insurance, signing and payment timely and properly completed?
Were use reports submitted accurately and on time?

Compliance With Operating Plan

Holder participation in operating plan preparation.
Holder's employees knowledgeable of operating plan contents.
Adherence to operating plan, schedules and itineraries - notification of changes?
Adherence to camp management plans, permitted structures, use of sites?

Equipment / Livestock

Is equipment as advertised?
Is equipment safe and well-maintained?
Are boats, aircraft or vehicles licensed or certified when required?
Are livestock treated properly and humanely?

Safety

Does holder exhibit a concern for health and safety of guests, employees and general public?
Are staff current with first aid and knowledge of safety procedures?
Do guests receive a safety orientation to the operation?

Resource Protection

Does holder use minimum impact techniques?
Is operation clean and orderly?
Compliance with fire regulations, fish & game regulations, protection of cultural resources.
Following appropriate procedures for human waste management and garbage.
Protection of other resources.
Protection of threatened and endangered species.

Major Incidents, If Any

This category relates to handling of unusual incidents, accidents, death, significant resource damage, serious violations of law, or confrontations.

Other

Special efforts worthy of commendation.
Prior performance deficiencies, if any, corrected.

Scootch's View

Scootch Pankonin is the Washington representative of America Outdoors. Over the years, she has been involved in working out conflicts and concerns raised by both outfitters and managers in their relationships and operations. I would like to end this course with a few pointers from Scootch on the operating plan.

- Operating plans should be built around a series of outcomes;
- Agencies should evaluate outcomes, not process and procedure;
- Process and procedure are individual company's ways of getting to the outcome;
- Operating plans should be a series of subtotals, each an achievable, measurable point of evaluation;
- Plan details of how we get to each point is our agreement on what we are

going to do to get there -- with options;

- Operations in natural, environments are inherently uncontrollable;
- Plans and processes must reflect alternate plans and acceptance of some errors and mistakes in getting to the final outcome - a safe, enjoyable trip.

Conclusion

I'm going to assume that most outfitters and guides who read this are motivated to be in this business by feelings similar to mine. I want to spend as much time as possible doing the things I like – running the river, enjoying the backcountry, sharing good times with others who enjoy nature. You can develop a good operating plan using the guidelines set forth here. Feel free to copy verbatim or selectively edit any portion. It should only take a few hours over a few days to develop a finished product. The end result will be more time over the period of your permit doing the things you like to do.

United States Department of the Interior
Bureau of Land Management
Wyoming State Office

Special Recreation Permit Trip Log

[1]Permit Area: _____

Name: _____ Reporting Period: _____ to _____

Company Name: _____ Page _____ of _____ pages

A Trip Log must be completed and submitted as specified to support requests for fee reductions and deductions for non-public land use. Use as many copies as needed. Please review each of your submissions carefully; this information will be used by BLM to verify use fee deductions. Use dates and locations are very important. All trips involving public lands must be logged on this sheet when required by your permit.

Entry Onto Public Lands			Exit Off of Public Lands			Use Fee Deduction Data	
Date (Day)	Time (Hour)	Location[1]	Date (Day)	Time (Hour)	Location[1]	Total Time on Public Lands (hours)	Percent of Time on (BLM) Public Land (%)[2]
TOTALS							[3]

[1] Identify location area by species/hunt area, river stretch, or other identifying characteristics.
[2] Total non-public land use adjustment claimed for each day.
[3] AVERAGE % (add each trip percent of time on BLM lands and divide by the number of entries to obtain the average percent of total time).

I certify that the information provided by me in this Trip Log is true, accurate, and complete to the best of my knowledge.

_____ **Permittee's Signature** _____ **Date**

Appendix C- 16

Audit of Commercial Special Recreation Permits

Schedule, General Provisions, Specifications, and Drawings

(Not the original cover)

Issuing Office

Bureau of Land Management
2515 Warren Avenue
P.O. Box 1828
Cheyenne, Wyoming 82003

SOLICITATION, OFFER AND AWARD

1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350) ▶ RATING

PAGE 1 OF 38 PAGES

2. CONTRACT NO.

3. SOLICITATION NO.

4. TYPE OF SOLICITATION: ☐ SEALED BID (IFB) ☒ NEGOTIATED (RFP)

5. DATE ISSUED

6. REQUISITION/PURCHASE NO.

ISSUED BY CODE

Bureau of Land Management
2515 Warren Avenue
P.O. Box 1828
Cheyenne, WY 82003

8. ADDRESS OFFER TO (If other than Item 7)

Same as Item 7

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

SOLICITATION

9. Sealed offers in original and _____ copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in _____ until 4:30P.M. (Hour) local time _____ (Date)

CAUTION — LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-10. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL: ▶ A. NAME | B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS)

11. TABLE OF CONTENTS

(V)	SEC.	DESCRIPTION	PAGE(S)
		PART I — THE SCHEDULE	
X	A	SOLICITATION/CONTRACT FORM	1
X	B	SUPPLIES OR SERVICES AND PRICES/COSTS	3
X	C	DESCRIPTION/SPECS./WORK STATEMENT	4
	D	PACKAGING AND MARKING	
X	E	INSPECTION AND ACCEPTANCE	6
X	F	DELIVERIES OR PERFORMANCE	7
X	G	CONTRACT ADMINISTRATION DATA	8
X	H	SPECIAL CONTRACT REQUIREMENTS	9
		PART II — CONTRACT CLAUSES	
X	I	CONTRACT CLAUSES	11
		PART III — LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.	
X	J	LIST OF ATTACHMENTS	25
		PART IV — REPRESENTATIONS AND INSTRUCTIONS	
X	K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	27
X	L	INSTRS., CONDS., AND NOTICES TO OFFERORS	32
X	M	EVALUATION FACTORS FOR AWARD	34

OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within 30 calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52-232-8) ▶	10 CALENDAR DAYS	20 CALENDAR DAYS	30 CALENDAR DAYS	CALENDAR DAYS
	N/A %	N/A %	N/A %	N/A %

14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated:

AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME AND ADDRESS OF OFFEROR — CODE — FACILITY

16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)

Shareholder

15B. TELEPHONE NO. (Include area code) (307) 635-8000

15C. ☐ CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.

17. SIGNATURE

18. OFFER DATE

AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED

Item 1

20. AMOUNT

21. ACCOUNTING AND APPROPRIATION

22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION:

☐ 10 U.S.C. 2304(c)( ) ☐ 41 U.S.C. 253(c)( )

23. SUBMIT INVOICES TO ADDRESS SHOWN IN ▶ (4 copies unless otherwise specified) ITEM

24. ADMINISTERED BY (If other than Item 7) CODE

25. PAYMENT WILL BE MADE BY CODE

Bureau of Land Management
P.O. Box 1828
Cheyenne, WY 82003

26. NAME OF CONTRACTING OFFICER (Type or print)

CONTRACTING OFFICER WY011

27. UNITED STATES OF AMERICA (Signature of Contracting Officer)

28. AWARD DATE

IMPORTANT — Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice.

NSN 7540-01-152-8064
PREVIOUS EDITION NOT USABLE

BIDDER SIGN AND RETURN THIS COPY

STANDARD FORM 33 (REV. 4-85)
Prescribed by GSA
FAR (48 CFR) 53.214(c)

GPO : 1985 O - 469-793

SIGNATURE EXTENSION PAGE TO SF-33

All persons involved in a partnership and/or a joint venture are REQUIRED to sign as Contractors. Spaces are provided below for additional signatures to this contract. Attach additional pages as necessary.

By_____
Title_____
Address_____
_____

By_____
Title_____
Address_____
_____

By_____
Title_____
Address_____
_____

By_____
Title_____
Address_____
_____

By_____
Title_____
Address_____
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By_____
Title_____
Address_____
_____

By_____
Title_____
Address_____
_____

By_____
Title_____
Address_____
_____

CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED

PAGE 3

NAME OF OFFEROR OR CONTRACTOR

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	AUDIT COMMERCIAL SPECIAL RECREATION PERMITS				
	SCHEDULE OF ITEMS				
	Furnish labor, supervision, equipment, transportation, operating supplies, and incidentals necessary to perform all work described herein in accordance with the attached specifications.				
1.	Conduct an audit of BLM Wyoming Commercial Special Recreation Permits See section "FEES" for details	1	ea	$_____	
	TOTAL BID				$_____
	Contract Time				
	See Section F.				
	Signature/Date				
	Type or Print Name and Title				
	Telephone Number				
	NOTE: If offeror does not have a telephone, provide number where they may be reached within twenty-four hours and in whose name the telephone is listed.				

SECTION C

Description/Specifications

1. Purpose: The purpose of this contract is to acquire the services of a certified public accountant to audit a select sample of Bureau of Land Management (BLM) commercial special recreation permits (SRPs) to ascertain if the federal government is receiving its share (3% of adjusted gross annual receipts) of permittee's customers payments. The audit would consist of an examination of the outfitter's receipts for services rendered under the SRP, including any discounts and deductions, and a comparison of the fee information submitted by the outfitter.

2. General Requirements: The Contractor shall furnish all labor, equipment, materials, transportation, supervision, and incidentals necessary to complete the audit.

A. The contractor shall make arrangements and meet with both the local BLM field office representative administering the permit and the permittee. Audits shall be conducted in locations where the applicable permittee business documents are or can be arranged to be located. The SRP file shall be reviewed by the contractor and an audit of the 1992 use season performed. The permittee shall make his records of customer payments, deductions for transportation and lodging available to the contractor for purposes of this audit. Verification that total permit fees paid to the government including deductions and discounts for fee reduction are substantiate with documentation will be made. All record keeping deficiencies (for both the permittee and the BLM) shall be identified.

B. All audit reviews accomplished under this contract shall be in conformance with 43 CFR 8372.1-1 and BLM Handbook H-8372-1, "Special Recreation Permits for Commercial Use". The government will provide this information to the contractor.

C. An "Audit Plan" shall be prepared by the contractor and submitted to the BLM for approval prior to conducting the audit.

D. In order to obtain approximately 90% level of confidence in the results of the audit, a minimum of 25 SRP's audit reviews shall be conducted. The BLM will randomly select and furnish the names, addresses and phone numbers of the permittee to be audited to the contractor. This audit will be preformed throughout the state of Wyoming. The contractor is responsible for arranging meetings with permittees and obtaining permission for entrance across private lands to inspect permittee information and records.

E. A "Final Report" shall be prepared that presents the results of audit and recommendations for improved SRP administration. The content of the report shall, as a minimum contain information needed to substantiate the conclusions. Specified items or topics not relevant to the audit may be omitted. The Government will furnish all necessary SRP records to the contractor for audit purposes. Any discrepancies noted that would lead to adjustments of fees due to the Government shall be identified by the contractor for each outfitter audited.

3. Technical Requirements: The contractor shall be: (1) A State of Wyoming Certified Public Accountant, (2) Have had experience performing similar audit work, and (3) Belong to a recognized professional accounting or auditing organization.

4. This audit assignment is performed for, and is the property of the BLM, Wyoming. The audit conclusions are not to be released to anyone other than

the Contracting Officer.

5. The audit "Final Report" shall contain the following items:

A. Part I-INTRODUCTION

1. Title Page shall include: (a) title of this project; (b) name and address of the individual, firm or corporation making the audit report and; (c) the report date.

2. Table of Contents shall be arranged in accordance with the permittees audited by the appropriate BLM District Office administering the permit. Corresponding page numbers shall be included.

3. Statement of Assumptions and Limiting Conditions. The contractor shall include in the report a statement of assumptions and limiting conditions related to the confidence of accuracy, and any other limiting factors of the audit.

B. PART II-FACTUAL DATA

1. Purpose of the Audit. This shall state that the purpose of the audit is to ensure the BLM is receiving three percent of the permittee gross annual receipts.

2. Outfitter Accounting Methods. This shall contain a detailed account of each trip conducted under the BLM permit showing trip length, number of clients, price charged per client, deductions and discounts utilized, fees collected and any additional information that would lead the BLM to pursue the collection of additional fees.

C. PART III-ANALYSIS AND CONCLUSIONS

1. Data Analysis. This section shall contain the contractors analysis of audit results and conclusions including a specific discussion on the BLM's effectiveness in obtaining it's fair share of permittee profits in exchange for the permittee opportunity to use BLM administered public lands for commercial purposes.

2. SRP Administration Improvement Recommendations. This shall include all recommendations and suggestions for improving the way that the BLM could improve it's fee collection system within existing authorities.

SECTION E

Inspection and Acceptance

1. 52.246-04 INSPECTION OF SERVICES--FIXED-PRICE (FEB 1992)

(a) Definitions. "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service or (2) terminate the contract for default.

2. Acceptance

Final acceptance of all items/services to be delivered under this contract shall be the responsibility of the Contracting Officer. Quality of work is subject to verification by the Contracting Officer and final payment to be withheld pending completion of any necessary rework by the Contractor.

SECTION F

Deliveries or Performance

1. Schedule of Performance Deliveries

A. Upon receipt of the Notice to Proceed, the Contractor shall have twenty (20) calendar days to contact the permittees to be audited and the BLM individuals responsible for administering the permittees permits.

B. The Contractor will compete the individual permittee audits with forty (40) calendar days after contacting permittees.

C. A draft summary report will be submitted to the BLM no later than fourteen calendar 914) days after the individual audits are concluded. The BLM, shall review the summary report document and provide written comments to the Contractor with in seven (7) calendar days after receipt of the draft summary report.

D. The Contractor shall submit a six (6) copies of the final written report to the BLM within seven (7) calendar days after receipt of the BLM written comments.

E. Total contract performance time shall not exceed eighty eight (88) calendar days.

2. Delivery Place

The Contractor shall notify the Contracting Officer three days prior to delivery. The Contractor shall deliver all required mateials to the following address:

Bureau of Land Management
ATTN:
2515 Warren Avenue
P.O. Box 1828
Cheyenne, WY 82003

SECTION G

Contract Administration Data

1. The purchasing office representative responsible for the overall administration of this contract is:

Contracting Officer
Bureau of Land Management
Wyoming State Office
2515 Warren Avenue
Cheyenne, WY 82001

2. Contracting Officer's Representative (COR). After award, a Bureau of Land Management employee will be designated as the COR for the purpose of administering the technical aspects of this procurement. The COR is authorized to clarify technical requirements and to review and approve work which is clearly within the scope of work. He/she is NOT authorized to issue changes pursuant to the changes clause or to in any other way modify the scope of work. If this contract contains a technical direction clause, the COR is designated as the official authorized to issue that technical direction.

SECTION H

Special Contract Requirements

1. Pre-Work Conference

Immediately after award, a pre-work conference shall be held between the Contractor and the Contracting Officer. The date and time of the meeting shall be determined by the Contracting Officer and the Contractor in consultation. Discussions relative to contract requirements and the specific responsibilities of each party will be conducted at this time.

2. Notice to Proceed

a. After award of contract, the Contracting Officer's Representative (COR) will issue to the Contractor a written notice to proceed. Issuance of such notice may be delayed for a reasonable time if adverse soil, vegetative, or climatological conditions exist.

b. The Contractor shall perform no preliminary work prior to receipt of the written notice to proceed.

3. Work Hours

Work hours under this contract shall be limited to one-half hour before sunrise to one-half hour after sunset each day. No work will be done on Saturday, Sunday, or legal National Holidays unless authorized by the Contracting Officer.

4. Key Personnel

a. The offerors are required to identify in their proposals all personnel whose participation will determine the quality of the final products. Prior to diverting any of the specified individuals to other programs, the Contractor shall notify the Contracting Officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion may be made by the Contractor without the written consent of the Contracting Officer. The list of key personnel may be amended from time to time during the course of the contract to either add or delete personnel as appropriate, by mutual agreement of the parties.

b. The Contractor shall notify the Contracting Officer immediately in the event that the continued commitment of key personnel is beyond the control of the Contractor and shall make recommendations for the substitution of another person.

5. Confidentiality of Information

Specific site locational data, which would allow location of cultural resource sites inventoried under this contract, shall not be released by the Contractor to anyone except the BLM without the written consent of BLM. This restriction is required to minimize vulnerability of cultural resource sites to vandalism.

SECTION I

Contract Clauses

1. 52.252-02 CLAUSES INCORPORATED BY REFERENCE (JUN 1988)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1) CLAUSES

52.202-01	DEFINITIONS	APR 1984
52.203-01	OFFICIALS NOT TO BENEFIT	APR 1984
52.203-03	GRATUITIES	APR 1984
52.203-05	COVENANT AGAINST CONTINGENT FEES	APR 1984
52.203-07	ANTI-KICKBACK PROCEDURES	OCT 1988
52.212-12	SUSPENSION OF WORK	APR 1984
52.215-33	ORDER OF PRECEDENCE	JAN 1986
52.219-06	NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE	APR 1984
52.219-08	UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS	FEB 1990
52.222-03	CONVICT LABOR	APR 1984
52.222-26	EQUAL OPPORTUNITY	APR 1984
52.222-35	AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS	APR 1984
52.222-36	AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS	APR 1984
52.223-06	DRUG-FREE WORKPLACE	JUL 1990
52.225-11	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	MAY 1992
52.232-01	PAYMENTS	APR 1984
52.232-08	DISCOUNTS FOR PROMPT PAYMENT	APR 1989
52.232-11	EXTRAS	APR 1984
52.232-23	ASSIGNMENT OF CLAIMS	JAN 1986
52.233-01	DISPUTES, ALTERNATE 1	APR 1984
52.233-03	PROTEST AFTER AWARD	AUG 1989
52.243-01	CHANGES--FIXED PRICE-ALTERNATE 1	APR 1984
52.246-20	WARRANTY OF SERVICES INSERT, "WITHIN 30 DAYS AFTER DATE OF ACCEPTANCE BY THE GOVERNMENT."	APR 1984
52.249-04	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (SERVICES) (SHORT FORM)	APR 1984
52.249-08	DEFAULT (FIXED PRICE--SUPPLY AND SERVICE)	APR 1984

2. FAR CLAUSES IN FULL TEXT

52.222.04 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT--OVERTIME COMPENSATION (MAR 1986)

(a) Overtime requirements. No Contractor or subcontractor for any part of the contract work which may require or involve the employment of laborers or mechanics (see Federal Acquisition Regulation (FAR) 22.300) shall require or

permit any such laborers or mechanics in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1-1/2 times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in paragraph (a) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions set forth in paragraph (a) of this clause in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

(c) Withholding for unpaid wages and liquidated damages. The Contracting Officer shall upon his or her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

(d) Payrolls and basic records. (1) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of contract work and shall preserve them for a period of 3 years from the completion of the contract for all laborers and mechanics working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Nothing in this paragraph shall require the duplication of records required to be maintained for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The records to be maintained under paragraph (d)(1) of this clause shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit such representatives to interview employees during working hours on the job.

(e) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the provisions set forth in paragraphs (a) through (e) of this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (e) of this clause.

52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED (MAY 1989)

(a) Definitions. "Act", as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.).

"Contractor," as used in this clause or in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

"Service employee," as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) Applicability. This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.

(c) Compensation. (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2)(i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) Adjustment of Compensation. If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) Obligation to Furnish Fringe Benefits. The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) Minimum Wage. In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) Successor Contracts. If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employees would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53

Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) Notification to Employees. The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) Safe and Sanitary Working Conditions. The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) Records. (1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Act--

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) Pay Periods. The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(k) Withholding of Payments and Termination of Contract. The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) Subcontracts. The Contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) Collective Bargaining Agreements Applicable to Service Employees. If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) Seniority List. Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) Rulings and Interpretations. Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.

(p) Contractor's Certification. (1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) Variations, Tolerances, and Exemptions Involving Employment. Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business.

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued

under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) Tips. An employee engaged in an occupation in which the employee customarily and regularly receives more than $30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations 29 CFR Part 531. However, the amount of credit shall not exceed $1.34 per hour beginning January 1, 1981. To use this provision--

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(t) Disputes Concerning Labor Standards. The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)

In compliance with the Service Contract Act of 1965, as amended, and the regulation of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

THIS STATEMENT IS FOR INFORMATION ONLY: IT IS NOT A WAGE DETERMINATION

Employee Class	Monetary Wage	Fringe Benefits
Accountant	$15.69	Life and Health Insurance partly paid by the Government Retirement Annual and Sick Leave

52.232-25 PROMPT PAYMENT (SEP 1992)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. Definitions of pertinent terms are set forth in 32.902. All days referred to in this clause are calendar days, unless otherwise specified. The term "foreign vendor" means an incorporated concern not incorporated in the United States, or an unincorporated concern having its principal place of business outside the United States.

(a) Invoice Payments.

(1) For purposes of this clause, "invoice payment" means a Government disbursement of monies to a Contractor under a contract or other authorization for supplies or services accepted by the Government. This includes payments for partial deliveries that have been accepted by the Government and final cost or fee payments where amounts owed have been settled between the Government and the Contractor.

(2) Except as indicated in subparagraph (a)(3) and paragraph (c) of this clause, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(i) The 30th day after the designated billing office has received a proper invoice from the Contractor.

(ii) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor. On a final invoice where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement. However, if the designated billing office fails to annotate the invoice with the actual date of receipt, the invoice payment due date shall be deemed to be the 30th day after the Contractor's invoice is dated, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(3) The due date on contracts for meat, meat food products, or fish; contracts for perishable agricultural commodities, contracts for dairy products, edible fats or oils, and food products prepared from edible fats or oils, and contracts not requiring the submission of an invoice shall be as follows:

(i) The due date for meat and meat food products, as defined in Section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)) and further defined in Pub. L. 98-181 to include any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, will be as close as possible to, but not later than, the 7th day after product delivery.

(ii) The due date for fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), will be as close as possible to, but not later than, the seventh day after product delivery.

(iii) The due date for perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(44)), will be as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(iv) The due date for dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, will be as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received.

(v) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(4) An invoice is the Contractor's bill or written request for payment under the contract for supplies delivered or services performed. An invoice shall be prepared and submitted to the designated billing office specified in the contract. A proper invoice must include the items listed in subdivisions (a)(4)(i) through (a)(4)(viii) of this clause. If the invoice does not comply with these requirements, then the Contractor will be notified of the defect within 7 days after receipt of the invoice at the designated billing office (3

days for meat, meat food products, or fish, and 5 days for perishable agricultural commodities, edible fats or oils, and food products prepared from edible fats or oils). Untimely notification will be taken into account in the computation of any interest penalty owed the Contractor in the manner described in subparagraph (a)(6) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date.

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number and mailing address of person to be notified in event of a defective invoice.

(viii) Any other information or documentation required by other requirements of the contract (such as evidence of shipment).

(5) An interest penalty shall be paid automatically by the Government, without request from the Contractor, if payment is not made by the due date and the conditions listed in subdivisions (a)(5)(i) through (a)(5)(iii) of this clause are met, if applicable. An interest penalty shall not be paid on contracts awarded to foreign vendors outside the United States for work performed outside the United States.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed and there was no disagreement over quantity, quality, or contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(6) The interest penalty shall be at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (42 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority. This rate is referred to as the "Renegotiation Board Interest Rate," and it is

published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice payment amount and be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the contractor of a defective invoice within the periods prescribed in subparagraph (a)(4) of this clause, then the due date on the corrected invoice will be adjusted by subtracting the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties, if requested by the Contractor.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or contractor compliance with a contract provision. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days (3 days for meat, meat food products, or fish, and 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils).

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than 1 year. Interest penalties of less than $1.00 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(7) An interest penalty shall also be paid automatically by the designated payment office, without request from the Contractor, if a discount

for prompt payment is taken improperly. The interest penalty will be calculated as described in subparagraph (a)(6) of this clause on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the contractor is paid.

(8) If this contract was awarded on or after October 1, 1989, a penalty amount, calculated in accordance with regulations issued by the Office of Management and Budget, shall be paid in addition to the interest penalty amount if the Contractor--

(i) Is owed an interest penalty;

(ii) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(iii) Makes a written demand, not later than 40 days after the date the invoice amount is paid, that the agency pay such a penalty.

(b) Contract Financing Payments.

(1) For purposes of this clause, "contract financing payment" means a Government disbursement of monies to a Contractor under a contract clause or other authorization prior to acceptance of supplies or services by the Government. Contract financing payments include advance payments, progress payments based on cost under the clause at 52.232-16, Progress Payments, progress payments based on a percentage or stage of completion (32.102(e)(1)) other than those made under the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, or the clause at 52.232-10, Payments Under Fixed-Price Architect-Engineer Contracts, and interim payments on cost type contracts.

(2) For contracts that provide for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the 30th day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(3) For advance payments, loans, or other arrangements that do not involve recurrent submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(4) Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

SECTION J

List of Documents, Exhibits, and Other Attachments

Attachment A **Wage Determination and Fringe Benefits**

NO

WAGE

RATE

AVAILABLE

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE			PAGE OF PAGES 1 | 1
2. AMENDMENT/MODIFICATION NO. 001	3. EFFECTIVE DATE (See Block 16C)	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. *(If applicable)*
6. ISSUED BY CODE U.S. Department of Interior Bureau of Land Management P.O. Box 1828 2515 Warren Avenue Cheyenne, WY 82003		7. ADMINISTERED BY *(If other than Item 6)* CODE	

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, county, State and ZIP Code)* CODE FACILITY CODE	(✓)	9A. AMENDMENT OF SOLICITATION NO.
	X	9B. DATED *(SEE ITEM 11)*
		10A. MODIFICATION OF CONTRACT/ORDER NO.
		10B. DATED *(SEE ITEM 13)*

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☒ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended, ☒ is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning 1 copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA *(If required)*

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

(✓)	
	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: *(Specify authority)* THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES *(such as changes in paying office, appropriation date, etc.)* SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
	D. OTHER *(Specify type of modification and authority)*

E. IMPORTANT: Contractor ☐ is not, ☐ is required to sign this document and return _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION *(Organized by UCF section headings, including solicitation/contract subject matter where feasible.)*

AUDIT OF COMMERCIAL SPECIAL RECREATION PERMITS

The purpose of this amendment is to replace Sections C (Pages 4 and 5) and F (Page 7) with new Sections C and F, enclosed herewith as Attachment 1 and 2.

Enclosures: Attachment 1 (Section C) and Attachment 2 (Section F)

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER *(Type or print)*		16A. NAME AND TITLE OF CONTRACTING OFFICER *(Type or print)*	
CONTRACTOR/OFFEROR *(Signature of person authorized to sign)*	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA BY _____ *(Signature of Contracting Officer)*	16C. DATE SIGNED

SECTION C

Description/Specifications

1. Purpose: The purpose of this contract is to acquire the services of a professional certified public accountant to audit a select sample of Bureau of Land Management (BLM) commercial special recreation permits (SRPs) to ascertain if the federal government is receiving its fair share (3% of adjusted gross annual receipts) of permittee's customers payments. The audit would consist of an examination of the outfitter's receipts for services rendered under the SRP, including any discounts and deductions, and a comparison of the fee information submitted by the outfitter.

2. General Requirements: The Contractor shall furnish all labor, equipment, materials, transportation, supervision, and incidentals necessary to complete the audit.

a. The contractor shall make arrangements and meet with both the local BLM field office representative administering the permit and the permittee. Audits shall be conducted in locations where the applicable permittee business documents are or can be arranged to be located. The SRP file shall be reviewed by the contractor and an audit of the 1992 use season performed. The permittee shall make his records of customer payments, deductions for transportation and lodging available to the contractor for purposes of this audit. Verification that total permit fees paid to the government including deductions and discounts for fee reduction are substantiate with documentation will be made. All record keeping deficiencies (for both the permittee and the BLM) shall be identified.

b. All audit reviews accomplished under this contract shall be in conformance with 43 CFR 8372.1-1 and BLM Handbook H-8372-1, "Special Recreation Permits for Commercial Use". The government will provide this information to the contractor.

c. An Audit Plan shall be prepared by the contractor and submitted to the BLM for approval prior to conducting the audit.

d. The contractor will specify the audit sample size in order to obtain approximately 90% level of confidence in the results of the audit. The BLM will randomly select and furnish the names, addresses and phone numbers of the permittee to be audited to the contractor. This audit will be preformed throughout the state of Wyoming. The contractor is responsible for arranging meetings with permittees to inspect and verify permittee financial information and records.

e. A Final Report shall be prepared that presents the results of audit and recommendations for improved SRP administration. The content of the report shall, as a minimum contain information needed to substantiate the conclusions. Specified items or topics not relevant to the audit may be omitted. The Government will furnish all necessary SRP records to the contractor for audit purposes. Any discrepancies noted that would lead to adjustments of fees due to the Government shall be identified by the contractor for each outfitter audited.

3. Technical Requirements: The contractor shall be: (1) A State of Wyoming Certified Public Accountant, (2) Have had experience performing similar audit work. Membership association to a recognized professional accounting or auditing organization is desired but not required.

RFP
Amendment 1
Attachment 1-1

4. This audit assignment is performed for, and is the property of the BLM, Wyoming. The audit conclusions are not to be released to anyone other than the Contracting Officer.

5. The audit "Final Report" shall contain the following items:

A. Part I-INTRODUCTION

1. Title Page shall include: (a) title of this project; (b) name and address of the individual, firm or corporation making the audit report and; (c) the report date.

2. Table of Contents shall be arranged in accordance with the permittees audited by the appropriate BLM District Office administering the permit. Corresponding page numbers shall be included.

3. Statement of Assumptions and Limiting Conditions. The contractor shall include in the report a statement of assumptions and limiting conditions related to the confidence of accuracy, and any other limiting factors of the audit.

B. PART II-FACTUAL DATA

1. Purpose of the Audit. This shall state that the purpose of the audit is to ensure the BLM is receiving three percent of the permittee gross annual receipts.

2. Outfitter Accounting Methods. This shall contain a detailed account of each trip conducted under the BLM permit showing trip length, number of clients, price charged per client, deductions and discounts utilized, fees collected and any additional information that would lead the BLM to pursue the collection of additional fees.

C. PART III-ANALYSIS AND CONCLUSIONS

1. Data Analysis. This section shall contain the contractors analysis of audit results and conclusions including a specific discussion on the BLM's effectiveness in obtaining it's fair share of permittee profits in exchange for the permittee opportunity to use BLM administered public lands for commercial purposes.

2. SRP Administration Improvement Recommendations. This shall include all recommendations and suggestions for improving the way that the BLM could improve it's fee collection system within existing authorities.

SECTION F

DELIVERIES OR PERFORMANCE

1. **Schedule of Performance Deliveries**

a. Upon receipt of the Notice to Proceed, the Contractor shall have 20 calendar days to contact the permittees to be audited and the BLM individuals responsible for administering the permittees permits.

b. The Contractor will complete the individual permittee audits within 50 calendar days after contacting permittees.

c. A draft summary report will be submitted to the BLM no later than 14 calendar days after the individual audits are concluded. The BLM, shall review the summary report document and provide written comments to the Contractor within 14 calendar days after receipt of the draft summary report.

d. The Contractor shall submit a six (6) copies of the final written report to the BLM within 7 calendar days after receipt of the BLM written comments.

e. Total contract performance time shall not exceed 105 calendar days.

2. **Delivery Days**

The Contractor shall notify the Contracting Officer 3 days prior to delivery. The Contractor shall deliver all required materials to the following address:

Bureau of Land Management
ATTN:
2515 Warren Avenue
P.O. Box 1828
Cheyenne, WY 82003

Appendix C- 17

Lower Salmon River
Recreation Area Management Plan
Review and Revision

Introduction

The Lower Salmon River Recreation Area Management Plan (Hammer Creek to the Snake River) completed in 1983 was reviewed in 1988 and 1989 to determine if use patterns and visitor needs and expectations had changed sufficiently to warrant a revision to the plan. Review measures included an internal review by District and Resource Area Office Staff, external review by the Lower Salmon River Ad Hoc Advisory Committee, and data gathering and analysis utilizing a comprehensive visitor survey.

Process

The visitor survey, conducted in 1988 was a repeat of survey completed in 1979 and 1981. The survey provided a detailed visitor profile, including expectations, satisfaction with the resource and its management, and expressed desire for changes in management. Since the survey repeated earlier surveys, trend data as well as new data was generated. The information from the visitor surveys formed the basis of the discussions and subsequent recommendations of the Lower Salmon River Ad Hoc Advisory Group.

The Lower Salmon River Ad Hoc Advisory Group is a standing advisory panel formed during the development of the original Management Plan for the Lower Salmon. The group consists of the following: Two representatives of commercial power boat interests (Dave Bream and Darrell Bentz); two representatives of commercial float boating interests (Frogg Stewart and Curt Chang); two representatives of non-commercial floaters (Dave Baird and John Dillard); one representative of non-commercial power boaters and personal watercraft users (Rich Rogers); one representatives of private landowners (Idaho County Commissioner George Enneking); and one representative of the environmental community (John Fisher).

This group met four times between February 1990, and March 1991. The group reviewed the existing plan and survey data and made recommendations for changes or revisions. These recommendations were then released for public comment via direct mailings and news releases. After the public comment period, the group reviewed the comments received and refined or revised their recommendations based upon both the public input and the input received from their constituencies. The group reached consensus on all recommendations for changes to the plan. (The group was unable to reach consensus on only one issue - that of commercial jet-backs.) This issue was also one that received the greatest amount of public input. Since this is a Special Recreation Permit issue, it will be addressed through permit stipulations rather than in the management plan. However, the public input received will be utilized in the decision, and the Advisory Group will be consulted before any implementation.

Recommendations

The Advisory Group and Resource Area staff recommend the following changes in existing management actions and/or implementation of new management actions. A brief summary of the discussions and reasons for change is included with each recommendation.

Management Action 1A.1 - Control Season

Existing Management Action - control season established from July 1 to September 15.

Recommended Change - establish control season from July 1 through Labor Day.

Discussion: This change represents a better reflection of current and existing use patterns. There are clear differences in visitor motivations and desired experience during the summer season compared to the remainder of the year. After Labor Day, primary use shifts from floating to fishing and hunting via poverboat.

Management Action 1A.2 - Boater Registration

Existing Management Action - Non-limiting pre-trip registration will be required for all boaters on the Lower Salmon if voluntary registration falls below eighty percent compliance.

Recommended Change - Institute a non-limiting self-issue permit system for all boaters on the Lower Salmon. The permit will be required for all boaters (float and power, day and overnight use) during the control season, and for all overnight boaters year-round.

Discussion: Voluntary registration rates of overnight floaters during the control season has ranged from 58% to 75% since 1983.

Power boat registration has been nonexistent year-round, and overall day-use and off-season registration has been well below 50%. It is impossible to get accurate use data with those compliance rates, and accurate use data is imperative as use continues to increase.

Management Action 1A.3 - Use Allocation

Existing Management Action - When carrying capacity is reached, the allocation of use will be as follows:

.31 Outfitted and Non-Outfitted Float Use during the control season, will be distributed based on the average percentage of use over the 4 years preceding the limitation except that outfitted use will not exceed 50 percent of the launch allocation.

.32 Power Boat Use during the control season, will be limited to no more than two overnight parties per day between China Rapids and Graves Creek. Outside the control season, power boat use will not be limited unless campsite or launch site capacity is exceeded. However, trip registration will continue to be required.

.33 Nothing in this plan will restrict boating access to private lands in the river corridor.

Recommended Change - Add the following:

.34 Develop and implement a monitoring plan which will give more accurate use data, particularly power boat use data, during the control season.

Discussion: The Lower Salmon River offers the last opportunity for unregulated river trips on a major whitewater river in Idaho. The availability of a spontaneous river trip is prized by non-outfitted and outfitted users alike. This feature should be preserved for as long as possible.

Analysis of the public comments revealed that 1/3 of the written comments (5 of 15) favored more restrictions on power boats. Three of the five favored a prohibition of jet-backs; one favored restricting jet-boat camps between Pine Bar and the mouth of Cottonwood Creek during the control season; one favored prohibition of jet boats; and several generally supported limiting use to current levels. Most of the comments made a distinction between control season and non-control season use, with restrictions applying only to the control season.

The advisory group discussed the issue at length, and made two separate recommendations regarding general jet-boat use and jet-backs. The consensus of the group was that jet-boat use is and always has been light during the control season, and that there is no trend to indicate major changes. Other factors, such as future Hells Canyon restrictions or a high water year may influence future use. The consensus of the groups is to leave the current management action in place, with the provision that the BLM closely monitor jet boat use to be able to determine if significant use increases are occurring from the 1990 baseline use, and convene the standing ad hoc committee to address future restrictions if a trend toward higher use becomes apparent.

On the jet-back issue, the Advisory Group generally favored some restriction on jet-backs, ranging from total prohibition to limiting the numbers of outfitters who could provide the service and the numbers of jet-backs allowed. Those in favor of restrictions generally felt that the river is more than just a highway for shuttle services; that jet-backs do not constitute recreation use per se; that due to the easy shuttle they aren't necessary; that they are a convenience to the outfitter rather than a necessity; and that the impacts to other users outweigh the benefits. Most also felt that given the unpredictable nature of summer flows, with both high and low flows restricting jet-backs, the economic viability is questionable.

The group recommended that the BLM meet with the two outfitters currently providing jet-back service to see if a mutually acceptable limitation can be found. A consensus is that some limitation is necessary - the group will accept the outcome of the BLM-outfitter negotiations. Since jet-backs are commercial in nature, the issue can be addressed through stipulations in outfitter permits.

New Management Action 1A.3A - New Types of Use

Prohibit non-traditional craft and non-traditional use during the control season. BLM, in conjunction with personal watercraft representatives and the Advisory Group, will clearly define traditional craft and traditional uses to be allowed during the control season.

Discussion: Public comment received was strongly in favor of prohibition of several new types of watercraft and activity, specifically "jet skis" and water skiing. After a brief discussion among advisory group members, Rich Rogers, representing the Idaho Personal Watercraft Association suggested that prohibiting jet skis on the Lower Salmon during the control season would be reasonable. The group consensus then was to prohibit jet skis and/or personal watercraft. The group also recommended a prohibition of water skiing during the control season.

The group further recommended that all established or acceptable type of watercraft currently being used be defined, and that craft not falling into a defined category (i.e., non-traditional or non-acceptable) be prohibited during the control season. If a new type of use becomes available, or a new type of craft is marketed in the future, the Advisory Group and the BLM, with applicable public hearings, will determine whether that type of use or craft will be allowed based upon social, environmental, and safety concerns. The intent is not to institute a de facto prohibition of all new uses; rather it is to preserve the present recreation experience on the Lower Salmon while providing a mechanism for new uses to be accepted if they meet social, environmental, and safety standards.

Management Action 1A.4 - Human Waste

Existing Management Action - Encourage and educate all users to carry out solid human waste in 1983. If problems continue, require all overnight boaters to carry out their waste.

Recommended Change - Institute human waste carryout requirement for all overnight boaters below Hammer Creek.

Discussion: Advisory Group constituencies unanimously support carryout requirement. No public comments in opposition were received.

Management Action 1B.2 - Eagle Creek Well

Existing Management Action - Provide water supply at Eagle Creek.

Recommended Change - Delete this action.

Discussion: The Advisory Group felt that developing a well is unnecessary and uneconomical, and would serve primarily to draw additional road-based recreationists.

Management Action 1C.1 - Waste Disposal

Existing Management Action - Work with the owners of Heller Bar to provide facility to deposit human waste at take-out.

Recommended Change - Work with BLM Baker Resource Area and the Wallowa-Whitman National Forest to develop and provide an environmentally sound human waste disposal system by the 1992 boating season.

Discussion: A human waste carryout requirement mandates that users have facilities to accommodate the requirement.

Management Action 1C.2 - Graves Creek Launch/Take-out

Existing management action - Design and develop facility in the vicinity of Graves Creek (between Pine Bar and Graves Creek) that could be used as a launch or take-out site for steelhead fisherman and float parties.

Recommended Change - Maintain and upgrade existing facility at Pine Bar as needed to meet demand. Maintain existing primitive access at American Bar and Taylors Beach in present condition with no new facilities. Upgrade only if necessary to respond to public safety concerns.

Discussion: The present level of access will reduce potential overcrowding and promote safety by making access available for those who are equipped to handle the area and are willing to make the required effort.

Management Action 2H.2 - Land Acquisition

Existing Management Action - Begin negotiations with landowner at Maloney Creek to obtain use agreement or acquire fee title to land at the mouth of Maloney Creek. Acquisition would be on a willing-seller basis only.

Recommended Change - On a willing-seller basis, pursue acquisition of fee title, scenic or conservation easements on all non-public land bordering the Lower Salmon River below Hammer Creek.

Discussion: The Advisory Group unanimously felt that the public values of Lower Salmon could best be preserved through public ownership.

Management Action 3E - Public Participation

Existing Management Action - Continue to meet with representatives of various user groups as needed.

Recommended Change - Meet with user groups as needed. Make the Lower Salmon River Ad Hoc Advisory Groups a permanent entity with representatives chosen by the affected user groups. Add a representative from Hells Canyon NRA to the group.

Discussion: Regular and constant communication with users is required for proper management direction. Permanent group will provide continuity in management. Group should meet annually at a minimum.

New Management Action 3E.1 - Limits of Acceptable Change

Use the Limits of Acceptable Change (LAC) process to determine future allocations and management strategy when the carrying capacity set in the existing plan is reached.

Discussion: If increased monitoring indicates use levels are at or near specified capacity, a public participation process to guide management actions will be needed.

The Advisory Group recommends that all other management actions in the existing plan are valid and should be fully implemented.

Summary

Public involvement documents, including all public input, mailing lists, press releases, and letters are on file at the Cottonwood Resource Area office.

The recommended changes, deletions, and additions to the Lower Salmon River Recreation Area Management Plan are consistent with the management goals and objectives set in the plan, and further refine and define BLM management actions to meet those objectives.

Environmental Assessment

A review of the Environmental Assessment (No. ID-060-83-23) prepared for the original plan indicates that the assessment adequately addresses the potential impacts of the changes recommended in this plan revision. Therefore, no further environmental assessment is required.

The signatures below indicate concurral with the recommended changes, effective the date of the last signature.

Recommended by: Lanny O. Wilson — August 19, 1991
Lanny O. Wilson
Area Manager
Cottonwood Resource Area — Date

Approved by: Fritz U. Rennebaum — 8-27-91
Fritz U. Rennebaum
District Manager
Coeur d'Alene District — Date

Order Number _____

RIVER CLOSURE - LOWER SALMON RIVER
SPECIAL RECREATION MANAGEMENT AREA

Bureau of Land Management
Coeur d'Alene District
Cottonwood Resource Area

Pursuant to 43 CFR 8372.1, the following act is prohibited:

Entering or being on the waters of the Salmon River between Hammer Creek (River Mile 53) and the confluence of the Snake and Salmon Rivers (River Mile 0).

Pursuant to 43 CFR 8372.1-3, the following are exempt from the above prohibition:

1. A person with an authorized watercraft as described in Exhibit A and who also has a special use authorization as described in Exhibit B allowing the otherwise prohibited act, or anyone travelling with that person.

2. A person who has entered the area and is not using any type of watercraft.

3. Any Federal, State, or local officer or member of an organized rescue or firefighting force in the performance of an official duty.

Done at Cottonwood, Idaho the 17th day of April, 1992.

Lanny O. Wilson
Lanny O. Wilson
Area Manager

Violation of this prohibition is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Order No. _____

EXHIBIT B

TYPES OF SPECIAL USE AUTHORIZATIONS

A. REQUIRED YEARLONG:

1. A Special Use Permit issued by an Authorized Officer to an individual or any type of business entity allowing a service to be conducted. This permit allows use by floatboat and poverboat businesses.

2. A properly executed self-issue permit allowing private poverboating or private floating. A permit is required for each poverboat and for each float party for overnight trips.

B. REQUIRED BEGINNING 12:00AM ON JULY 1 and ENDING 11:59PM ON LABOR DAY, INCLUSIVE:

1. A properly executed self-issue permit allowing private poverboating. A permit must be obtained for each poverboat.

2. A properly executed self-issue permit allowing private floating downstream from Hammer Creek. A permit must be obtained for each float party.

ACTION: Notice of public meeting.

SUMMARY: The Powder River Regional Coal Team (PRRCT) will hold a public meeting on June 25, 1992 for the following purposes: (1) Review pending coal lease applications (LBA), (2) review current activity in the Powder River Coal Region, and (3) make recommendations on pending applications.

DATES: The RCT will meet 9 a.m. m.d.t. on June 25, 1992, in the Holiday Inn, 2009 S. Douglas Highway, Gillette, Wyoming 82718. The meeting is open to the public.

ADDRESSES: The meeting will be held at the Holiday Inn, 2009 S. Douglas Highway, Gillette, Wyoming, 82718, telephone (307) 686-3000. Attendees may wish to make their personal room reservations from a block of rooms which has been set aside until June 14, 1992.

FOR FURTHER INFORMATION CONTACT: Mrs. Jimi Metzger or Eugene Jonart, Wyoming State Office, (925), P.O. Box 1828, Cheyenne, Wyoming 82003; telephone 307-775-6250.

SUPPLEMENTARY INFORMATION: A primary purpose of the meeting is to discuss the following pending Leasing By Applications (LBA): West Black Thunder (WYW118907), North Antelope/Rochelle (WYW119554), West Rocky Butte (WYW122586), Meadowlark Farms (WYW124783), and Western Energy's LBA in Montana (MTM90697). Public notification of each of the above pending applications, in accordance with the Powder River Operational guidelines, has been printed previously in the Federal Register. All of the pending applications save one (West Rocky Butte), are to maintain existing mining operations. Generally, a coal lease application filed under the LBA portion of the regulations (43 CFR part 3425) can be processed to the lease sale stage by BLM within one and a half to two years after being submitted, depending on informational and environmental study requirements. The PRRCT may develop recommendation(s) on any or all of the pending LBAs.

The meeting will also serve as a forum for public discussion on Federal coal management issues of regional concern. Any party interested in providing physical input or data supporting the need for regional leasing may either do so in writing to the State Director (925), Wyoming State Office, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003, by June 12, 1992, or by addressing the PRRCT with his/her concern at the meeting on June 25, 1992. Public input opportunities will be provided on all agenda items during the meeting.

The agenda for this meeting as follows:

1. Introductions of PRRCT members and guests.
2. Approval of Minutes of September 6, 1991, Regional Coal Team Meeting, Cheyenne, Wyoming.
3. Brief Overview of the LBA Process—BLM Presentation
4. Regional Coal Activity Status:
   a. Current Production and trend
   b. Preference Right Lease Applications (PRLA)
   c. Exchanges—Belco I-90/Hay Creek; Texaco/Lake DeSmet AVF
   d. Pending LBA Applications

Tentative Sale Schedule

—West Black Thunder LBA (WYW118907—433 MM tons); Thunder Basin Coal Company. Sale tentatively set for June or July, 1992.
—North Antelope/Rochelle LBA (WYW119554—570 MM Tons); Powder River Coal Company. Sale tentatively set for September 1992.
—West Rocky Butte Tract (WYW122586—50 MM Tons); Northwestern Resources. Sale tentatively set for October 1992.
—Eagle Butte (WYW124783—est. 150 MM Tons); Meadowlark Farms (AMAX). Tentative sale date set for spring 1993. NEPA analysis to start early 1993.
—Western Energy (MTM—90697—est. 39.3 MM tons); Sale tentatively set for 1993.

   e. Modifications—Montana
   f. Pending LMUs
5. Outstanding Exploration licenses
6. Review of Market Conditions—NRET
8. Industry Presentations:
—Northwest Resources
—Meadowlark Farms (AMAX)
—Western Energy
7. Public Comments
8. RCT Activity Planning Recommendations
—Review of, and recommendation(s) on pending lease Applications
9. Other Regional Issues:
—Status of Jacob's Ranch Appeal.
—Northern Cheyenne Status.
10. Adjourn.

Ray Brubaker,
State Director.

[FR Doc 92-11325 Filed 5-13-92; 8:45 am]
BILLING CODE 4310-22-M

[ID-060-92-4333-11; Special Recre. Permit Order No. ID-060-19]

Lower Salmon River; Special Recreation Permit Requirements

AGENCY: Bureau of Land Management, Coeur D'Alene District

ACTION: Special Recreation Permit Requirements, Lower Salmon River.

SUMMARY: Pursuant to 43 CFR 8372.1, the following act is prohibited: Entering or being on the waters of the Salmon River between Hammer Creek (River Mile 5) and the confluence of the Snake and Salmon Rivers (River Mile 0).

Pursuant to 43 CFR 8372.1-3, the following are exempt from the above prohibition:

1. A person with an autorized watercraft as described in Exhibit A and who also has a special use authorization as described in Exhibit B allowing the otherwise prohibited act, or anyone travelling with that person.
2. A person who has entered the area and is not using any type of watercraft.
3. Any Federal, State, or local officer or member of an organized rescue firefighting force in the performance of an official duty.

Violation of this prohibition is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

SUPPLEMENTARY INFORMATION:

Exhibit A

Types of Authorized Watercraft

Authorized watercraft on the Lower Salmon River include those types of float boats and powerboats traditionally and commonly being used for recreational purposes on this section of the Salmon River in 1983 when the Recreation Area Management Plan for the Lower Salmon River Recreation Area was approved.

Autorized Float Boats Include: Sweep boats, pontoons, cat-a-rafts, inflatable rafts, rigid hull and inflatable kayaks, canoes, dories, and drift boats. They maybe propelled by paddles, oars, motors, or other devices, but are not capable of upstream travel through rapids.

Authorized Powerboats Include: Motorized, rigid hull watercraft with water cooled exhaust that are diven by propeller(s) or jet pump(s), are capable of upstream and downstream travel, and usually require trailering to enter and exit the water.

ORDER NUMBER _____

LOWER SALMON RIVER RECREATION MANAGEMENT AREA

Bureau of Land Management
Coeur d'Alene District
Cottonwood Resource Area

Pursuant to 43 CFR 8365.1-6, the following act is prohibited yearlong within the Lower Salmon River Recreation Area from Hammer Creek (River Mile 53) to the Confluence of the Salmon and Snake Rivers (River Mile 0):

> Boating, either float boating or power boating, on trips lasting more than one day, without a portable sanitary device for carrying out all solid human waste (fecal matter).

Done at Coeur d'Alene, Idaho, this _____ day of _____, 1992.

_____
Fritz U. Rennebaum
District Manager

Violation of this prohibition is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Order No. _____

JUSTIFICATION STATEMENT

Human Waste Carry-Out Regulation
Lower Salmon River

Regulation Meets requirements of the Recreation Area Management Plan for the Lower Salmon River Recreation Area including the revision of the Plan in 1991.

Management Implementing the portable toilet regulation will protect public health and safety by removing human fecal material from the area. It will enhance the effort to keep beaches and campsites clean by requiring removal of said waste. It will also aid in educating and informing the public on no-trace camping techniques. Protection of the natural qualities of the river corridor was highly favored by recreationists during several river visitor user studies. The recommendation of the Lower Salmon River Ad Hoc Advisory Group supported requiring human waste carry-out.

[4310-GG]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(ID-060-02-4333-11)

AGENCY: Bureau of Land Management, Idaho

ACTION: Notice of Campfire and Sanitation Requirements on the Lower Salmon River

SUMMARY: Pursuant to 43 CFR 8365.1-6, the following acts are prohibited yearlong within the Lower Salmon River Recreation Area from Hammer Creek (River Mile 53) to the Confluence of the Salmon and Snake Rivers (River Mile 0):

(a) Building, maintaining, or using a fire or campfire.

The following persons are exempt from this order:

(1) A person with a valid site-specific burning permit issued by the Idaho Department of Lands.

(2) A person using any of the following types of equipment to contain their fire:

(i) FIREPAN, INCLUDING PORTABLE BARBECUE WITH GRILL: A device made of fire-resistant material or metal, with raised edges of a height sufficient to contain all ash and residue from a wood or charcoal fire. All ash and wood or charcoal residue must be packed out, including partially consumed briquets.

(ii) GAS STOVES: Pressurized liquid or gas stoves including space-heating devices.

(iii) ENCLOSED WOOD STOVE: A wood or charcoal fire built inside a fully enclosed stove. The stove must be enclosed on six (6) sides with 1/4 inch or smaller screening covering the chimney opening. Example:

sheep herder stove with screening or spark arrestor covering chimney top. All ash and wood residue must be packed out.

(b) Boating, either float boating or power boating, on trips lasting more than one day, without a portable sanitary device for carrying out all solid human waste (fecal matter).

These restrictions meet requirements of the Recreation Area Management Plan for the Lower Salmon River Recreation Area including the revision of the Plan in 1991.

Violation of these prohibitions is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

SUPPLEMENTARY INFORMATION: These restrictions meet the requirements of the Recreation Area Management Plan for the Lower Salmon River Recreation Area including the revision of the Plan in 1991.

Implementing the fire pan regulation will enhance the effort to keep beaches and camp sites clean by requiring boaters and land-based recreationists to pack out all residue from their fires including ash and burned refuse. It will also aid in educating the public on no-trace camping techniques, especially on keeping the sand beach resources as clean as possible.

Implementing the portable toilet regulation will protect public health and safety by removing human fecal material from the area. It will enhance the effort to keep beaches and campsites clean by requiring removal of said waste. It will also aid in educating and informing the public on no-trace camping techniques. Protection of the natural qualities of the river corridor was highly favored by recreationists during several river visitor user studies. The recommendation of the

Lower Salmon River Ad Hoc Advisory Group supported requiring firepan and ash removal year-round as well as requiring human waste carry-out.

DATE: This notice is effective as of the date of publication.

ADDRESS: Comments may be mailed to Bureau of Land Management, 1808 North Third Street, Coeur d'Alene, ID 83814.

FOR FURTHER INFORMATION CONTACT: LuVerne Grussing at (208) 962-3683.

Dated: July 1, 1992

DELMAR D. VAIL
State Director

railroad ROW; S½SW¼ excepting State Highway 36.
5W., SLM.
pts 3,4, S½NW¼, N½SW¼,
SW¼;
ec. 4: E½SE¼;
ec. 9, E½NE¼, NE¼SE¼ excepting therefrom, that portion lying within the bounds of State Highway 36 and the San Pedro, Los Angeles and Salt Lake Railroad right-of-way;
ec. 22, W½NW¼.
S., R. 6W., SLM.
ec. 28 lots 5,6, NE¼SW¼, NW¼SE¼.
0S., R. 6E., SLM.
ec. 23, SE¼SE¼;
ec. 26, E½NW¼, SW¼NW¼, W½NE¼, NE¼NE¼, SW¼;
ec. 27, S½NE¼, NE¼NE¼;
ec. 34, N½SE¼, SE¼SE¼;
ec. 35, N½, N½S½, S½SW¼, SW¼SE¼.
0S., R. 17W., SLM.
ec. 4, SW¼NW¼, NW¼SW¼;
ec. 5, lot 1, SE¼NE¼.
The area described contains a total of 1,577 acres.

The purpose of this exchange is to quire lands which have high values wildlife, livestock grazing, and creational use. The exchange would o create a more logical and efficient d management pattern. The public erest will be served by completing the change.

lue of the lands to be ed are approximately equal; full uation of values will be achieved payment to the United States by SPCI of funds in an amount not to ceed 25 percent of the total value of e lands to be transferred out of deral ownership.

The exchange will be made for both rface and subsurface estates, where ssible. The mineral estate of some of e offered lands is held by other wners and will not be a part of this change. The selected lands will have reservation of a right-of-way for itches and canals constructed by the uthority of the United States under the rovisions of the Act of August 30, 1890 8 Stat. 391, 43 U.S.C. 945) and will be ubject to all existing rights-of-way.

Publication of this notice in the ederal Register will segregate the ublic lands described above for a eriod of two years from the date of first ublication to the extent that they will ot be subject to appropriation under he public land laws, including the ining laws. As provided by the egulations of 43 CFR 2201.1(b), any ubsequently tendered application, llowance of which is discretionary, t be accepted, shall not be red as filed and shall be ed to the applicant.

Further information concerning the exchange, including the EA is available for review at the Salt Lake District Office.

For a period of 45 days from the date of first publication, interested parties may submit comments to the Salt Lake District, 2370 South 2300 West, Salt Lake City, Utah 84119.

Deane H. Zeller,
Salt Lake District Manager.

[FR Doc. 92-16188 Filed 7-9-92; 8:45 am]
BILLING CODE 4310-DQ-M

[ID-060-02-4333-11]

Lower Salmon River; Campfire and Sanitation Requirements

AGENCY: Bureau of Land Management, Idaho.

ACTION: Notice of campfire and sanitation requirements on the Lower Salmon River.

SUMMARY: Pursuant to 43 CFR 8365.1-6, the following acts are prohibited yearlong within the Lower Salmon River Recreation Area from Hammer Creek (River Mile 53) to the Confluence of the Salmon and Snake Rivers (River Mile 0):

(a) Building, maintaining, or using a fire or campfire. The following persons are exempt from this order:

(1) A person with a valid site-specific burning permit issued by the Idaho Department of Lands.

(2) A person using any of the following types of equipment to contain their fire:

(i) *Firepan, Including Portable Barbecue with Grill.* A device made of fire-resistant material or metal, with raised edges of a height sufficient to contain all ash and residue from a wood or charcoal fire. All ash and wood or charcoal residue must be packed out, including partially consumed briquets.

(ii) *Gas Stoves.* Pressurized liquid or gas stoves including space-hearing devices.

(iii) *Enclosed Wood Stove.* A wood or charcoal fire built inside a fully enclosed stove. The stove must be enclosed on six (6) sides with ¼ inch or smaller screening covering the chimney opening. Example: sheep herder stove with screening or spark arrestor covering chimney top. All ash and wood residue must be packed out.

(b) Boating, either float boating or power boating, on trips lasting more than one day, without a portable sanitary device for carrying out all solid human waste (fecal matter).

These restrictions meet requirements of the Recreation Area Management Plan for the Lower Salmon River Recreation Area including the revision of the Plan in 1991.

Violation of these prohibitions is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

SUPPLEMENTARY INFORMATION: These restrictions meet the requirements of the Recreation Area Management Plan for the Lower Salmon River Recreation Area including the revision of the Plan in 1991.

Implementing the fire pan regulation will enhance the effort to keep beaches and camp sites clean by requiring boaters and land-based recreationists to pack out all residue from their fires including ash and burned refuse. It will also aid in educating the public on no-trace camping techniques, especially on keeping the sand beach resources as clean as possible.

Implementing the portable toilet regulation will protect public health and safety by removing human fecal material from the area. It will enhance the effort to keep beaches and campsites clean by requiring removal of said waste. It will also aid in educating and informing the public on no-trace camping techniques. Protection of the natural qualities of the river corridor was highly favored by recreationists during several river visitor user studies. The recommendation of the Lower Salmon River Ad Hoc Advisory Group supported requiring firepan and ash removal year-round as well as requiring human waste carry-out.

DATES: This notice is effective as of July 10, 1992.

ADDRESSES: Comments may be mailed to Bureau of Land Management, 1808 North Third Street, Coeur d'Alene, ID 83814.

FOR FURTHER INFORMATION CONTACT: LuVerne Grussing at (208) 962-3683.

Dated: July 1, 1992.

Delmar D. Vail,
State Director.

[FR Doc. 92-16199 Filed 7-9-92; 8:45 am]
BILLING CODE 4310-GG-M

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

[Public Notice 1651]

Invitation To Comment on the First Progress Report of the Air Quality Committee Under the Canada-U.S. Air Quality Agreement

The Governments of the United States and Canada signed an Agreement on Air Quality on March 13, 1991. The purpose of the Agreement was to

SELF ISSUE PERMIT
LOWER SALMON RIVER

A PERMIT IS REQUIRED FOR ENTRY BELOW HAMMER CREEK.
COMPLETE SECTIONS A, B, C, AND D BELOW.

A — VISITOR INFORMATION

TOTAL NUMBER OF PEOPLE IN YOUR PARTY ENTER HERE →

B — BOATING INFORMATION

FLOATERS:
ENTER NUMBER OF FLOATBOATS IN YOUR PARTY IN APPROPRIATE BOX

RAFT	KAYAK	DRIFT/DORY	INFL. KAYAK	CANOE	OTHER

POWERBOATERS:
COMPLETE THIS SECTION (1 PERMIT FOR EACH BOAT)

MAKE _____

ID NO. _____

C — TRIP INFORMATION

	MO	DAY	YR	LOCATION WHERE YOU LAUNCH AND TAKE OUT
LAUNCH				
TAKE OUT				

D

When completed and signed, this single visit permit authorizes the individual named below and his or her party to enter the Salmon River below Hammer Creek for noncommercial powerboat and floatboat use with the following exceptions:

- **THIS PERMIT DOES NOT AUTHORIZE ANY TYPE OF COMMERCIAL ACTIVITY.**
- **THIS PERMIT DOES NOT AUTHORIZE USE BY NON-TRADITIONAL WATER CRAFT (PERSONAL WATER CRAFT, JET SKIS, SAIL BOATS, WATER SKIS, AND OTHERS). INFORMATION ON THE TYPES OF CRAFT THAT ARE NOT AUTHORIZED IS POSTED AT ALL SELF-ISSUE PERMIT STATIONS ON THE LOWER SALMON RIVER, OR CALL (208) 962-3245.**
- **THIS PERMIT DOES NOT AUTHORIZE USE OF THE SNAKE RIVER EXCEPT THAT USE WHICH ORIGINATES ON THE LOWER SALMON RIVER.**

I and the members of my party agree to abide by all laws, rules, and regulations which apply to this area and the conditions of use on the reverse of this permit.

_____
Name of Trip Leader (Please Print)

_____
Signature of Trip Leader Date Zip Code

DEPOSIT ORIGINAL IN BOX — KEEP COPY IN YOUR POSSESSION

CONDITIONS OF USE

1. This permit is required for all noncommercial boating on the Lower Salmon River.
2. The trip leader must have ths permit in possession during the river visit and display it upon request by a BLM or Forest Officer. The trip leader is responsible for the conduct of the members of his/her party for the duration of the trip, including their compliance with area regulations and these conditions of use.
3. Maximum party size is 30 persons.
4. **SANITATION**
   - All solid human waste (fecal matter) must be carried out. All parties must be equipped with an approved carry-out system.
   - Urinate at least 100 feet from any camp area or on wet sand.
   - Waste water should be strained into a hole above high water mark. The hole must be covered before leaving camp.
5. **FIRES AND FIREWORKS**
   Firepans to contain campfires are required. All ashes and other fire residue must be packed out. Possession and/or discharge of fireworks is prohibited.
6. **GARBAGE**
   You are required to pack out what you pack in. Cigarette butts, cans, foil, and flip-tops ruin the area for those who follow.
7. **ARTIFACTS AND HISTORIC SITES**
   Disturbing, removing, or damaging any historic structure, cultural feature, or artifact is prohibited. Enjoy these important features of the canyon, but leave them undisturbed for the future.
8. **FIREARMS**
   Discharging a firearm near or within an occupied area, such as a campsite, is prohibited. Appropriate and safe use of firearms by all members of the party will be the direct responsibility of the trip leader.
9. **PRIVATE LAND**
   Respect private lands along the river. Do not enter without permission of land owner.

Additional information may be obtained by contacting:
BUREAU OF LAND MANAGEMENT, COTTONWOOD RESOURCE AREA
Route 3, Box 181, Cottonwood, ID 83522 (208) 962-3245

SNAKE RIVER, HELLS CANYON NRA

1. Firepans are required; use of wood for fuel is prohibited from July 1 through September 15.
2. Each party must occupy only one (1) campsite. The splitting of a party to occupy two (2) or more sites is not permitted.

For information contact the *Hells Canyon National Recreation Area*,
2535 Riverside Drive, P.O. Box 699, Clarkston, WA 99403
or telephone (509) 758-1957.

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Nevada State Office
850 Harvard Way, P. O. Box 12000
Reno, Nevada 89520-0006

In Reply Refer to:
1260/2000 (NV-930)

June 3, 1996

EMS Transmission 6/5/96
Information Bulletin No.-NV-96-156

To: All Field Officials

From: State Director, Nevada

Subject: Realty Casefile Documentation and Maintenance

Comments made to the Washington Office Realty Use Group by representatives of the Office of Hearings and Appeals and findings made as a result of review of the contents of individual casefiles made during Alternative Management Control Reviews performed by Washington Office staff members in the various states, have indicated concerns with inadequate casefile documentation and maintenance.

Proper documentation of a casefile and subsequent records maintenance are vital to the way the Bureau of Land Management (BLM) performs its lands and realty functions. Increasing demands by the public to be included in our decision-making processes have resulted in more and more requests to inspect and review our records, and more questioning of our actions to authorize the use or disposal of public lands. We need, therefore, to take our records and our recordkeeping practices very seriously. Too often, by the time the record of a BLM decision reaches a point where an appeal and/or lawsuit is filed, the casefile contains extraneous material, such as handwritten notes, that were never intended to be part of the permanent record. Any unnecessary materials inadvertently or carelessly left in the file become part of the official record and may reflect poorly on an otherwise proper decision.

Generally, when an appeal of a BLM decision goes to the Interior Board of Land Appeals for review, the Board has only the case record to examine in support of the decision being appealed. The need to defend an action may also arise after the principal processors have forgotten the specifics, or been replaced by new employees unfamiliar with the specifics. Proper documentation of the official casefile then becomes the only basis from which to defend the BLM's action.

In order to ensure Bureau-wide consistency in proper documentation and maintenance of official casefiles, the following guidelines are to be implemented as soon as practicable by all Field

Offices. While this guidance specifically addresses lands and realty casefiles, the standards, with few exceptions, can apply to any situation which requires the establishment of an official casefile.

1. Casefile maintenance is every user's responsibility. If there are inappropriate personal notes, duplicate copies of documents, torn case jackets, case jackets with missing bar codes, etc., the person discovering the situation should either take the necessary corrective action or bring it to the attention of someone to have the problem remedied.

2. Upon receipt of an application, immediately assign a serial number and place the documents into a case jacket. Enter pertinent information into Case Recordation/Online Recordation and Case Access (ORCA), following current BLM data standards. Properly entering data as actions occur will generate a serial register page which is useful to BLM and to its customers.

3. Secure accounting data and current serial register pages on the left bottom of the case jacket. For multi-part casefiles, keep all accounting data and serial pages in Part 1. File serial pages on top of the accounting documents, with each document type (e.g. serial pages) being grouped together in reverse chronological order. In the event that confidential information has been stored separately, reference to that location should be placed on top of the serial register page(s). It may also be appropriate to file serial register pages on the right top of the casefile as long they are kept on top of the other documents for ready reference.

4. As necessary, secure copies of checklists, instruction memoranda, manuals, handbooks or other guidance, and draft documents used during the processing of the application, on the top left of the case jacket. Checklists are to be filed on top of the other documents for ready reference. As most of these documents are not usually stored permanently in the casefile, remove them when the need for them no longer exists.

5. Secure all other documents in the casefile on the right top of the case jacket in reverse chronological order by date of receipt for incoming documents and by date of creation for BLM-generated documents. Any attachments should be kept with the parent documents.

6. Stamp all incoming correspondence with the date it was received by BLM. The date of receipt by BLM may be crucial in the event of a duplicate filing for some or all of the lands, an appeal, or a lawsuit. It is recommended that the date of receipt be stamped on the front of correspondence, if possible, as it simplifies copying the file.

7. Securely fasten all documents in the casefile. If a document is too thick, a photocopy of the document's cover page should be filed in its place. On the copy of the cover page, note that the original document is filed loosely in the case jacket. For multi-part files, the specific part should be noted, *e.g.*, "Complete document filed in Part 4 of 7."

8. Do not store duplicate copies of reports, correspondence, and other documents in the official casefile, unless multiple copies were required by regulation, etc., to be submitted.

If there is an essential reason to retain more than one copy of certain documents, they may be stored separately from the official casefile, or in a separate folder of a multipart file.

9. Separate proprietary/confidential documents from the rest of the casefile. The preferred method is to store proprietary/confidential information in a separate locked cabinet or locked room. The information should be in a file folder labeled with the serial number and Form 1273-2 to clearly identify the confidential nature of the contents. The official casefile should be noted to show where such proprietary/confidential information is stored and who is responsible for its safekeeping.

   If proprietary/confidential documents are to be stored in the official casefile, they must be kept in a sealed envelope with Form 1273-2 firmly attached to the front. The contents and their date(s) should be listed on the envelope. Maintain the envelope as the top document on the right top of the case jacket for ready identification and for removal before the casefile is released for review.

   Cultural resource reports and archaeological site forms, including maps, that would identify the nature and location of sites should never be included in official casefiles. However, memoranda based upon those documents that summarize the cultural findings and make recommendations concerning final dispostion of the application should be placed in the official casefile.

   Proprietary/Confidential information should accompany a casefile sent to the State Office, or to the Interior Board of Land Appeals, for action.

   Upon patent issuance, case closure, or any other time the file is sent to the State Office for permanent storage, the party who submitted the information should be consulted to determine if the material still needs to be maintained as proprietary/confidential or if it could be added to the file, returned to the sender, destroyed, or disposed of in some other manner.

   Proprietary/Confidential information is defined as:

   > Information which is submitted to the government in expectation of confidentiality, the release of which would result in substantial competitive harm to the submitter.

10. Use and maintenance of a checklist provides for a ready review of actions taken and identifies which actions remain to be completed. It also helps to ensure that no important step is omitted.

11. Establish multi-part casefiles when an individual file becomes too thick for one folder. If a bar-code system is available to track casefiles, each new case jacket should also be coded to reflect the new "part."

12. Write legal land descriptions in memoranda, Notices of Realty Action, letters, patents, etc. as outlined in the booklet entitled, *Specifications for Descriptions of Tracts of Land for Use in Land Orders and Proclamations, Cadastral Survey, Revised 1979*, and published by the U.S. Department of the Interior, Bureau of Land Management. Descriptions of unsurveyed lands should always indicate the survey status.

    Exception: The format for entering legal land descriptions into Case Recordation/ Online Recordation and Case Access (ORCA) is found in the current data standards.

13. Document conversations and meetings about important aspects of case processing with a memorandum in the casefile. To be of future value, such documentation should include the names and telephones numbers of all parties involved, the role of each party, the date, meeting location, and a clear and concise accounting of what was discussed, including any agreements reached. Further, the documentation must legibly identify the preparer and be authenticated with a full signature. With few exceptions, casefiles are open to public review. A professional tone should be maintained at all times in documentation of telephone calls and conversations, notes to the casefile, and informal transmittal memoranda.

14. At certain strategic points, master title plats, survey plats, and/or historical indices must be inserted into the file:

    a. When the casefile is established, master title plats are required as evidence of the land status at the time the application/proposal was received. Historical indices and survey plats may be included as needed.

    b. When an authorization, or an amendment to an authorization, is issued, a new master title plat must be placed in the file as proof that the records were properly noted.

    c. When an authorization is relinquished, canceled, terminated, revoked, etc., and the action has been posted to the records, insertion of new master title plats and historical indices again provide proof that the records were properly noted.

15. Fasten master title plats, survey plats, historical indices, and maps in the file, folded so they can be opened without having to remove documents filed on top. If the application is accompanied by many pages of maps or drawings, or the proposal necessitates inclusion of numerous master title plats and historical indices, all the maps, drawings, plats, indices, etc., should be filed in a separate case jacket to facilitate review of the file.

16. Mark the outside of each folded master title plat or historical index with the township, range, and the date it was last updated in the bottom, right-hand corner.

17. As a normal part of the adjudication process, include an individual Meridian/Township/Range Information Report (M12 Case Recordation Report or Online Recordation and Case Access (ORCA) GEO Report) in the file to identify any third party

rights that may be affected by the application/ proposal. Refer to the Case Recordation/ Online Recordation and Case Access (ORCA) Users Guide for directions to access this report.

18. Review the records for the presence of mining claims on the land upon receipt of an application or proposal, prior to segregation of the lands, and again before patent issuance or entry allowance. Failure to address the presence of mining claims could result in the creation of two conflicting chains of title to the same lands.

19. Insert into the casefile copies of proof of publication of notices in the Federal Register or a newspaper, as appropriate, which pertain to the application being processed. If a notice does not require posting to the master title plats/historical indices, place the original copy of the notice, or a clean copy printed from the Internet, into the casefile. If the notice requires notation to the master title plats or posting in the Public Room, the original should be stamped with the date it was noted to the records or posted in the public room. Each office has the responsibility to ensure the accuracy of its own notation procedures.

20. Review each casefile for completeness before sending it to the State Office for further action, or before it is forwarded to the Interior Board of Land Appeals. Use of a checklist will assist in this review. For example, see the attached checklist which was prepared for agricultural entry applications in Nevada. Nevada has also developed a similar checklist for each lands casetype.

    a. The casefile must contain the application, and the decision to recommend approval, modification or rejection, of the proposal. Other required documentation may include an environmental analysis, decision record, mineral report, cultural report, Section 7 biological assessment, Federal Register publication, newspaper publication, corrections to publications, grazing notifications to permittees, classification decisions, relinquishments or decisions to void mining claims, evidence that competing applications or authorizations have been properly extinguished and removed from the records, and identification of other existing authorizations to be identified in the title documents. The above is not intended to be an all inclusive listing as there may be other pertinent documentation for specific casefiles.

    b. Tab all important documents for easy identification.

    c. File all documents in reverse chronological order with the newest documents on the top.

    d. Remove all extraneous notes and messages, routing slips, which may also be undated and unsigned, manual sections, instruction memoranda, etc., which are not pertinent to processing of the casefile.

21. Include in the memorandum to transmit the casefile to the State Office for further action an itemized list of the case actions that are being requested.

This memorandum was reviewed by and received concurrence from the National Training Center, Arizona State Office, Oregon State Office, and Idaho State Office, and has been approved for BLM distribution by the Washington Office Realty Use Group (WO-350).

Please refer to Instruction Memorandum No. 96-58 (see attachment 2) for further support for the importance of the establishment and maintenance of quality casefiles involving actions taken by BLM in its management of the public lands.

Please direct any questions regarding the contents of this memorandum to Ken Stowers at (702) 785-6478.

s/ Jean Rivers-Council

Attachments:
1. Checklist (3pp)
2. memorandum (2pp)

cc: WO (350) 1000LS
All Field Offices, Nevada

KStowers: JKramer: DSamuelson: CDonelson

Appendix C-19

Summary of IBLA decisions

Compiled by Arden Anderson
Gunnison Resource Area
Colorado
April, 1993

One of our concerns in making any adverse decision is the possibility of protest and appeal and the uncertainty of whether our decision will be upheld by IBLA. For this reason we have summarized most of the IBLA cases concerning SRP's. This will give managers insight into what IBLA is thinking about when they review our SRP cases and how they have ruled in specific cases. If your situation approximates the ones described here a more thorough reading of the case record would probably be appropriate.

IBLA Decisions Pertaining To Outfitters

1. ISSUANCE, DENIAL OR CANCELLATION OF PERMITS

IBLA 90-96 (121 IBLA 169) Patrick Blum

Summary: Blum applied for launch dates on the Rio Grande River. The area manager denied launch dates prior to June to protect nesting birds in the river corridor. Blum appealed the decision saying it was discriminatory, denied the public access in violation of the management plan, arbitrary and inconsistent with established policy.

IBLA upheld BLM saying issuance of a special use permit is discretionary and the Department may accept or reject a permit application in furtherance of the objectives, responsibilities & programs for management of public lands. The IBLA also noted in this case that regulations governing SRP's do not provide for intermediate appeals from a decision by the Area Manager to any other BLM officer. A final decision by a BLM area office adversely affecting a party is subject to direct appeal to IBLA.

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IBLA 81-788 (64 IBLA 48) Wilderness Challenge Inc.
Summary: Wilderness Challenge Inc. wanted to run raft trips on the San Juan River. They claimed educational status and didn't want a commercial SRP because participants were not charged directly for costs of the river trip those costs were instead included in the yearlong costs for the school. Their boatmen, and teachers however, did receive a salary for the trip. BLM denied the permit application contending that since the boatmen and teachers received a salary that it was a commercial operation. No commercial permits were available on the San Juan at that time so the school could not run the river.

IBLA upheld BLM saying that 43 CFR 8372.0-5 (a) was clear that if employees make a salary from the activity then it is considered commercial. They also complained that the way the regulation was written doesn't make sense. On one hand they state that educational use could be noncommercial. On the other hand there is almost no situation where an educational operation doesn't pay salaries so they could never qualify as noncommercial. Despite this contradiction IBLA isn't empowered to rewrite regulations so they decided based on the current language. This decision also states that if the appellant could do all of their onshore activities on non federal lands (eg. put in, lunch spots, campsites, take out) then BLM could not deny their use of the river unless it was a Wild and Scenic river. This is a good reference case for discussion on what qualifies as non commercial use.

IBLA 77-194 (32 IBLA 142) Baja Motor Sports

BLM denied a SRP for 3 OHV events on the grounds of lack of funds, time and staffing to process the application. Appellant had been informed previously that he could apply for no more OHV events than he had run the previous year (1). He applied for 4 events that year. BLM processed one and denied 3.

IBLA upheld BLM stating that SRP's are discretionary. The BLM stated sound reason for it denial and the decision was not arbitrary or unfair.

***

IBLA 88-267 (104 IBLA 122) Four Corners Expeditions Et Al.

The San Juan R.A. decided to place a moratorium on new permits for the Dolores River while they worked on a management plan which could include permit allocations. They sent a letter to outfitters in early 1988 saying that only those outfitters having a valid permit and showing user days in 1987 would be able to apply for river permits in 1988. The decision was appealed by 4 different outfitters who had run on the Dolores in past years but either did not have a permit in '87 or use in '87. They cited a variety of reasons why they didn't run in '87 ranging from economic to family illness to problems with insurance to uncertainty about river flows. They all felt the BLM's decision was unfair, arbitrary or didn't provide enough warning. The BLM said they chose this method of selection because 1987 was the year with the most use (30 outfitters). They said they provided no warning to prevent outfitters from padding their use figures.

IBLA upheld BLM reaffirming that "the issuance of a special use permit is discretionary and we may accept or reject a permit in furtherance of the objectives, responsibilities and programs for management of the public lands". They said the choice of action was clearly one committed to BLM's discretion. That discretion must be supported by a rational and defensible basis or it will be found arbitrary. IBLA felt the BLM had adequately rationalized its decision and that the appellants complaints were merely a disagreement with the BLM's decision. They showed no evidence of an arbitrary decision.

****

2. FEES, FEE WAIVERS AND PERMIT ALLOCATIONS

IBLA 81-623 (63 IBLA 373) Rogue River Outfitters Assoc. (RROA)

A. RROA challenged BLM's ability to charge SRP fees in general.

B. They said it was unfair to charge commercial users but not charge non commercial users.

C. They contended that BLM shouldn't charge fees when overnight use involved a stay in private lodges.

IBLA decided that:

A. BLM's decision to charge SRP fees was supported by legislation.

B. The Land and Water Conservation Fund Act called for charging recreation use fees for specially developed facilities (eg campgrounds) and special recreation permit fees for specialized uses. In a Wild and Scenic River this corridor would be considered a special area and non commercial users should be charged a special recreation permit fee as well as commercial users. It is implied that rivers that are not Wild and Scenic or areas that do not have a "special designation" would not require fees from non commercial users. Just what would constitute a "special designation" (ACEC?, NCA?, Wilderness?, SRMA?) is not clear.

C. Fees are appropriate for trips that don't camp on BLM but a reduction of fees could be appropriate when compared to uses that camp on BLM. Part of this decision hinged on the fact that the Rogue was a Wild and Scenic River where use of the river could according to legislation, could be regulated.

IBLA 83-806 (83 IBLA 151) Rogue River Outfitters Association

In an earlier decision IBLA said BLM should be charging both commercial and non commercial users of the Wild and Scenic Rogue. BLM was working on a permit and fee system for private users but it wasn't yet in place. RROA contended that if they haven't set up the system to charge private boaters then they couldn't make outfitters pay.

IBLA upheld BLM saying that lack of ability of BLM to set up fee system for privates did not relieve the commercial users from their duty to pay.

***

IBLA 89-114 (117 IBLA 309) Pacific Crest Outward Bound

Outward Bound is a non profit educational institution that applied for an SRP on the Deschutes River. BLM granted the permit and waived the fees based on their status as an educational institution. A few years later the District reviewed their policy on educational fee waivers and outlined criteria a group would have to meet to qualify for educational fee waivers. Seeing that they would not qualify for a fee waiver under these criteria Outward Bound appealed the decision to IBLA.

IBLA first noted that Outward Bound had not actually been assessed fees yet and so was not "harmed" by BLM's decision yet but they decided on it anyway. They decided that even though an operation is commercial it can still be exempt from paying fees if it is a bona fide educational institution and if it's uses are primarily educational and not recreational in nature. At the same time they rejected the idea that educational use is automatically exempted from fees due to non recreational activities. Instead a group must prove to BLM that they are engaged in an academic activity sponsored by an accredited institution of learning. So in this case BLM erred in disqualifying Outward Bound from a fee waiver strictly because they were a commercial concern. IBLA overturned the BLM and sent the case back to them for a reevaluation of Outward Bound's status as a educational institution. It seems clear that if the Outward Bound School cannot adequately prove that:

1. It is a recognized educational institution and

2. It is engaged in an educational rather than a recreational activity that BLM would be proper in charging them fees for their SRP.

****

3. TRANSFER OF PERMIT PRIVILEGES

IBLA 81-167 (63 IBLA 95) Nat'l Organization of River Sports

Appellants questioned BLM's approval of a transfer of a commercial river permit. BLM finalized management rules for the Rogue river in 1978. One of those rules states that permits may not be sold. The appellants contended that the transfer involved an outright sale.

IBLA confirmed BLM's ability to transfer a permit from one permittee to another based on the specific rules published for the Rogue. However the IBLA said that BLM did not properly analyze whether the transfer involved a sale of the permit which would violate the rules of the Rogue. It told the BLM to reconsider that question.
Note: Current guidelines for the transfer of outfitting businesses are contained in the SRUP Handbook H-8372-1. Such transactions are subject to the prior approval of BLM.

****

IBLA 84-903 (90 IBLA 112) David Farley Inc.

David Farley basically sold his river permit on the Rogue in violation of that river's specific regulations. He then tried to hide the transaction with a variety of semantics and misleading correspondence. BLM found out several years after the transaction took place and cancelled the permit. Farley appealed.

IBLA upheld BLM saying despite Farley's maneuvering the transaction basically sold just river dates for a considerable sum of money.

IBLA 85-519 (91 IBLA-296) Hondoo River & Trails

Hondoo Rivers and Trails had a permit for 900 user days annually on the Desolation/Grays section of the Green River. In the previous years he had substantially under utilized the permit with use ranging from 0 to 500 user days. BLM sent him a letter in 1983 saying he had to use his permit more fully or lose it. In 1984 several trips were run under Hondoo's permit but with vans, boatmen and equipment from another company who did not have a permit on that river. BLM claims this was a transfer of permit privileges which is specifically prohibited in permit stipulation so they cancelled the permit. Hondoo claims that the other company just advertized Hondoo trips in their brochure and Hondoo contracted with the other company to run Hondoo trips with their boatmen and equipment.

IBLA was uncertain they had enough material facts and evidence to say that Hondoo had transferred permit privileges. At the center of the controversy was the question of what constituted an employer/employee relationship in a business where companies regularly lease vehicles and equipment and hire boatmen from other companies. IBLA set the decision aside and referred it to a hearing before an administrative law judge to more completely explore the facts and evidence in the case.

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IBLA 91-77 (120 IBLA 374) Summit Quest

Summit Quest applied for a permit in 1990 but was informed the EA and preparation would prevent the BLM from issuing a permit until 1991. In 1990 Summit Quest groups were found on public land on several occasions. The BLM issued a cease and desist letter and assessed fines for user fees administrative costs and penalty for willful trespass totaling $5007.12. Summit Quest appealed saying they had spoken with a rancher in the area who gave them permission to use his private land and other land he had leased from the state and BLM for a grazing permit. They contend they did not know that the rancher had no authority to grant them use on his BLM grazing leases therefore the trespass was not willful.

IBLA decided that Summit Quest was guilty of violating SRP regulations contained in 43 CFR 8372 but that BLM was wrong in assessing fines based on trespass laws contained in 43 CFR 2920. The only course of action appropriate would be to cite Summit Quest based on 43 CFR 8372, take them before a magistrate and ask that fines up to $1000 be assessed. IBLA clearly states that the language in our regulations does not authorize the BLM to administratively impose monetary penalties for violation of 8372 regulations. That can only be done after a citation by BLM's Law Enforcement staff. If the violator protests the fine then they have the opportunity for trial and sentencing by a US magistrate.

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IBLA 91-88 (118 IBLA 381) Owen Severance Et al

Mr. Severance and several environmental groups appealed the issuance of a permit by BLM for the Moab Jeep Safari and Fall Campout. These event have grown significantly from a small local event in the sixties to a huge event in the eighties which could involve up to 1,600 vehicles on 28 trails over a 9 day period. BLM did an EA, a FONSI and added a considerable list of stipulations. The appellants contend that the EA was not adequate, that cultural resources were not properly considered and that permitted use on trails in WSA's unnecessarily degraded their wilderness character.

IBLA upheld BLM's decision after a detailed analysis of the adequacy of the EA.

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Non IBLA decision - made in the court of appeals for the Ninth Circuit.

U.S. vs. Garren 884 F. 2d 427 9th Circuit (1989)

Basically the defendant was part of a "protest float" of the Rogue River when BLM imposed a permit system on noncommercial users. He was sentenced in court to a $5,000 fine and 6 months in jail (which was suspended to probation). He appealed saying the fine was excessive and that BLM shouldn't require permits of private boaters. The judge agreed that the lower court exceeded its fine authority but that BLM was justified in establishing a private permit system.

The defendant was convicted of rafting on a federally regulated river without a permit. The judge decided 3 things:

1. The original conviction imposed more of a fine than it had authority for so the fine was appropriately reduced.

2. Non commercial river runners could be assessed the same penalties as commercial outfitters.

3. The allocation of use between commercial and non commercial river users was not arbitrary.

Appendix C- 20

UNCOMPAHGRE BASIN RESOURCE AREA

SPECIAL RECREATION PERMIT **8372**
TERMS, CONDITIONS AND STIPULATIONS **(Rev. 4/98)**
FOR ALL PERMITTED ACTIVITIES

I. RISKS, HAZARDS AND SAFETY

A. Hazards related to climate, topography and terrain, waters, vegetation and wildlife, and man-made features are found on public lands and present risks which the permittee assumes. The permittee shall be responsible for inspecting sites, trails, roads, rivers and other authorized use areas for dangers and hazardous conditions, ensuring awareness by employees and clients of such risks and hazards, and promoting safe practices at all times.

B. Adequate first aid and safety equipment shall be provided while performing the permitted activities.

C. All guides and employees responsible for clients in the field shall be trained in First Aid, and hold a valid certification of training from the American Red Cross or its equivalent.

D. In case of human death, or wildfire, involving the permitted operation, the County Sheriff shall be notified immediately, and the BLM shall be notified immediately after the Sheriff is notified.

E. The permittee shall notify the BLM of any accidents involving the permitted operation which result in loss of consciousness, injury disabling individuals in excess of 24 hours, requiring medical treatment or search and rescue, or property damage in excess of $100, and shall submit a detailed written report to the BLM within 10 days from the date of the accident. Other accidents shall be reported in the "Post Use Report".

F. Operation and maintenance of all sanitation, food services, and water supplies, systems, and facilities shall comply with the standards of the local department of health and the United States Public Health Service.

II. INDEMNIFICATION

A. The permittee shall indemnify, defend, and hold harmless the United States and/or its agencies and representatives from any and all demands, claims, or liabilities of every nature whatsoever, including, but not limited to, damages to property, injuries to or death of persons, arising directly or indirectly from, or in any way connected with the authorized use and occupancy of the lands authorized for use under this permit.

B. Insurance: Coverage shall be obtained for the permitted operations in the minimum liability coverage amounts of:

(1) $ 100,000 for bodily injury for any one person;
(2) $ 300,000 for any one occurrence;
(3) $ 10,000 property damage for any one occurrence.

C. A certificate of insurance shall be submitted, stating the limits of coverage, identifying the "United States Government" as additional insured, and that the insurer will give BLM thirty (30) days notice prior to cancellation or modification of such insurance.

D. All commercial clients, guides, and other employees operating under the Special Recreation Permit must be covered by the permittee's insurance.

III. APPLICABLE LAWS AND REGULATIONS

A. This Permit is subject to all applicable provisions of the regulations (43 CFR Group 8300) which are made a part hereof.

B. The permittee shall observe all applicable Federal, State, and local laws and regulations while performing any authorized activity, including but not limited to: (1) operation, use and registration of motor vehicles, OHV's, aircraft, and boats; (2) hunting and fishing; (3) use of firearms; (4) injury to persons or destruction of property; (5) noise, air and water pollution; (6) littering; (7) drinking water and sanitation; (8) food service; (9) use of fire; and (10) business practices; (11) trespass on private land.

C. Permits involving the taking of game, including fish, shall be valid only when accompanied by a valid State Outfitters Registration. Permits involving river floating or guiding shall be valid only when accompanied by a valid State River Guide License.

D. All hunters shall comply with the Colorado Division of Wildlife hunter safety requirements.

E. Permittee shall comply with restrictions while operating in a Wilderness Study Area (WSA) as prescribed in 43 CFR 8500. Maps and information on WSA boundaries and restrictions are available at the BLM office.

F. Permittee shall comply with Off-Highway Vehicle (OHV) designations and restrictions in the area of operation as identified in the Resource Management plan and prescribed in 43 CFR 8340. Permit issuance does not waiver any OHV use restrictions or license or registration requirements. Colorado State Law requires in-state all-terrain vehicles (ATV's) and previously non-licensed motorcycles be registered.

IV. LIMITATIONS

A. This permit authorizes only temporary use in connection with the operations, during the period(s), and in the area(s) identified in the Operating Authorization and approved operating plan.

B. Reassignment or Transfer: This permit may not be reassigned or transferred by the permittee for any reason whatsoever without prior BLM approval.

C. Use of Non-Public lands: This permit does not authorize use of non-BLM land (i.e. private, city, county, state, or other federal land).

D. Private Landowner Permission: The applicant shall provide upon request the name(s) and address(es) of private landowners whose property is used in connection with the permitted operations, and evidence of permission to use such land.

E. Access to Public Lands: The BLM does not guarantee legal access to public lands unless legal access for the general public is available. Where legal public access is not available, the permittee is responsible for obtaining permission from the landowner(s) to travel through or use private lands.

F. Multi-Year Permits: A multi-year permit is not valid unless accompanied by a current Annual Operating Authorization.

G. Joint Permit Requirement: This permit authorizes use of public lands in the Uncompahgre Basin Resource Area; use of public lands in other Resource Areas, or National Forest lands must be approved under a separate or joint permit.

V. NON-EXCLUSIVE USE

A. The permittee, employees and clients shall not interfere with other valid uses of public land, including but not limited to grazing, mining, and other recreational uses by the general public or other permitted commercial operations.

B. Roads, trails and trailheads, or campsites commonly in public use shall not be blocked or enclosed by the permittee.

C. This SRP does not guarantee the permittee's sole use of public land areas, nor does it grant the exclusive use of any area.

D. Unless use allocations are in place, public lands will generally remain available on a first-come, first served basis to as many other commercial and private recreational users as desire to use them. Nothing herein implies that the first permittee into any area has been granted exclusive use or priority use.

E. BLM has no authority to permit or regulate use of non-BLM land (i.e., private, state, and other federal) unless provided for by cooperative agreement.

F. Nothing in this permit will be construed as a license for the permittee, employees, or clients to use areas of the public lands which are otherwise restricted or closed.

VI. PERMITTEE RESPONSIBILITY

A. The permittee is at all times responsible for all actions of himself, his employees, clients and guests on both public and private lands. They are also responsible for the actions of any concessionaires that may be operating under their permit authorization.

B. The permittee shall ensure that all persons operating under the authorization have obtained all required Federal, State, and Local licenses.

VII. CONCESSIONS

A. The sale of merchandise (i.e., T-shirts, books, posters, jewelry, etc.), promotional materials, food or drinks, or any other materials by either the permittee or a concessionaire operating under their permit on public lands must be approved by the authorized office.

B. The permittee is responsible for reporting the gross income for any concessions **authorized under their permit and conducting operations on public lands**, and for collecting 3% of those sales for inclusion in their final fee payments.

VIII. MODIFICATION OR AMENDMENT

A. The BLM reserves the right to alter the terms, conditions, and stipulations of this Permit at any time upon notice for reasons such as changes in law, policy or administrative procedure, to prevent use conflicts, to protect public safety, or to prevent resource damage.

B. The permittee shall request amendment or modification of the permit to provide for changes in: use areas or sites, season of use, services provided, fee structure, or any other changes in operations.

C. The BLM may restrict use or close sites or areas on public land, or require relocation of use sites or areas to prevent use conflicts, protect public safety, or prevent resource damage.

IX. PAYMENTS

A. Basis for Fee: The minimum annual fee is $75.00 or three percent (3%) of the permittee's gross revenue (allowing certain discounts for lodging and transportation), whichever is greater. Gross receipts include total income which has been generated from the permitted activity before deducting costs such as insurance, prizes, other permit or license fees, etc. Gross receipts also include total supplemental money collected through sponsor contributions, other donations, the sale of clothing insignia, specialized equipment, or food and beverage when sold incidental to the permitted activity.

B. Commercial Permit Fee Payments: The minimum annual permit fee of $75.00 is payable at the time the permit is issued. Additional fees will be calculated based on actual use and gross receipts reported in the permittee's Post Use Report completed at the termination of the permit.

C. Advanced Fee Payments: Under certain circumstances, BLM may require additional advanced payments, based on estimated use gross receipts, at the time of permit issuance. Payments shall be sent to the Uncompahgre Basin Resource Area Office by check, money order or cashier's check, made payable to "*The Bureau of Land Management*".

D. Fees for Concessions: In the case where concessions are approved as a part of the permit, the permittee is also responsible for collecting and paying 3% of the gross revenue from concession sales as part of their fee to BLM.

E. Periodic Payments: At the Area Manager's discretion, when the estimated or actual use fee is greater than five hundred dollars ($500.00), a schedule for periodic payments may be arranged.

F. End of Season Payment: The actual use fee shall be determined from the use reports. If the actual use fee is greater than the advance payment(s) the permittee will be billed for the balance due, and payment shall be due within 30 days of the billing date, unless prior approval for an extension is obtained.

G. Refunds:

1. In the event a SRP is not approved after advance payment is made during the application process, all payments except a $10.00 processing and filing fee shall be refunded to the applicant without interest.

2. Advance payments in excess of actual use fees due shall be applied towards the following year's permit payments unless a refund is requested in writing by the permittee. No refunds of less than ten dollars ($10.00) will be made.

H. Late Payments: **Late payment of fees may result in additional fee penalities**, permit probation, suspension, and/or revocation, and interest and administrative handling charges.

I. Deductions: Allowable deductions in permit fees shall be agreed upon in advance, and may include costs related to the permitted operations incurred by the permittee for long distance off-site transportation, off-site lodging, and use of non-public lands, per Handbook H-8372-1.

X. USER OR IMPACT FEES (GUNNISON GORGE)

A. Beginning on May 1, 1998, as part of the National Fee Pilot Demonstration Program, all private and commercial visitors (16 years of age and older) to the Gunnison Gorge Wilderness Study Area (WSA), will be required to pay user or impact fees via self-issuing envelopes at the four Gorge trailheads (Chukar, Bobcat, Duncan, and Ute.) Fees are set at $3 per person per day for day use only and $5 per person per day for overnight use in the canyon. Annual passes are available at the trailheads for $15.

B. Unless other provisions have been made with the BLM, commercial clients of river and/or upland outfitters will be required to pay fees at the trailheads when entering the Gorge. Commercial guides are exempted from fees while on duty.

XI. USE REPORTS

A. Trip Log (Non-River Permits): Trip Logs shall be submitted within 30 days of the authorized use season on a form provided by the BLM or an approved equivalent. Trip logs shall indicate accurately the dates of use, location, type of use, number of clients, number of staff, vehicles and livestock used, total receipts, and any deductions claimed. **Fee penalties may be charged for late reports.**

B. Trip Logs (River and Walk/Wade Fishing Permits): Trip Logs are required for any month in which there is use. Logs for months in which there is use must be submitted no later than the 15th of the following month on a form provided by the BLM or an approved equivalent. Trip logs shall indicate accurately the dates of use, location, type of use, number of clients, number of staff, total visitor days, number of boats used, and total receipts. **Fee penalties may be charged for late reports.**

C. River and Trailhead Registers (River and Walk/Wade Fishing Permits): Companies who operate in the Gunnison Gorge are required to sign-in at either the Chukar Put-In Register (float and walk/wade) or at the Ute, Bobcat, or Duncan Trailhead Registers (walk/wade fishing only) on the days of their use. Use data presented in trip logs must be consistent with the information reported by the company on a river register. Additional requirements for register sign-ins are contained in Supplemental Stipulations for Commercial River Outfitters.

D. Post Use Report: A Post Use Report shall be submitted as specified below on a form provided by the BLM or an approved equivalent. The post use report shall indicate accurately the total number of clients served during the term of the Permit, total staff and total use, total receipts, and total deductions claimed, and describe any accidents or injuries occurred, and management problems or concerns.

1. **Post Use Report (Gunnison Gorge):** **Post Use Reports are due within 30 days of your last day of use or no later than October 31 for all whitewate/floatfishing permits.**
2. **Post Use Reports (Other Areas):** Post Use Reports are due within 30 days of the last day of use authorized.

F. Late Use Reports: Late submission of use reports may be cause for action against the permittee, including late payment penalties, probation, suspension, and/or revocation, and criminal penalties.

G. Non-Use: A permit may be cancelled after two consecutive seasons of non-use.

XII. INSPECTION OF RECORDS AND PREMISES

A. Permittee agrees to make all relevant books, documents, papers, and records of his/her operation available to BLM upon request (as outlined in 43 CFR 8372.5) for analysis by qualified representatives of BLM and other Federal agencies authorized to review BLM permitting activities.

B. BLM, or duly authorized representative, may examine upon request any of the records, including but not limited to bookings, client registers, financial records, leases or contractual agreements, licenses, or other documents related to the permitted operations.

C. For administrative purposes, including compliance checks, the permittee shall allow the BLM and its cooperators, including the Colorado Division of Wildlife, USDA Forest Service, and the Colorado Division of Parks and Outdoor Recreation, the right to enter their premises located on public land.

D. The permittee shall allow BLM and its cooperators reasonable access to private lands owned or utilized in the permitted operation for purposes related to administration of the permit.

E. Upland hunting permittee shall post a copy of the Permit or Operating Authorization in plain view at the base of operations and camps, where clients, BLM and Division of Wildlife officers have the opportunity to read it.

F. All permittees, guides and employees must carry a copy of the Permit or Operating Authorization while conducting operations on public lands, and they must be familiar with the Permit terms, conditions and stipulations.

XIII. SIGNING AND ADVERTISING

A. All signs and advertising must meet State of Colorado regulations regarding upland hunting and river outfitters.

B. All advertising shall be accurate and not misrepresent in any way the services or accommodations provided, or the area authorized for use. Brochures and other advertising materials shall include the following disclosure: "*All or part of this operation is conducted on Public Lands under special permit from the U.S. Bureau of Land Management*".

C. Signs or advertising devices on public land require advance approval on the location, design, size, shape or color, and message.

XIV. CAMPSITES

A. Hunting outfitter camps may be set up for no longer than necessary, and no earlier than 5 days prior to the first day of use authorized and must be removed within five days after the authorized use period. No year-round, permanent camps may be established on BLM lands; only temporary facilities are permitted.

B. Camps shall be located to avoid conflict with public road and trail traffic, and stream or lake access, and to the extent possible shall be located out of sight of major trails.

C. All campsites and temporary improvements shall be as described in the approved operating plan.

D. All campsite facilities including but not limited to tents, latrines, livestock control facilities, shall be located at least 150 ft. from the nearest spring, stream, lake, pond or reservoir unless specifically authorized otherwise.

E. Issuance of a permit does not authorize the permittee's use of public campgrounds.

F. Issuance of a permit by BLM (in areas outside the Gunnison Gorge WSA, see below) does not guarantee the permittee's use of any specific campsite(s) in the Uncompahgre Basin Resource Area.

G. Designated Campsites (Gunnsion Gorge WSA): All campsites in the Gunnison Gorge are designated for use by either boaters or walk-ins. Commercial boating and walk-in fishing trips in the Gorge are required to stay at sites designated for those purposes. (see additional Gunnison Gorge registration requirements in Section X. C. "River and Trailhead Registers (River and Walk/Wade Fishing Permits.)"

XV. CAMP FIRES

A. Unless permanent fireplaces are designated, open campfires shall be built only in areas that are presently free of trees and shrubs (at least 15 feet in diameter free of hazardous fuels.) Fire rings or pits shall be set on bare mineral soil. After use, ashes shall be removed from all fire pits and packed out or dispersed in a manner agreed upon by the authorized officer. Depending on the site, the authorized officer may also require that the fire rings or pits be obliterated and the site rehabilitated. Open fires may be prohibited during periods of extremely high fire hazard by order of the BLM or the State of Colorado.

B. No new fire rings will be started where existing rings are available. The use of gas stoves or charcoal briquettes is strongly encouraged, and the packing of fuels may be necessary to supplement naturally available firewood.

C. No campfires will be left unattended and shall be completely extinguished upon leaving the site for any purpose. The permittee is responsible for all fires started by him/her self, employees, or clients start, and may be held responsible for fire suppression costs resulting from wildfire caused by his/her operations.

D. An axe, shovel, water bucket or extinguisher for fire control shall be available at each campfire.

E. Wildfire shall be reported immediately to the nearest BLM office. The permittee is responsible for informing employees, clients, and participants of the current fire danger and required restrictions or precautions that may be placed in effect by BLM or the State of Colorado.

F. Open fires are prohibited along all river corridors within the Uncompahgre Basin Resource Area and the use of fire pans and charcoal is mandatory. Open fires are prohibited anywhere within the Gunnison Gorge Wilderness Study Area.

G. Fires and stoves are prohibited within old cabins or historic structures. Cutting or gathering firewood from historic structures or from standing trees (alive or dead) is prohibited.

XVI. LIVESTOCK USE

A. Authorized pasture use of livestock is temporary and limited to transportation purposes, and will not establish a priority for future use of the range. Rangeland grazing may be restricted and feed may be required to be packed in. The permittee shall prevent localized over grazing and damage to vegetation by permitted livestock.

B. Construction of permanent fences or corrals is not permitted.

C. Temporary livestock control structures may be erected, including corrals and hitching racks, provided they are approved by BLM and dismantled after the use season. The proposed construction and use of temporary structures must be stated in the operating plan.

D. The permittee may be required to pay additional fees for forage consumed by livestock during the permitted operations.

E. Livestock shall not be tied to trees for other than short term, temporary stops. Hobbles, pickets, highlines or corrals shall be used to control livestock.

F. Livestock control structures (corrals, hitching racks, pickets, highlines) must be at least 150 ft from springs, streams, lakes, reservoirs or other water sources.

G. Permittees using livestock are required to follow all regulations regarding the use of cubed, pelletized, or processed feed or certified weed-free hay.

XVII. EQUIPMENT CACHES

A. No food and/or equipment caches are allowed on public lands within the Uncompahgre Basin Resource Area unless specifically authorized by BLM.

B. When authorized, caches shall be neatly stored out of sight of roads and trails. Location of proposed caches must be described in the permit operating plan.

XVIII. RESOURCE PROTECTION

No one shall intentionally or wantonly destroy, deface, remove, or disturb any public building, sign, equipment, marker, or other government property, cultural site, historic structure, natural feature of the land, vegetation, or wildlife, except as legally taken.

A. Aesthetics: Permittee shall protect the scenic and aesthetic values of the public lands used in the operations, and maintain premises on permitted grounds and areas to acceptable standards of repair, orderliness, and cleanliness.

B. Rehabilitation: After camps and other temporary facilities are dismantled, insofar as practical, the area shall be left in a natural state.

C. Sanitation (Outside river corridors): Self contained or pit type toilets/privies, with or without tent coverings, shall be used at all campsites outside of river corridors on public land. The authorized officer will stipulate in the permit which type of toilet is needed to accommodate the proposed use, and may require that the permittee arrange for porta-pottie rental at the camp or at the staging site of an event (i.e., competitive race, rally, festival, etc.) Waste from privately-owned or rented self contained toilets must be disposed of at a State approved sewage disposal facility. When abandoned, toilet pits shall be covered with a minimum of 12" of topsoil and back filled to pre-existing grade. While in use, human waste in pits shall be covered with a layer of topsoil or lime after each individual use.

D. Sanitation (Within River Corridors): Reusable, portable toilets are required for all overnight float and/or walk/wade fishing trips. All human fecal matter will be packed out and disposed of at a State approved sewage disposal facility. There is a sanitation disposal station at the Gunnison Forks take-out.

E. Trash Disposal: Grounds shall be regularly cleaned and no trash or litter shall be allowed to accumulate. Combustible trash may be burned when campfires are authorized. All non-combustible trash, including but not limited to tin cans, spent brass, glass bottles, foil, and wire shall be packed out. Trash shall not be buried on public land.

F. Dead animals and their remains shall be disposed of at least 150' away from springs, streams, lakes, ponds, campsites, roads/trails.

G. Waste or by-products of any kind shall not be discharged into any stream, reservoir, lake or pond.

H. Soils: Permittee shall conduct the permitted operations in a manner which prevents severe rutting, or severe soil erosion.

I. Vegetation Damage/Removal: All operations shall be conducted in a manner which prevents damage to or loss of vegetation cover. Standing trees (alive or dead) may not be cut for use in constructing temporary facilities unless prior approval is obtained from BLM. Cutting or clearing of standing trees, alive or dead, or clearing and cutting of shrub/groundcover for any other reason shall require specific advance authorization. When tree cutting is authorized, stumps shall be left no higher than 6" above ground level and slash shall be lopped and scattered. No woodland/tree products shall be removed from public land without a separate permit for that use.

J. Firewood Cutting: Firewood may be cut on public land only for campsite use while on public land, and may not be transported off the public lands without a separate firewood cutting permit. Only dead trees shall be cut for firewood, with stumps left no higher than 6" above ground level, and the slash shall be lopped and scattered.

K. Protection of Public Property: Signs, equipment, markers, fences, livestock watering facilities or any other property found on public land shall not be damaged, destroyed, defaced, removed, or disturbed.

L. Cultural Resources: Archeological and historical values including, but not limited to, petroglyphs, ruins, historic structures, cabins and artifacts shall not be damaged, destroyed, removed or disturbed. Any hidden cultural values uncovered through authorized operations shall be left in place, and the Area Manager shall be notified of their discovery. Fires and stoves are prohibited inside old cabins or historic structures. Cutting or gathering firewood from historic structures, standing or collapsed, is prohibited.

M. Wilderness Study Areas (WSA): Use of electric generators, all motorized equipment including

chainsaws and vehicles, is prohibited within a WSA. If supplemental livestock feed is used, cubed, pelletized, or processed feed or certified weed free hay shall be used.

N. Facility Construction: Construction of permanent facilities or improvements of any kind, including but not limited to roads, trails or structures, is not approved by this permit and shall require separate authorization.

XIX. PERFORMANCE EVALUATION

A. The BLM shall conduct periodic inspections and performance evaluations of the permittee's operations and compliance with the terms, conditions and stipulations of the Permit.

B. Violations in Other BLM/USFS Areas: Permit violations in this or any other BLM resource area or Forest Service district may also be cause for the BLM to deny approval of a Permit or Operating Authorization for subsequent years.

C. Denial of Permits for Affiliates: If a permit is canceled or suspended for any reason, you will not be allowed to circumvent that decision by having affiliates associated with you or your business apply to continue your operation.

D. Violations and Penalties: Any violation of the permit terms, conditions and stipulations may be subject to penalties prescribed in 43 CFR 8372.0-7, which may include fines up to $1,000 and/or imprisonment up to 12 months and/or civil penalties. Restitution may be levied for any damages and additional administrative penalties may be imposed including fines, permit revocation, suspension or probation.

1. **Revocation:** This permit may be canceled or revoked without compensation for any failure to comply with the terms, conditions and stipulations hereof, and operations on public land shall immediately cease upon cancellation. After a permit is canceled or revoked, any commercial use of public lands shall be in violation of federal regulations, and the Bureau may deny future authorization for use of public lands.

2. **Suspension:** This permit may be temporarily suspended, in whole or in part, without compensation for any failure to comply with the terms, conditions and stipulations hereof, and operations on public land shall cease immediately upon suspension. After a permit is suspended, any commercial use of public lands shall be in violation of federal regulations. The Bureau may reissue authorization for use of public lands after corrective action is taken by the permittee and the operation is under compliance with the terms, conditions and stipulations.

3. **Probation:** The permit may be placed under special scrutiny for any failure to comply with the terms, conditions and stipulations hereof, and operations on public land shall be allowed to continue while under probation.

E. Multi-Year Permits: For multi-year permits, the following actions may result in cancellation of the permits and would require the permittee to apply for a new permit:

1. Change in fee structure
2. Two consecutive seasons of non-use.

Appendix C- 21

SUPPLEMENTAL STIPULATIONS for the GUNNISON GORGE WSA

1998

In order to protect and preserve the natural resource values and provide public safety for visitors in the Gunnison Gorge Wilderness Study Area (WSA) and all other lands within the Gunnison Gorge Special Recreation Management Area, the attached supplemental stipulations and rules are in effect for all commercial recreation permits. All of these stipulations are compatible with the RAMP (1985) and the RAMP Addition (1988).

A. For one-year outfitters, permit application forms, insurance certificate, state license(s), and fee payment must be postmarked by **APRIL 1 and received in this office no later than five days after that date.** No permit will be issued unless all forms and payment are received by the Uncompahgre Basin Resource Area (UBRA) BLM office on or before this deadline.

B. **A multi-year permit is not valid unless accompanied by a current Annual Operating Authorization.** This authorization form will be issued to all qualifying companies by the UBRA office prior to the river season.

C. **Trip logs are required only for the months in which use occurred. Trip logs for months in which there is use are due no later than the 15th of the following month.** Exceptions may be granted with prior approval of the Recreation Planner.

D. **Post Use Reports are due within 30 days of your last day of use or no later than October 31 for all whitewater/floatfishing permits.**

E. **On all trips, day or overnight, a maximum group size of twelve (12) people, including guides, is permitted.**

F. Registration at the Chukar Put-in is mandatory for all users in the Gunnison Gorge. **Information on number of people and duration of trip must be consistent with that reported in monthly trip logs.**

G. **Head Guide Sign-In Requirements and Restrictions**

Head guides on all walk-in fishing and raft trips are required to **sign their name** along with the company name on registers at either the Chukar put-in or at any trailhead in the Gunnison Gorge.

Only the Head guides for a trip may sign-in their trip.

Head guide sign-ins can only be made on the put-in day of the trip. **Sign-ins are not permitted prior to the day of the actual launch.**

Head guides must have a copy of current BLM Annual Authorization Form (multi-year outfitters) or Special Recreation Permit (one-year outfitters) in his/her possession while in the Gunnison Gorge.

H. **Permittees must supply BLM a list of all guides employed by their company prior to the season.**

In addition, BLM must be informed of any changes in the list in a timely manner. Any guides not on the list may be required to provide BLM patrol personnel proof that they are employed by a permitted outfitter in the Gorge.

*******CHANGES TO THE GUIDE LIST SHOULD BE FAXED TO BLM AT (970) 240-5367********

DESIGNATED CAMPSITES

I. **Sign-in and Use of Campsites in the Gunnison Gorge**

All campsites in the Gunnison Gorge are designated. Sign-ins are required at the Chukar Put-in or the trailhead. Commercial river trips must stay in designated boater sites.

Commercial boaters may camp one night at the designated boater site at Margaritaville. The other designated site at Margaritaville is for walk-in use only.

Campsites for overnight commercial trips in the Gorge may be signed in for only by the head guide on the day of the walk-in fishing trip or boat launch. Sign-ins of campsites are not permitted prior to the day of the actual launch.

J. Except where specific allowances have been made by BLM, **there will be no more than two commercial launches on any one date. A "launch" is defined as all the commercial customers and guides scheduled by a company for an allocated launch on a given day.**

The group may split into one day trip and one-multi-day trip or two multi-day trips, but no other split combinations will be allowed. Groups on multi-day split trips must camp together at the same campsite(s) throughout the course of their stay.

Allowances will be made for inclement weather which makes the Chukar Road impassable. In such an event, the permittee may request to use the following day for his/her put-in, **with prior notification and approval of the BLM authorized officer (call the Recreation Hotline (970) 240-5388 or John Arkins (970) 240-5310).** However, the permittee must give preference to other outfitters having that assigned date for their rigging and launching of boats, and their selection of proposed campsites. A loss of a put-in date due to inclement weather does not guarantee that the permittee will be assigned a replacement put-in date at a later time during the season.

K. **Any company that conducts an unauthorized launch in the Gunnison Gorge will be fined and restitution for the trip will be collected upon first offense. Any repeat violations of this stipulation will result in permit suspension and/or revocation.**

L. No selling of dates is allowed.

M. **The permittee may not assign or sublease any portion of the permit authorization or interest therein, directly or indirectly, voluntarily or involuntarily.**

N. **Any contracting of equipment or services from non-permitted companies must be approved by BLM in advance.**

O. Allocated launch dates may be traded or assigned to other outfitters permitted with BLM, or they may be returned to the common pool. **BLM must be notified in advance of all trades.**

******* PERMITTEES MUST CALL THE BLM "RECREATION HOT LINE" AT (970) 240-5388 or John Arkins at (970) 240-5310 TO LEAVE MESSAGES REGARDING THE TRADING OR RELINQUISHING OF DATES.*******

P. Unallocated "pool launches" will be open on a first-come, first-serve basis by telephone, mail, or by personal request. BLM may ask for a proof of booking prior to approval of open launch dates.

Q. No food and/or equipment caches are allowed in the Gunnison Gorge Wilderness Study Area (WSA) unless specifically authorized in advance by the permitting officer.

R. Commercial permittees, on overnight trips, are required to use stoves or charcoal. If charcoal is used, it must be contained in a fire pan and the ashes must be packed out. Ashes will not be disposed of in the river. Permittee will strain food garbage from rinse water and packout refuse. Wood fires are not permitted in the Gorge. Kitchen and lunch site floors are strongly recommended and may become mandatory if deemed necessary.

S. Reusable, portable toilets are required for all overnight trips and **must be set up each night in camp**. All human fecal matter, trash, and food refuse will be packed out and removed from the public lands. **A sanitation dump station is provided on BLM land at the Gunnison Forks take-out.** No trash facilities are provided. **Commercials are not permitted to use the pit toilet in Ute Park in place of the required porta-potie.**

T. Maximum length of stay within the Gunnison Gorge WSA (from Margaritaville, upstream of the Chukar put-in, to the Smith Fork confluence), is three (3) days (two nights). One additional night may be added below the Smith Fork confluence.

U. **Any commercial boater overnight use within the Gorge prior to a scheduled launch is a violation of launch allocations. Guides *without* clients may camp overnight at the Chukar Put-In to rig & monitor gear for a launch the next day. Guides *with* commercial clients who arrive the evening before an allocated launch may camp at the Chukar Trailhead.**

Any commercial walk-in fishing use (day or overnight use) associated with a launch and conducted prior to the launch, must be reported on the company's walk-in fishing permit trip logs. Walk-in fishing guides and clients on overnight trips prior to a launch must register for and camp in designated walk-in campsites or at the Chukar Trailhead.

V. In order to reduce excessive horse traffic on the Chukar Trail during peak use periods, outfitters will be permitted **at the discretion of the horse packer**, to pack in boats and equipment for "back-to-back" trips on the afternoon prior to the first launch, and leave the gear for the second day's launch**at the designated site under the rock overhang at the Chukar Put-in.**

W. Maximum length of stay for commercial boaters at one campsite is one day. No layover days are allowed (Ute Park area is considered as one campsite).

X. No motors are allowed from the boundary with the Black Canyon of the Gunnison National Monument and the confluence with the Smith Fork. Electric raft pumps are not allowed in the WSA. Electric pumps may be used at the Gunnison Forks take-out and at the Chukar Trailhead.

Y. Vehicular use on the BLM Chukar Road from the Peach Valley county road to the Chukar trailhead will not be permitted during a heavy or prolonged rain. It is the responsibility of the commercial permittee to insure that road damage or resource degradation does not occur from his/her use. **The permittee will be held responsible for any costs associated with road repair caused by their operations.**

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
UNCOMPAHGRE BASIN RESOURCE AREA
2505 SOUTH TOWNSEND AVENUE
MONTROSE, COLORADO 81401

SPECIAL RECREATION PERMIT (SRP) OPERATING AUTHORIZATION

Lion Hunting

Permission is hereby granted to **JAMES M. KNIGHT dba AMERICAN OUTFITTERS, SRP Number CO034-98-089**, for commercial use of public lands administered by the Bureau of Land Management (BLM), Uncompahgre Field Office (UFO), Montrose, Colorado, the San Juan Field Office(SJFO), Durango, Colorado, and the Grand Junction Field Office (GJFO) in Grand Junction, Colorado.

This permit is valid only on BLM Public Lands within the Game Management Units listed below:

Lion Hunting

GMUs 64, 65 in the Uuncompahgre Field Office area,
GMUs 60, 61, 62, 70E in the Uncompahgre and Grand Junction Field Office areas
GMUs 70W in the San Juan Field Office area

This Operating Authorization is valid for the period of **August 15, 1997 - March 31, 1998 .**

A copy of this Operating Authorization shall be carried by guides, employees, and representatives while operating on Public Lands.

Trip Logs and Post Use Reports are due within 30 days of the last day of use authorized and no later than **April 30, 1998 .**

Payment of additional user fees, as determined by the Post Use Report, will be due within 30 days of the billing date, unless prior approval for an extension is obtained. Late payment of fees may result in permit probation, suspension, and/or revocation, and interest and administrative handling charges. All payments for use of BLM land should be made to the BLM, Uncompahgre Field Office administering the permit.

This permit is subject to all BLM standard Special Recreation Permit (SRP) terms and conditions and any additional stipulations or conditions attached.

Any questions regarding this BLM permit should be referred to Karen Tucker at the Uncompahgre Field Office, 2505 S. Townsend Ave., Montrose, CO, 81401,
(970) 240-5309.

_____ _____
Date Allan J. Belt, UBRA Area Manager

United States Department of Agriculture
Forest Service
Norwood Ranger District
1760 E. Grand
P. O. Box 388
Norwood, CO 81423
(970) 327-4261

File Code: 2720-2

Date: May 12, 1998

RECEIVED
MAY 14 1998
B.L.M. Montrose Dist.

THOMAS COLANDER
TLCR INC DBA COLORADO TROPHIES
P O BOX 249
REDVALE CO 81431

Dear Mr. Colander:

Enclosed is your 1998-99 outfitter-guide special use permit. Your proposed itinerary is approved as detailed on the cover page of the permit. Please read the permit carefully, sign it where indicated on the last two pages and return the entire permit to this office as soon as possible. Upon our final approval, a copy of the permit will be sent to you. Also enclosed is a Bill for Collection for your next season's estimated fee, calculated from the itinerary you provided us. Please send payment and one copy of the bill to the address noted on the bill and keep one copy for your records.

Please note that your permit now includes the Mailbox and Naturita Canyon areas on BLM, as approved by Karen Tucker. Also note that this permit does not approve any summer guiding, as your intention was expressed during a phone conversation with Leigh Sullivan on 5/6/98.

If you have not already done so, please provide us with a current guide list, including proof of minimum qualifications (first aid training) and proof of adequate insurance coverages before final permit approval. Any brochures and literature which you produce must indicate that your operation is federally permitted. (They all should include the statement: " (the name of your operation) operates on the Uncompahgre National Forest (also include the name(s) of other national forests here, if authorized) under special-use permit from Forest Service, USDA." - with Forest Service shield displayed.) This designation is a requirement of your permit!

Should you have any questions, please contact Bill Dunkelberger of my staff.

Sincerely,

Craig Grotten

for RICHARD P. COOK
District Ranger

Enclosure
cc: Karen Tucker, Montrose BLM

U. S. DEPARTMENT OF AGRICULTURE Forest Service	Holder No. 9547-01	Issue Date 05/21/98	Expir. Date 05/21/99
OUTFITTER-GUIDE SPECIAL-USE PERMIT	Type Site(s) 153	Authority 007	Auth. Type ----
Authority: Land and Water Conservation Fund Act of 1965 (16 USC 460)	Region/Forest/District 02/04/05		State/County 08/113
	Cong. Dist. 03	Latitude 37-75-30	Longitude 107-10-00

THOMAS COLANDER,
TLCR, INC. DBA COLORADO TROPHIES of P. O. Box 249
(Holder Name) (Billing Address - 1)

	Redvale	CO	81431
(Billing Address - 2)	(City)	(State)	(Zip Code)

(hereinafter called the Holder) is hereby authorized to use or occupy National Forest System lands, to use subject to the conditions set out below, on the Grand Mesa, Uncompahgre and Gunnison National Forests , and on the Uncompahgre Resource Area on Bureau of Land Managment lands.

This permit covers certain acres as follows:
For guided deer, elk and lion hunting: within the Uncompahgre National Forest on the Norwood District in the Lone Cone/Beaver Park area, Naturita Division, and Tabeguache area on the Uncompahgre plateau; and on Bureau of Land Management lands within the Uncompahgre Basin Resource Area in the Beaver Canyon, Mailbox, and Naturita Canyon areas;

and is issued for the purpose of: Providing a Public Service through Conducting Outfitter and Guide Activities on the Grand Mesa, Uncompahgre and Gunnison National Forests and other areas as described above, specifically: providing guided big game and lion hunting, day use only - 300 total service days and as shown on the itineraries, maps on file and Operating Plan which are made a part of this permit. The above described or defined location shall be referred to herein as the "permit area."

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

TAKE PRIDE IN AMERICA

Fred Jones
Lost Dutchman Motorcycle Club
P.O. Box 1587
Modesto, CA 95565
Chipolte Mountain Area and the Ranch Hills Off Highway Vehicle Area.

Dear Mr. Jones:

This letter is in response to your September 20, 1998 letter and application for a special recreation use permit to conduct a motorcycle race through the California Ridge Wildnerness Area, the Class L Limited Lands within the Chipolte Mountain area and the Rancho Verde Off Highway Vehicle Area for August 15, 1999. I have divided your proposed event course into the three following sections to discuss the specific issues germane to each course segment.

California Ridge Wilderness:
In regards to conducting a competitive motorized event in the California Ridge Wilderness, the Bureau of Land Management is prohibited by the Wilderness Act of 1964 Sec. 4-c; the California Desert Protection Act of 1994; the Federal Land Policy Management Act of 1976 Sec. 603-c; the Code of Federal Regulations - 43 CFR 8560.1-2; and the Bureau of Land Management's own Wilderness Policy - Secs. 8560.07 and 8560.31 from issuing permits for motorized and/or competitive events within designated wilderness. Therefore your course segment in the California Ridge Wilderness is denied due to incompatibility with the above Federal laws and regulations as well as Bureau wilderness management policy.

Chipolte Mountain Area:
The BLM's decision process for the course section you propose west of U.S. 395 is directed by the California Desert Conservation Area Plan of 1980. Under this plan, your proposed course falls within an area designated as Class L Limited Lands due to the presence of sensitive cultural and natural resources. This area has also been designated by the U.S. Fish & Wildlife Service as Critical Habitat for the desert tortoise, a federally listed threatened species under the Endangered Species Act. Since no routes in the Chipolte Mountains have been approved or designated for motorized competitive events at this point, the Bureau would have to perform the following actions to fully evaluate your proposal:

- Conduct a cultural resource inventory and clearance along and adjacent to the proposed race course. Estimated at 1.0 BLM staff work months minimum for inventory and recordation.

- Conduct a wildlife and sensitive plant inventory and clearance along and adjacent to the proposed race course. Estimated at .75 BLM staff work months for inventory and recordation.

- Prepare an environmental assessment for the proposed action in compliance with the National Environmental Policy Act. Estimated at .50 BLM staff work months.

- Conduct a public review process to allow the general public and interest groups the opportunity to fully participate in the assessment process and respond to concerns raised over this proposal. Estimated at .50 BLM staff work months.

- Prepare a biological assessment and conduct a formal consultation with the U.S. Fish & Wildlife Service to determine if the desert tortoise will be affected by this action and to determine the appropriate level of compensation required to mitigate impacts to the desert tortoise or its habitat. Estimated at .25 BLM staff work months.

This initial evaluation would cost the BLM an estimated 3.0 work months (3 x $4,000 = $12,000) to fully evaluate your proposal. Due to the sensitive resource values that occur in the Chipolte Mountains, it is estimated that an additional .5 work months would be expended by the BLM to perform monitoring and post event compliance inspections (.5 x $4,000 = $2,000). If the BLM were to approve this proposal, the actual cost to the United States for issuing and monitoring this permit would be approximately $14,000 with an additional $2,520 in overhead costs (18% of actual cost) for a total of $16,520.

Since the actual cost of issuing and monitoring this permit would exceed $5,000, the fee for your event would be based on the actual costs to the United States rather than the regular permit fee schedule for competitive events in accordance with 43 CFR 8372.4 (2) (see attached). These fee regulations require that this $16,520 be paid by you or your organization before we could begin to process your application.

If any cultural sites are located within the area affected by your proposal during the project inventory, the cost of site mapping, recordation and recovery would push the $16,520 cited above considerably higher. Due to limited staff and other management priorities our Field Office, it is also unlikely that this office would have the resources available to process your request. In this case, you would have the option to contract out the biological and cultural resource clearances necessary to evaluate your proposal.

In addition, completing the field inventories, conducting consultations and preparing the necessary environmental documents would not guarantee that the BLM would approve your proposal. In the event that the BLM did approve the course section through these critical habitat areas, the following additional costs and conditions would likely be applied to your event:

- A performance bond of at least $3,000 to cover the cost of any post event restoration actions to repair habitat damaged by riders straying off the approved race course. This performance bond would be refundable if no resource impacts occurred as a result of your race.

- In addition to restoration costs, any disturbance that occurs off the approved course in Category 3 Desert Tortoise Habitat would also incur an additional compensation charge assessed at $826 per acre or percentage thereof.

Rancho Verde OHV Area:
The 69,000 acres of Use Class I lands within the Rancho Verde OHV Area along with the additional 58 miles of designated race routes in the Use Class M lands located to the south and east of the Rancho Verde OHV Area are available for competitive motorized events without additional application/processing fees, performance bonds or possible compensation charges. These areas were approved and set aside for competitive motorized vehicle events through the California Desert Conservation Area Plan and the Rancho Verde OHV Area Plan and are not listed as critical habitat for the desert tortoise. Unfortunately, the map you submitted with your application does not give enough information for my staff to evaluate this section of your race course. We look forward to working with you and your club in the future to plan a motorcycle race within the Rancho Verde OHV Area to accommodate your needs.

I am returning the special recreation use permit application and map you submitted on July 17, 1998 with this letter and am formally denying your request for a special recreation use permit based on your proposals conflict with federal law, regulation and policy; incompatibility with existing land use planning decisions for the area of interest; and insufficient information and resources to adequately perform an assessment. If you believe this decision is adverse to you and believe it is incorrect you may file an appeal with the Interior Board of Land Appeals by following the procedures outlined on the attached Form 1842-1.

If you have any questions regarding any of these issues please contact myself or outdoor recreation planner, ...

Sincerely,

Acting Field Manager

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY) 04/08/1997

ODUCER (208)743-9426 FAX (208)746-6871
gnstad's Inc.
O. Box 373
)12 Main
ewiston, ID 83501
tn: Fran Murphy Ext: 104

SURED
Wilderness Aware, Inc.
P. O. Box 1550
Buena Vista, CO 81211

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY A: Albany Insurance Company
COMPANY B:
COMPANY C:
COMPANY D:

OVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
	GENERAL LIABILITY				GENERAL AGGREGATE	$ 600,000
	COMMERCIAL GENERAL LIABILITY				PRODUCTS - COMP/OP AGG	$
	CLAIMS MADE / OCCUR	H108313#1068	05/01/1997	05/01/1998	PERSONAL & ADV INJURY	$
	OWNER'S & CONTRACTOR'S PROT				EACH OCCURRENCE	$ 600,000
X	watercraft liab				FIRE DAMAGE (Any one fire)	$
					MED EXP (Any one person)	$ 5,000
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT	$
	ANY AUTO					
	ALL OWNED AUTOS				BODILY INJURY (Per person)	$
	SCHEDULED AUTOS					
	HIRED AUTOS				BODILY INJURY (Per accident)	$
	NON-OWNED AUTOS					
					PROPERTY DAMAGE	$
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	$
	ANY AUTO				OTHER THAN AUTO ONLY:	
					EACH ACCIDENT	$
					AGGREGATE	$
	EXCESS LIABILITY				EACH OCCURRENCE	$
	UMBRELLA FORM				AGGREGATE	$
	OTHER THAN UMBRELLA FORM					$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATUTORY LIMITS / OTHER	
					EL EACH ACCIDENT	$
	THE PROPRIETOR/ PARTNERS/EXECUTIVE OFFICERS ARE: INCL / EXCL				EL DISEASE - POLICY LIMIT	$
					EL DISEASE - EA EMPLOYEE	$
	OTHER Marine Protection and Indemnity	H108313#1068	05/01/1997	05/01/1998	$600,000 CSL Limits $250 PD Ded	

RECEIVED
APR 14 1997
Uncompahgre Basin Resource Area

SCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS
itewater outfitter Master FS-97-91
Govenment, US Forest Service, Department of Agriculture and Bureau of Land Management as
ditional insured

ERTIFICATE HOLDER

United States Govenment, BLM
Umcompagre Basin Resource Area
as additional insd., ATTN: Karen Tucker
2505 S. Townsend Avenue
Montrose, CO 81404

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~XXXXXXXX~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT.

AUTHORIZED REPRESENTATIVE

CORD 25-S (1/95) ©ACORD CORPORATION 1988

ACORD. CERTIFICATE OF INSURANCE Appendix C- 25 [redacted] DATE (MM/DD/YY) 12-30-97

PRODUCER

AMERICAN FAMILY BROKERAGE, INC.
6000 AMERICAN PARKWAY
MADISON, WI 53783

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY A: COLORADO WESTERN INSURANCE CO

COMPANY B:

COMPANY C:

COMPANY D:

INSURED

MATT OWENS
2445 S. 25 RD
CEDAREDGE, CO 81413

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
	GENERAL LIABILITY				GENERAL AGGREGATE	$ 500,000
X	COMMERCIAL GENERAL LIABILITY	05-003733-50-001-02	12-30-97	12-30-98	PRODUCTS-COMP/OP AGG	$ 500,000
	CLAIMS MADE / OCCUR				PERSONAL & ADV INJURY	$ 500,000
	OWNER'S & CONT PROT				EACH OCCURRENCE	$ 500,000
					FIRE DAMAGE (Any one fire)	$ 50,000
					MED EXP (Any one person)	$ 5,000
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT	$
	ANY AUTO					
	ALL OWNED AUTOS				BODILY INJURY (Per person)	$
	SCHEDULED AUTOS					
	HIRED AUTOS				BODILY INJURY (Per accident)	$
	NON-OWNED AUTOS					
					PROPERTY DAMAGE	$
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	$
	ANY AUTO				OTHER THAN AUTO ONLY:	
					EACH ACCIDENT	$
					AGGREGATE	$
	EXCESS LIABILITY				EACH OCCURRENCE	$
	UMBRELLA FORM				AGGREGATE	$
	OTHER THAN UMBRELLA FORM					$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS	
	THE PROPRIETOR/ PARTNERS/EXECUTIVE OFFICERS ARE: INCL / EXCL				EACH ACCIDENT	$
					DISEASE - POLICY LIMIT	$
					DISEASE - EACH EMPLOYEE	$
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

CERTIFICATE HOLDER

STATE OF COLORADO DIVISION OF PARKS
& OUTDOOR RECREATION
13787 SOUTH HWY 85
LITTLETON, CO 80125
ATTN: DENNIS GEORGE

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 45 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE: Thomas M. [illegible]

ACORD 25-S (3/93) © ACORD CORPORATION 1993

Appendix D – Other Recreation Permits

D-1 Sample of recreation campground concession lease

D-2 Sample of Federal Register Notice closing a site for health, safety and sanitation

D-3 Sample of Federal Register Notice establishing site as a "Fee Area"

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Recreation Concession Lease
SERIAL NO.

Bennett Peak Recreation Site
Corral Creek Recreation Site
Encampment River Campground

This is Concession Lease Serial No. , made and entered into this ____ day of June, 19 , under the provisions of the Federal Land Policy and Management Act, FLPMA, of October 21, 1976, and the Code of Federal Regulations, Title 43, Part 2920 Leases, Permits and Easements. This lease is by and between the United States of America acting through the Bureau of Land Management (hereinafter BLM), and . **Fort Collins, Colorado 80526,** (hereinafter "Lessee"). The Lessee is hereby authorized to use or occupy BLM lands listed above to use subject to the conditions set out below, on the **Rawlins District Bureau of Land Management (BLM).** This lease covers an estimated 35 acres.

The Secretary of the Interior may enter into long term leases to regulate the use, occupancy, and development of the public lands. Consistent with the Federal Land Policy and Management Act, the full public mission of the BLM, strong public demand, and fair business practices, the BLM may provide for commercial and recreational development of its public lands in the **Rawlins District BLM** through concession leases.

RECREATION SITE OPERATION AND MAINTENANCE SHALL BE FOR THE ENJOYMENT OF VISITING PUBLICS. LESSEE IS RESPONSIBLE FOR OPERATIONS AND MAINTENANCE, FEE COLLECTION, VISITOR SAFETY, AND THE PROJECTION OF A POSITIVE IMAGE AND REPRESENTATION FOR THE BUREAU OF LAND MANAGEMENT AS DESCRIBED IN THE PROSPECTUS AND STIPULATED IN THE OPERATING PLAN.

MONTHLY USE REPORTS SHOWING THE NUMBER OF VISITORS, OCCUPANCY RATES, AND FEES COLLECTED ON-SITE FOR THAT MONTH WILL BE SUBMITTED TO THE BUREAU OF LAND MANAGEMENT BY THE SECOND MONDAY AFTER THE END OF THE MONTH.

OPERATIONS AND MAINTENANCE PLAN MUST BE UPDATED AND SUBMITTED BY MARCH 1st OF EACH YEAR. OPERATIONS PLAN SHALL INCLUDE SHOULDER SEASONS.

PROSPECTUS IS A PART OF THIS LEASE.

TERMS AND CONDITIONS

I. AUTHORITY AND GENERAL TERMS OF THE LEASE

A. Authority. This lease is issued pursuant to the authorities enumerated of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1732, and the Land and Water Conservation Fund Act, 36 CFR 71). This lease, and the activities or use authorized, shall be subject to the terms and conditions of the Secretary of Interior's regulations and any subsequent amendment to them.

B. Authorized Officer. The authorized officer is _____, **Area Manager, Great Divide Resource Area,** or Rawlins Field Office Manager that may be established at a later date.

C. Lease. This lease is for the use of federally owned land and does not grant any permanent, possessory interest in real property, nor shall this lease constitute a contract for purposes of the Contract Disputes Act of 1978 (41 U.S.C. 6 et seq.). Loss of the privileges granted by this lease by revocation, termination, or suspension is not compensable to the Lessee.

D. Amendment. This lease may be amended in whole or in part by the BLM when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms, conditions, and stipulations as may be required by law, regulations, land management plans, or other management decisions.

E. Existing Rights. This lease is subject to all valid rights and claims of third parties. The United States is not liable to the Lessee for the exercise of any such right or claim.

F. Nonexclusive Use. Unless expressly provided in additional terms, this lease is not exclusive. The BLM reserves the right to use or allow others to use any part of the lease area for any purpose.

G. Public Access and Use. Unless specifically limited under additional terms to this lease, the Lessee agrees to allow the public free and unrestricted access to and use of the lease area at all times for all lawful purposes. To facilitate public use of the lease area, all existing roads remain open to the public, except for roads as may be closed by joint agreement of the Lessee and the authorized officer.

Use of toilets and potable water shall be free to all visitors, regardless of whether or not they have paid a camping fee. Lessee will avoid interfering with the normal use and occupancy of the sites.

H. BLM Right of Entry and Inspection. The BLM shall have free and unrestricted access at all times, including the right to enter into all buildings, dwellings, and other facilities to ensure compliance with the terms and conditions of this lease. In addition, the BLM may enter the authorized facilities for any purpose or reason consistent with any right or obligation of the United States under any law or regulation.

I. Assignability. This lease is not assignable or transferable. [If the holder through death, voluntary sale or transfer, enforcement of contract, foreclosure, or other valid legal proceeding shall cease to be the owner of the improvements, this lease shall terminate.]

J. Lease Limitation. Nothing in this lease allows or implies permission to build or maintain any structure or facility, or to conduct any activity unless specifically provided for in this lease. Any use not specifically identified in this lease must be approved by the authorized officer in the form of a new lease or lease amendment.

II. TENURE AND ISSUANCE OF A NEW LEASE

A. Expiration at the End of the Authorized Period. This lease will expire at midnight on (see Clause E-9). Expiration shall occur by operation of law and shall not require notice, any decision document, or any environmental analysis or other documentation.

B. Construction. Any construction authorized by this lease and approved by BLM may commence by April 1, 1998, and shall be completed by October 31, 1998. If construction is not completed within the prescribed time, this lease may be revoked or suspended.

C. Minimum Use or Occupancy of the Lease Area. Use or occupancy of the lease area shall be exercised at least 120 days each year, unless otherwise authorized in writing under additional terms of this lease.

The normal operating season is May 15 to October 31, although shoulder season snowfall may affect dates of operation. The Lessee is responsible for all facilities at all 3 sites throughout the entire year. All three sites will be open and operational seven days per week, including holidays, during the operating season, unless a site is closed by direction of the authorized officer.

D. Notification to Authorized Officer. If the Lessee desires issuance of a new lease after expiration, the Lessee shall notify the authorized officer in writing not less than six (6) months prior to the expiration date of this lease.

E. Conditions for Issuance of a New Lease. At the expiration or termination of an existing lease, a new lease may be issued to the Lessee of the previous lease subject to the following conditions:

1. The authorized use is compatible with the land use allocation in the BLM

Resource Management Plan.

2. The lease area is being used for the purposes previously authorized.
3. The lease area is being operated and maintained in accordance with the provision of the lease.
4. The Lessee has shown previous good faith compliance with the terms and conditions of all prior or other existing leases, and has not engaged in any activity or transaction contrary to the Federal contracts, leases, laws, or regulation.

F. Discretion of BLM. Notwithstanding any provisions of any prior or other lease, the authorized officer may prescribe new terms, conditions, and stipulations when a new lease is issued. The decision whether to issue a new lease to a holder or successor in interest is at the absolute discretion of the BLM.

III. RESPONSIBILITIES OF THE LESSEE

A. Plans. If required by the authorized officer, all plans for development, layout, construction , reconstruction, or alteration of improvements on the lease area, as well as revisions of such plans, must be prepared by a licensed engineer, architect, and/or landscape architect. Such plans must be approved in writing by the authorized officer or a designated representative before the commencement of any work. A Lessee may be required to furnish as built plans, maps, or surveys, or other similar information, upon completion of construction.

B. Maintenance. The Lessee shall maintain the improvements and lease area to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer, and consistent with applicable Federal, State, and local health and safety and other requirements.

Lessee must provide all items not specifically listed herein as being supplied by the BLM, including toilet paper, all cleaning supplies, toilet chemicals, disinfectant, shovels, loppers, chainsaws, phones or radios, fee collection needs, vehicles, and locks.

A joint inventory of each site will be conducted by BLM and Lessee prior to the beginning of the use period. Inventory will include quantity and condition of fixtures and attributes of each site.

Lessee has primary responsibility for opening and closing at beginning and end of use season.

Lessee pre-season responsibilities include:

1. Safety inspection, including tree hazards, and correction
2. Maintain and test water systems
3. Repair or document any future maintenance needs

4. Clean toilets, tables, fire rings, grounds, timbers, hand pump wells, trash receptacles, bulletin boards, and signs and repair as needed.
5. Lessee will post a sign at the entrance of each site which states that the site is under lease from the BLM and which states the name of the concessionaire.
6. Lessee will replace damaged BLM fee site signs at the sites with those supplied by BLM until supplies run out. Thereafter, appropriate signs will be purchased from BLM to replace damaged signs.

At the end of the use season, all facilities must be at least equal to the condition they were in at the beginning of the use period.

BLM may close all or portions of a site for repairs, upgrade, construction, floods, snow, wildlife protection, natural events, or risks to public safety. The BLM shall not be liable to the Lessee for lost revenues, operating costs, or any other losses resulting from these closures.

Lessee must get toilet vaults pumped when 3/4 full, even with snowmelt. Lessee is responsible for the first $1000 for water system repairs. When potable water is not available at Bennett Peak or Encampment River Campground, an alternate source of water must be provided or the fee reduced by half. Hand pump wells and their vicinity, including drains, must be kept clean.

Lessee must maintain and test water from hand pump wells. Water systems within BLM campgrounds are "public" and as such must comply with the procedural requirements of the Safe Drinking Water Act and Regulations. The BLM requests that microbiological characteristics (coliform bacteria) be tested monthly at a minimum. The test for inorganic chemicals, Nitrate (as N), is due in 1998. A copy of all water test results shall be provided to BLM as soon as they are received from the lab.

Cleaning and maintenance is to be performed according to the Maintenance Criteria for BLM Campgrounds in Appendix A. If BLM discovers maintenance, health or safety discrepancies during an inspection of the leased sites, completion of the corrective actions identified in these inspections will be the responsibility of the Lessee within 10 days of notification, or less if the situation requires immediate action due to health or safety concerns.

Lessee shall document any non-scheduled maintenance. Lessee will replace any damaged site markers with the same sort of marker. Any replacement of facilities shall meet BLM standards for accessibility and design. Lessee must maintain roads and walkways within the 3 sites. Lessee shall keep trees free of nails, rope, wire, and other hazards. All sites and facilities within 50 feet of a standing tree hazard will be closed until the hazard is corrected. If table planks must be replaced, planking shall be provided by BLM prior to or during the first season. Future tabletop replacement must be approved by BLM prior to purchase and installation by Lessee.

Lessee shall water 13 recently planted Ponderosa pines and 4 cottonwoods at Bennett Peak twice per week from June through September and once per week in October and November unless snow prevents access. Each watering shall consist of at least 20 gallons of water poured into the soil collars under each tree. The water shall not be allowed to over flow off into the surrounding soil. Cost of watering these trees will be included in fee offset calculation at a rate agreed upon by the Authorized Officer.

Lessee shall perform end of season steps listed in the Prospectus on page 34. A final inspection with BLM and Lessee will document maintenance needs which shall be repaired by Lessee prior to the next season opening or lease termination.

The Lessee shall dispose of all garbage and refuse in a place and manner specified by the BLM officer in charge. Lessee is responsible for all garbage collection. Trash must not overfill containers. Any trash receptacles provided by Lessee are subject to BLM approval. Lessee must clean up any animal garbage messes. Maintenance equipment and supplies may be stored only in BLM approved locations.

The Lessee's responsibility to perform unforeseen major repairs or replacement of facilities will be limited to the first $1000 per occurrence. This limitation does not apply to events attributed to Lessee actions or negligence.

C. Hazard Analysis. The holder has a continuing responsibility to identify and abate hazardous conditions on the lease area which could affect the improvements or pose a risk of injury to individuals. Any actions to abate such hazards shall be performed after consultation with the authorized officer. When a safety hazard is discovered, Lessee shall 1) Inform those in immediate danger, 2) take actions to temporarily protect the public, 3) report the hazard to BLM immediately, 4) report the hazard to other employees in the immediate area, 5) if possible, remove the hazard & document the removal or sign if necessary, and 6) notify the sheriff if the hazard involves disorderly or dangerous people.

The Lessee shall be prepared to be responsive to any emergencies (medical, law enforcement, facility breakdown...) that might occur at the sites.

D. Compliance with Laws, Regulations, and other Legal Requirements. The Lessee, in exercising the uses authorized by this lease, will assume responsibility for compliance with the regulations of the Department of Interior and all Federal, State, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this lease. The obligations of the Lessee under this lease are not contingent upon any duty of the BLM to inspect the premises. A failure by the BLM, or other governmental officials, to inspect is not a defense to noncompliance with any of the terms and conditions of this lease.

E. Fire Prevention and Suppression. The Lessee shall take all reasonable precautions to prevent and suppress fires. Fires are prohibited except in fire rings in numbered

campsites.

F. Change of Address. The Lessee shall immediately notify the authorized officer of a change in address.

G. Change in Ownership of the Authorized Improvements. This lease is not assignable and terminates upon change of ownership of the improvements. The Lessee shall immediately notify the authorized officer when a change in ownership of the improvements is pending. Upon notification, the authorized officer may issue a lease to the new owner of the improvements.

H. Communication. Lessee shall specify means of communication between BLM, Lessee's employees, and emergency agencies. Lessee cannot use BLM radio frequencies. Upon demonstration of need Lessee may temporarily place a repeater on BLM lands at a site agreed upon by the Authorized Officer.

IV. LIABILITY

For the purposes of the section, "Lessee" includes the Lessee's heirs, assigns, agents, employees, and contractors.

A. Risks. The Lessee assumes all risk of loss of the property. Loss to the property may result from, but is not limited to, theft, vandalism, fire and any fire-fighting activities (including prescribed burns), avalanches, rising waters, winds, falling limbs or trees, and acts of God. If the authorized improvements are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, this permit shall terminate.

B. Damage to Property of the United States. The Lessee has an affirmative duty to protect from damage the land, property, and other interest of the United States. Damage includes, but is not limited to fire suppression costs, damage to government-owned improvements covered by this lease, 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 Lessee on, or related to, the lands property, and other interests covered by this lease. For purposes of clauses IV.B.I. and IV.C., "hazardous material" shall mean any hazardous substance, pollutant, contaminant, hazardous waste, oil, and/or petroleum product, as those terms are defined under any federal, state, or local law or regulation.

1. The Lessee 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 Lessee's use and occupancy of the site. If the environment or any government property covered by this lease becomes damaged

during the Lessee's use and occupancy of the site, the Lessee 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 Lessee shall indemnify the United States for any damages arising out of the use and occupancy authorized by this permit, including damage to government-owned improvements covered by this lease. The Lessee shall be liable for all injury, loss, or damage, including fire suppression, or other costs in connection with rehabilitation or revegetation of natural resources associated with the use and occupancy authorized by this lease. Compensation shall include but not be limited to the value of resources damaged or destroyed, the costs of restoration, cleanup, or other mitigation, fire suppression, or other types of abatement costs, and all administrative, legal (including attorney's fees), and other costs in connection therewith.

3. With respect to roads, the Lessee shall be liable for damage to all roads and trails of the United States open to public use caused by use of the Lessee to the same extent as provided under clause IV.B.I, except that liability shall not include reasonable and ordinary wear and tear.

C. Indemnification and Liability of the United States. The Lessee shall comply with all applicable federal, state, and local laws and regulations, including but not limited to the Federal water Pollution control Act, 33 U.S.C. 1251 et seq., the Oil Pollution Act, 33 U.S.C. 2701 et seq., the Clean Air Act, 42 U.S.C. 7401 et seq., the Resource Conservation and Recovery Act, 42 U.S.D. 6901 et seq., and the Comprehensive Environmental Response, Control, and Liability Act, 42 U.S.C. 9601 et seq., as subsequently amended. The holder shall indemnify, defend, and hold the United States harmless for any violations incurred under any such laws and regulations or for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omission of the Lessee in connection with the use and/or occupancy authorized by this lease. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the Lessee in connection with the use and/or occupancy authorized by this lease which result in: (1) violations of the above or any applicable laws and regulations; (2) judgments, claims, or demands assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) other releases or threatened releases on or into land, property, and other interest of the United States by solid waste and/or hazardous substance(s).

The Lessee's indemnification of the United States shall also include any damage to life or property arising from the Lessee's occupancy or use of land, property, and other interest of the United States.

The United States has no duty to inspect lease area or to warn of hazards and, if the United States does inspect the lease area, it shall incur no additional duty nor liability for

identified or non-identified hazards. This covenant may be enforced by the United States in a court of competent jurisdiction.

D. Insurance. The Lessee shall furnish proof of insurance, such as a certificate of insurance, to the authorized officer prior to issuance of this lease and each year thereafter that this lease is in effect. The Bureau of Land Management reserves the right to review and approve the insurance policy prior to issuance. The Lessee shall send an authenticated copy of any insurance policy obtained pursuant to this clause to the Bureau of Land Management immediately upon issuance of the policy. Any insurance policies obtained by the Lessee pursuant to this clause shall name the United States as an additional insured, and the additional insured provision shall provide for insurance coverage for the United States as required under this clause. Such policies shall also specify that the insurance company shall give 30 days' prior written notice of cancellation of or any modification to the policies to the Authorized Officer, BLM, P.O. Box 2407, Rawlins, Wyoming, 82301-2407. Minimum amounts of coverage and other insurance requirements are subject to change at the sole discretion of the authorized officer on the anniversary date of this lease.

Such fire and other casualty insurance shall be in the amount of ***ONE MILLION DOLLARS (1,000,000)*** **and shall name the UNITED STATES as beneficiary** of proceeds payable as a result of claims for damage for fire or other casualty.

The Lessee shall have in force commercial general liability insurance covering Bodily injury and Property Damage (Coverage A), in the following minimum amounts: **each Occurrence Limit, *THREE HUNDRED THOUSAND DOLLARS ($300,000)*, and General Aggregate Limit, *THREE HUNDRED THOUSAND DOLLARS ($300,000).*** The coverage shall extend to property damage, bodily injury, or death rising out of the Lessee's activities under the Lease including, but not limited to, the occupancy or use of the land and the construction, maintenance, and operation of the structures, facilities, or equipment authorized by this Lease. **Such insurance shall also name the UNITED STATES as additional-insured and provide for specific coverage of the Lessee's contractually assumed obligation to indemnify the United States.**

V. TERMINATION, REVOCATION, AND SUSPENSION

A. General. For purposes of this lease "termination", "revocation", and "suspension" refer to the cessation of uses and privileges under the lease.

"Termination" refers to the cessation of the lease under its own terms without the necessity for any decision or action by the authorized officer. Termination occurs automatically when, by the terms of the lease, a fixed or agreed upon condition, event, or time occurs. For example, the lease terminates at expiration. Terminations are not appealable.

"Revocation" refers to an action by the authorized officer to end the lease because of noncompliance with any of the prescribed terms, or for reasons in the public interest. Revocations are appealable.

"Suspension" refers to a revocation which is temporary and the privileges may be restored upon the occurrence of prescribed actions or conditions. Suspensions are appealable.

B. Revocation or Suspension. The BLM may revoke or suspend this lease in whole or part for:

1. Noncompliance with Federal, State, or local laws and regulations.
2. Noncompliance with the terms and conditions of this lease.
3. Reasons in the public interest.
4. Abandonment or other failure of the Lessee to otherwise exercise the privileges granted.

C. Opportunity to Take Corrective Action. Prior to revocation or suspension for cause pursuant to Section V (B), the authorized officer shall give the Lessee written notice of the grounds for each action and a reasonable time, not to exceed 90 days, to complete the corrective action prescribed by the authorized officer.

D. Removal of Improvement. Any improvements made to or on government facilities by the Lessee or their agents become the property of the United States.

Upon abandonment, revocation, termination, or expiration of this lease, the Lessee shall remove within a reasonable time prescribed by the authorized officer all structures and improvements, except those owned by the United States, and shall restore the site. If the Lessee fails to 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 Lessee shall remain liable for all cost associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

VI. FEES

A. Termination for Nonpayment. This lease shall automatically terminate without the necessity of prior notice when land use rental fees are 90 calendar days from the due date in arrears.

B. Lessee is required to honor Golden Age, Golden Eagle and Access Passports. Lessee is encouraged to honor free weekend in June. Any changes in fee structure must be approved by BLM. BLM will not consider fee increase until the year 2000. No additional fee for interpretive services will be allowed. Fees include all state and local

taxes payable by Lessee; Lessee cannot add tax to the fee structure. Fees for BLM sites will be retained, reported, and off-set separately from those of the Forest Service. BLM reserves the right to conduct random counts and surveys in leased sites for comparison to reported use.

Fee tickets shall request the following information:

1. Site number and total amount paid
2. Date issued and number of days paid
3. If Golden Age/Golden Eagle/Access Passport was used and its number
4. Number of people in the group
5. Number of vehicles and their license numbers
6. Fees paid for other services or sales

Fee tickets shall clearly identify the Lessee as operator of the site. Lessee is responsible for the security of cash at the sites. Lessee shall refund camping fee to campers leaving before 2:00 PM if they have already paid for the next night. Camping will be allowed only in BLM numbered campsites at fee sites. Campsites shall not be used for activities other than recreation.

Lessee shall keep daily use counts of the following:

1. Individual campsites occupied
2. Number of vehicles using boat ramp at Bennett Peak
3. Total number of campsites occupied for the month
4. Total potential campsites available for the month
5. Total percent occupancy for the month

Lessee shall turn in an end of year report by November 30th each year with the following information by month and site:

1. Number of campsites occupied
2. Number of people that visited
3. Number of Golden Age/Golden Eagle/Access Passports used
4. Percent occupancy
5. Fees collected
6. Fees collected for other itemized goods and services
7. Net total fees collected
8. Taxes
9. Total gross revenue

Lessee may propose fees for firewood sales, rental of camping equipment, and phone service. Lessee must make it clear to visitors that they may gather their own downed firewood free, but no cutting of standing dead or green trees will be permitted. Firewood sales and solid waste disposal may be subcontracted, but overall operation and maintenance cannot.

Lessee is prohibited from providing outfitter and guide services, food or liquor sales, or entertainment.

Stay limit at all 3 sites is 14 days. Extension of stay limits is a lease violation.

For all three sites, the following criteria apply:

Maximum visitors per campsite = 10
Maximum vehicles per campsite = 2
Stay limit = 14 days
Check-in time 2:00 PM
Check-out time 1:00 PM
Boundary of leased site includes 200 feet from any facility at Bennett Peak and Encampment; boundary of leased site at Corral Creek includes the area within the exterior fence.
There will be no charge for walk-in sites

At Bennett Peak: There will be no charge for boat launch, day use, or parking at the boat ramp parking lot.

At Encampment River Campground: There will be no charge for trail-head or day-use parking. Horse trailer parking is limited to trailhead parking lot.

Fee at Bennett Peak and Encampment River Campground will be $7.00 per night per campsite.

There will be no fee for Corral Creek Recreation Site where water may not be potable, and improvements do not equal Bennett Peak and Encampment River Campgrounds.

C. Payment Due Date. One third of the estimated revenue due BLM will be due by July 31st. The second third of the estimated revenue will be due August 30th. The final third will be due September 30th. At the close of the season, BLM will use it's records and those of the Lessee to determine the balance due, if any. Any refund will be credited to the next year or refunded at the end of the lease. Payments due the United States for this use shall be remitted at the BLM Office in the form of a check, draft, or money order payable to "Bureau of Land Management, USDI." Payments shall be credited on the date received by the designated BLM collection officer or deposit location. If the due date for the fee or fee calculation statement falls on a non-workday, the charges shall not apply until the close of business on the next workday.

D. Late Payment Interest. Pursuant to the Federal Claims Collection Act of 1966, as amended, 31 USC 3101, et seq. and regulations at 7 CFR Part 3, Subpart B, an interest charge shall be assessed on any payment or financial statement not received by the due date. Interest shall be assessed using the most current rate prescribed by the United States Department of Treasury's Fiscal Requirements Manual (TFRM-6-8020.20).

Interest shall accrue from the date the payment or financial statement was due. In the event that two or more billings are required for delinquent accounts, administrative costs to cover processing and handling of the delinquent debt will be assessed.

E. Additional Penalties. In the event of lease termination pursuant to provisions VI (A), and prior to the issuance of a new lease, a penalty of 6 percent per year shall be assessed on any fee amount overdue in excess of 90 days from the payment due date. This penalty shall accrue from the due date of the first billing or the date the fee calculation financial statement was due. The penalty is in addition to interest and any other charges specified in the above paragraph.

F. Disputed Fees.

1. Delinquent fees and other charges shall be subject to all rights and remedies afforded to the United States pursuant to Federal law and implementing regulations (31 U.S.C. 3711 et seq.).

2. The authorized officer shall require payment of fees owed the United States under any BLM authorization before issuance of a new lease.

VII. OTHER PROVISIONS

A. Members of Congress. No Member of or Delegate to Congress or Resident Commissioner shall benefit from this lease either directly or indirectly, except when the authorized use provides a general benefit to a corporation.

B. Appeals and Remedies. Any discretionary decisions or determinations by the authorized officer are subject to the appeal regulations at Title 43, CFR, Part 4, subparts A, B, and E.

C. Removal and Planting of Vegetation. This lease does not authorize the cutting of timber or other vegetation. Trees or shrubbery may be removed or destroyed only after the authorized officer, or authorized officer's agent, has approved, and has marked or otherwise designated that which may be removed or destroyed. Timber cut or destroyed shall be paid for by the Lessee as follows: merchantable timber at appraised value and young-growth timber below merchantable size at current damage appraisal value, **provided** the BLM reserves the right to dispose of the merchantable timber to others than the Lessee at no stumpage cost to the Lessee. Trees, shrubs, and other plants may be planted in such manner and in such places about the premises as may be approved by the authorized officer.

D. **Superior Clauses. In the event of any conflict between any of the preceding**

printed clauses or any provision thereof and any of the following clauses or any provision thereof, the preceding printed clauses shall control.

1. The Lessee shall send to the **Authorized Officer** on or before 30 days after close of fiscal year of each year a statement of sales as defined in the Sales Terms and Conditions of this lease. The Lessee must also provide within three (3) months after close of its operating year a balance sheet representing its financial condition at the close of its business year, an annual operating statement reporting the results of operations including year-end adjustments, and a schedule of gross fixed assets adjusted to comply with the terms of this lease in a format and manner prescribed by the BLM.

If the Lessee fails to report all sales in the period they were made or misreports gross fixed assets and the BLM determines that additional fees are owed, the Lessee sh[illegible]ay the additional fee plus interest. Such interest shall be assessed at the rate spec[illegible] in clause VII.D.2 and shall accrue from the date the sales or correct gross fixed [illegible]s should have been reported and fee paid until the date of actual payment of the und[illegible]id fee.

2. Pursuant to the Federal Claims Collection Act of 1966, as amended, 31 USC 3101, et seq., and regulations at 7 CFR Part 3, Subpart B, an interest charge shall be assessed on any payment not made by the payment due date. Interest shall be assessed using the most current rate prescribed by the United States Department of the Treasury's Fiscal Manual (TFM-6-8025.20). Interest shall accrue from the date the fee payment was due. In addition, certain processing and handling administrative costs may be assessed in the event the account becomes delinquent and added to the amounts due.

A penalty of 6 percent per year shall be assessed on any payment overdue in excess of 90 days from the payment due date. Payments will be credited on the date received by the designated collection officer or deposit location. If the payment due date(s) falls on a non-workday, the interest and penalty charges shall not apply until the close of business of the next workday.

3. For the purpose of administering this lease, the Lessee agrees to make all of the accounting books and supporting records to the business activities available for analysis by qualified representatives of the BLM or other Federal agencies authorized to review the BLM activities. Review of accounting books and supporting records will be made at dates convenient to the Lessee and regulations issued by the Secretary of Interior.

The Lessee will retain the above records and keep them available for review for 5 years after the end of the year involved, unless disposition is otherwise authorized by the BLM in writing. **Fee tickets shall be retained for 3 years and made available to BLM upon request.**

4. The Lessee shall follow generally accepted accounting principles in recording financial

transactions and in reporting results to the BLM. When requested by the BLM, the Lessee at own expense, will have the annual accounting reports audited by a public accountant acceptable to the BLM. The Lessee will require sublease to comply with these same requirements. The minimum acceptable accounting system will include:

(a) Systematic internal controls and recording by kind of business the gross receipts derived from all sources of business conducted under this lease.

Receipts should be recorded daily and, if possible, deposited into a bank account without reduction by disbursements.

Receipt entries should be supported by such source documents as cash-register tapes, sale invoices, room-rental records, and cash accounts from other sources.

(b) A record of all disbursements, including capital items, and a permanent record of investments in facilities (gross fixed assets).

(c) Preparation and maintenance of such special records and accounts as may be specified by the authorized BLM officer.

(d) Bank accounts will be maintained separately for the businesses conducted under this lease and not commingled with those for other businesses of the Lessee.

5. The fees due the United States for this use shall be deposited with the BLM, P.O. Box 2407, Rawlins, Wyoming 82301-2407, in the form of check, draft, or money order made payable to "BLM, USDI", and shall be **6% of gross sales.** All collections (and resulting lease fees) for BLM recreation facilities will be reported separately from those of the Forest Service.

BLM may prepare a list of projects that may be completed by the Lessee to offset lease fees. This is not routine maintenance. Lessee must keep receipts for materials, contracts and labor (time cards) to receive credit for project work. Fee offset may constitute but not exceed the full lease fee. All project work must be completed or deposits for such work will be made prior to termination of the lease.

Major maintenance or improvement projects must be approved by BLM prior to initiating them. Lease offset must be agreed to in advance by the authorized officer.

6. During performance of this authorization, the Lessee agrees that:

a. The Lessee and employees shall not discriminate by segregation or otherwise against any person on the basis of race, color, or national origin by curtailing or refusing to furnish accommodations.

b. Title VI attaches coverage to the Lessee's employment practices if discrimination in employment impeded the delivery of services and benefits to people on the basis of their race, color, religion, sex, age, physical or mental disability, or national origin.

c. The Lessee shall include and require compliance with this nondiscrimination provision in any subcontract made with respect to the operations under this authorization.

d. Signs setting forth this policy of nondiscrimination, to be furnished by the BLM, will be conspicuously displayed at the public entrance to the premises, and at other exterior or interior locations as directed by the BLM.

7. The Lessee shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of BLM lands under this lease.

8. The Lessee shall repair, replace or restore any damage to or loss of the premises covered by this lease caused by fire or other casualty including consequential damages to said premises resulting from fire or other casualty, including fires or other casualties beyond the control of and without the fault of the Lessee, and shall have in force fire and other casualty insurance covering the Government-owned improvements, the use of which is authorized by this lease.

9. The BLM reserves the right to inspect the leased facilities and improvements at any time for compliance with terms of this lease, and if in the opinion of the authorized officer there is insufficient adherence to the terms of the lease, he may suspend use or operation of any part, or all, of the leased facilities or improvements. Such inspections by the BLM do not relieve the Lessee of his responsibilities under other terms of this lease.

10. Avalanches, rising waters, high winds, falling limbs or trees, or other hazards are natural phenomena on BLM lands that present risks which the Lessee assumes. The Lessee has responsibility of inspecting the site, lot, right-of-way, and immediate adjoining area for dangerous trees, hanging limbs, and other evidence of hazardous conditions and, after securing permission from the BLM, of removing such hazards.

11. The leased area will be maintained to present a clean, neat, and orderly appearance. Trash, debris, unusable machinery, improvements, etc., will be disposed of currently. Building materials, firewood, etc., will be neatly stacked.

12. The operation and maintenance of all sanitation and water supply methods, systems, and facilities shall comply with the standards of the local department of health and the United States Public Health Service.

13. The Lessee shall dispose of refuse resulting from this use, including waste

materials, garbage, and rubbish of all kinds in the following manner: by removal from BLM lands to the nearest approved landfill area.

14. No waste or byproduct shall be discharged into water.

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. Storage facilities will not be provided by BLM.

15. The Lessee shall protect the scenic aesthetic values of the area under this lease, and the adjacent land, as far as possible with the authorized use, during construction, operation, and maintenance of the improvements.

16. The Lessee will take reasonable measures to prevent and discourage vandalism or disorderly conduct, and when necessary, will call in the Carbon County Sheriff for action. Vandalism shall be reported to BLM within 24 hours.

Lessee shall post site rules and regulations on bulletin board. Lessee's employees shall also inform visitors of rules and regulations.

17. The Lessee shall maintain the present improvements, as well as any future improvements, appurtenances, and furnishings in full conformance with the Great Divide Resource Area Resource Management Plan, signed November 8, 1990.

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

18. Herbicides and pesticides may not be used to control undesirable woody and herbaceous vegetation, aquatic plants, insects, rodents, trash fish, etc., without the prior written approval of the BLM. A request for approval of planned uses of pesticides will be submitted annually by the Lessee on the due date established by the authorized officer. The report will cover a 12-month period of planned use beginning 3 months after the reporting date. Information essential for review will 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 will be considered for use on BLM lands. Label instructions will

be strictly followed in the application of herbicide and pesticides and disposal of excess materials and containers.

19. This lease is valid from date of issuance to December 31, 1999 . This lease may be reissued without competition for an additional 3 years, provided however, that unless sooner terminated or revoked as provided elsewhere in this lease (wording deleted); and provided further: that this lease may be amended in part, or terminated and replaced with a new lease, when in the judgment of the authorized officer, such action is necessary to incorporate new terms, conditions, and stipulations as may be required by law, regulation, land use plans, or management decisions.

20. If during the term of this lease, the BLM determines the public interest requires revision of the conditions of use or the termination of the use of Government-owned improvements, the use of which is authorized by this lease, said conditions of use may be revised or the use terminated or suspended at the discretion of the District Manager. Violation of Federal, state or local laws constitutes noncompliance with this lease and is grounds for revocation.

21. Nothing in this lease shall be construed to imply permission to build or maintain any structure not specifically named on this face of this lease, or approved by the authorized officer in the form of a new lease or lease amendment. Lessee does have permission to place one shed on skids in a location at Bennett Peak approved by BLM.

22. This lease is for the occupancy of land for the purposes stated 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. Lessee must pay electric utility bill if electricity is used at Encampment River Campground.

23. All or parts of the work described in clause VII D 18 for which the Lessee is responsible may, upon written request by the Lessee and approval by the authorized officer, be performed by the BLM on a basis of cooperation under authority of section 5, Act of April 24, 1950, 65 Stat. 83, 16 USC 572.

When work is to be performed, the Lessee agrees to make advance deposits into a cooperative work fund at such times and in such amounts as requested by the BLM, the total deposits to be sufficient to cover the cost of the work including necessary overhead charges. Any excess of deposits over the cost of work will be refunded.

24. If, prior to or during excavation work, items of archaeological, paleontological, or historic value are reported or discovered, or an unknown deposit of such items is disturbed, the Lessee will immediately cease excavation in the area so affected. Lessee will then notify the BLM and will not resume excavation until written approval is given by the authorized officer.

If it deems it necessary or desirable, the BLM may require the Lessee to have performed recovery, excavation, and preservation of the site and its artifacts at the Lessee's expense. At the option of the BLM, this authorization may be terminated a no liability by the United States when such termination is deemed necessary or desirable to preserve or protect archaeological, paleontological, or historic sites and artifacts.

25. The Lessee agrees to permit the free and unrestricted access to and upon the premises at all times for all lawful and proper purposes not inconsistent with the intent of the lease or with the reasonable exercise and enjoyment by the Lessee of the privileges thereof.

26. The BLM shall have the authority to check and regulate the adequacy and type of services provided the public and to require that such services conform to satisfactory standards. The Lessee may be required to furnish a schedule of prices for sales and services authorized by the lease. Such prices and services may be regulated by the BLM: provided, the that Lessee shall not be required to charge prices lower than those charged by comparable or competing enterprises.

27. Gambling or gambling machines or devices will not be permitted on BLM lands regardless of whether or not they are lawful under State law or county ordinances.

28. The sale of liquors or other intoxicating beverages is expressly prohibited on the area covered by this lease.

29. The Lessee shall restrict all parking to areas approved by the BLM. No day use parking will be allowed in campsites.

30. No signs or advertising devices shall be erected on the area covered by this lease, or highways leading thereto, without prior approval by the BLM as to location, design, size, color, and message. Erected signs shall be maintained or renewed as necessary to neat and presentable standards, as determined by the BLM. BLM will supply recreation report forms, bulletin board posters, and publications to give as handouts.

31. The Lessee, in his advertisements, signs, circular, brochures, letterheads, and like materials, as well as orally, shall not misrepresent in any way, either the accommodations provided the status of the lease, or the area covered by it or tributary thereto.

The fact that the leased area is located on the RAWLINS DISTRICT BLM shall be made apparent in all of the Lessee's brochures and advertising regarding use and management of the area and facilities under this lease.

32. Disorderly or otherwise objectionable conduct by the Lessee or those occupying the premises with permission shall upon proof thereof, be cause for revocation of this lease.

Lessee's employees shall wear a presentable, approved uniform including a name tag identifying them as the Lessee's employees. Lessee's vehicles must be identified with an approved logo.

Lessee is responsible for the conduct of his employees. BLM rules of conduct apply to Lessee's employees, including the prohibition against using intoxicating substances while on duty. 43 CFR 20.735

33. This lease is not exclusive; that is, the BLM reserves the right to use or permit others to use any part of the leased area for any purpose, provided such use does not interfere with the rights and privileges hereby authorized.

34. The acquisition or assumption by another party under an agreement with the Lessee of any right or obligation of the Lessee under this lease shall be ineffective as to the BLM unless and until signed by the authorized BLM officer. A subsequent acquisition or assumption shall not:

a. Operate to relieve the Lessee of the responsibilities or liabilities they have assumed hereunder, or

b. Be given unless such other party:

(1) Is acceptable to the BLM as a Lessee, and assumes in writing all of the obligations to the BLM under the terms of this lease as to the incomplete portion thereof, or

(2) Acquires the rights in trust as security and subject to such conditions as may be necessary for the protection of the public interests.

35. The Lessee or a designated representative shall be present on the premises between the hours of 3:00 pm on Fridays through Sunday evenings at 6:00 pm when the facilities are open to the public. The Lessee will notify the Authorized Officer in writing who the representative will be.

36. Appeal of any provisions of this authorization or any requirements thereof shall be subject to the appeal regulations at consistent with Title 43, CFR, part 4, subparts A, B, and E.

37. The Lessee will not request or require persons served to sign a liability waiver which released the Lessee from responsibility for injury or damage resulting from the Lessee's negligence for activities authorized by this lease. The Lessee may, however, advise such persons of the risks involved and have them sign a Visitor's Acknowledgment of Risk, provided a copy of the proposed form has been submitted and approved by the issuing BLM officer.

This lease is subject to all applicable provisions of the regulations which are made a part hereof.

Lessee(s) THE UNITED STATES OF AMERICA

_____ BY _____

_____ DATE _____

_____
TITLE

_____
DATE

DEPT. OF THE INTERIOR
RECEIVED
MAY 17 1995
Bureau of Land Managemen
House Range/Warm Springs R.A

[Federal Register: May 16, 1996 (Volume 61, Number 96)]
[Notices]
[Page 24805]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]

DEPARTMENT OF THE INTERIOR
[UT-054-1220-00-24-1A]

Notice of Closure and Restriction on Public Land

AGENCY: Bureau of Land Management.

SUMMARY: Notice is hereby given that, effective May 1, 1996 and until further notice, all public lands administered by the Bureau of Land Management within the Yuba Reservoir Special Recreation Management Area (SRMA) are closed to camping and to day use. The SRMA contains approximately 15,940 acres of which 13,900 lie within Juab County and 2,040 in Sanpete County.

Personnel that are exempt from the closure include any federal, state, or local officer, or member of any organized rescue or fire fighting force in the performance of an official duty, or any person authorized by the Bureau.

The purpose of the closure is to protect the health and safety of the using public and the downstream water users. This closure will not affect the Yuba State Park facilities, located at the reservoir, nor the water surface.

This action coincides with Juab County Ordinance No. 178 passed April 18, 1996. The authority for this closure is the Code of Federal Regulations, Title 43 Subpart 8364.1.

FOR FURTHER INFORMATION CONTACT: Rex Rowley, House Range Resource Area Manager. P.O. Box 778 Fillmore, UT 84631 or Phone 801-743-6811.

Dated: May 7, 1996.
David R. Henderson,
Associate District Manager.
[FR Doc. 96-12247 Filed 5-15-96; 8:45 am]
BILLING CODE 4310-DQ-P

APPENDIX D - 3

FEDERAL REGISTER NOTICE

ESTABLISHING A 'FEE AREA'

FOR FURTHER INFORMATION CONTACT: Lindell Greer, Realty Specialist at (719) 269–8532.

SUPPLEMENTARY INFORMATION: Classification comments—interested parties may submit comments involving the suitability of the land for the purposes stated. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application comments—interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for the proposals.

Donnie R. Sparks,
District Manager.

[FR Doc. 96–4675 Filed 2–28–96; 8:45 am]

BILLING CODE 4310–JB–M

[AZ–040–06–1230–00]

Fourmile Canyon Campground Use Fee and Supplementary Rules

AGENCY: Bureau of Land Management, Safford District, Arizona.

ACTION: Establishment of use fees and supplementary rules at Fourmile Canyon Campground.

SUMMARY: Use fees at Fourmile Canyon Campground are established at $4.00 per campsite. Supplementary rules for use of the campground are also established.

EFFECTIVE DATE: April 8, 1996.

FOR FURTHER INFORMATION CONTACT: Steve Knox, Outdoor Recreation Planner, Gila Resource Area, Bureau of Land Management, 711 14th Avenue, Safford, Arizona 85546, (520) 428–4040.

SUPPLEMENTARY INFORMATION: Fourmile Canyon Campground is a ten-unit campground located about 50 miles west of Safford in southeastern Arizona. Under the authority of 36 CFR 71.9, a use fee of $4.00 per campsite will be charged for both overnight camping and day use activities (like picnicking) at Fourmile Canyon Campground. Checkout time for overnight users is 2:00 p.m. Fees must be paid at the self-service pay station located in the campground. People who hold Golden Age or Golden Access Passports are entitled to a 50 percent reduction of the fee.

In addition to the use fee, the following supplementary rules are also established for use of the campground:

1. Fees must be paid within ½ hour of arrival to the campground.
2. Camping is permitted at developed (numbered) sites only, except as noted below for the "overflow area" of the campground.
3. A maximum of two vehicles are permitted to park at each developed campsite.
4. Vehicles and camping gear may not be left unattended in the campground for longer than 24 hours.
5. Quiet hours are established from 10:00 p.m. to 6:00 a.m. No loud music, operation of generators, or other disturbing activities are permitted in the campground during these hours.
6. Campfires are permitted in developed fire grills only, except as noted below for the "overflow area" of the campground.
7. No firewood may be cut or broken from standing live or dead vegetation.
8. Maximum length of stay in the campground is 14 consecutive days.
9. Pets must be kept on a leash in the campground.
10. Firearms, bows and arrows, other weapons, or air rifles and pistols may not be discharged in the campground.
11. Game may not be cleaned in the campground. These rules are established under the authority contained in 43 CFR 8365.1–6.

The $4.00 per campsite use fee is also required for the "overflow area" of the campground. If all of the developed sites are occupied, camping is permitted in the "overflow area." A maximum of two camps, and two vehicles per camp are permitted in the "overflow area." A campsite is also permitted at each camp in the "overflow area."

Violations of these rules are punishable by a fine not to exceed $1,000, and/or imprisonment not to exceed 12 months (43 CFR 8360.0–7).

Dated: February 21, 1996.

Frank Rowley,
Acting District Manager.

[FR Doc. 96–4650 Filed 2–28–96; 8:45 am]

BILLING CODE 4310–32–M

Bureau of Reclamation

Proposed Long-Term Water Service Contract Renewal; Frenchman-Cambridge and Bostwick Divisions; Pick-Sloan Missouri Basin Program; Nebraska and Kansas

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) will prepare a draft environmental impact statement (EIS) on the proposed renewal of long-term water service contracts for the following irrigation districts in the Republican River basin (Basin) in Nebraska and Kansas: Frenchman-Cambridge, Frenchman Valley, Bostwick Irrigation District in Nebraska, and Kansas Bostwick No.2. Existing water service contracts begin to expire in December of 1996.

The purpose of this action is to provide for the continued beneficial use of Federally developed water within the Basin. Reclamation is proposing to renew long-term water service contracts for the four irrigation districts in accordance with current law and policy while examining all reasonable alternatives to balance contemporary surface water needs within the Basin.

Reclamation has scheduled a series of public information/scoping meetings in connection with the development of the draft EIS. These meetings have been scheduled to inform the public of the status of contract renewal, to allow for public comment on the preliminary management scenarios being evaluated in the draft Resource Management Assessment (RMA) process, to inform the public of significant issues identified to date, to identify additional significant issues that should be analyzed in the draft EIS, and to identify issues related to Indian trust assets. A draft EIS is expected to be completed and available for review and comment early in 1997.

DATES: The schedule for the scoping meetings is:

March 18, 7:00 p.m., Belleville, KS, Armory Building
March 19, 2:00 p.m., Manhattan, KS, Pottorf Hall in Cico Park
March 20, 2:00 p.m., Lincoln, NE, Quality Inn at the Airport
March 21, 7:00 p.m., Superior, NE, Superior High School
March 27, 7:00 p.m., McCook, NE, Fairgrounds Community Building
March 28, 7:00 p.m., Alma, NE, Alma Public School

FOR FURTHER INFORMATION CONTACT: Ms. Jill Manring, Natural Resource Specialist, Bureau of Reclamation, Nebraska-Kansas Area Office, Post Office Box 1607, Grand Island, Nebraska 68802–1607; Telephone: (308) 389–4557.

SUPPLEMENTARY INFORMATION: Reclamation constructed Bonny, Lovewell, and Enders reservoirs and Hugh Butler, Harry Strunk, and