

MEMO TO UYWCD BOARD AND STAFF

1-12-23

RE: Proposed Revisions to Draft of new 30-year lease of Stagecoach State Park and other areas to CDPOR

FROM: Tom Sharp

I have reviewed the proposed draft of new lease of Stagecoach State Park to CDPOR. Having been very involved with negotiations of the original lease in the 1980's, and the subsequent lease in 2004, I wish to set forth in this Memo a summary of the major concerns I have with the proposed changes which CDPOR wishes to make to the new lease which will need to become effective in the spring of 2024. In expressing these concerns, I do not disparage or criticize the CDPOR for its good operation and maintenance of the Stagecoach State Park since the inception. I do want to remind all that the UYWCD built all of the Stagecoach State Park originally, at the District's cost, including the roads, camp and RV sites, buildings and marina and recreational beach, including the original water, sewer, and electric facilities. The existing CDPOR office building had been built by the Woodmoor corporation and passed as a fixture to the successor owners including the District. Since then, CDPOR has invested monies in upgrading water, sewer, and electric facilities, and the marina, and recently has been constructing the visitor center. Nevertheless, mindful of all that, I have the following concerns/objections to the following proposed sections in the proposed lease:

1. Delete the 8th Whereas Clause and all of Paragraph 9. These deal with the request by CDPOR to continue the annual \$35,000/yr subsidy from UYWCD to CDPOR. I am strongly opposed to continuation of the annual subsidy of money from UYWCD to CDPOR. Over the life of the existing lease we have paid \$700,000 in subsidy payments. A number of years ago, we commenced negotiations with the Stahl Family to seek to obtain the release and discharge of a recorded Easements Agreement originally negotiated with Mountaineer in the 1980s when we were acquiring the lands to build the project. That Easements Agreement gave the landowner, now the Stahl Family, the right to a perpetual easement without cost for recreation on the Reservoir surface (in conflict with the exclusive control rights leased to CDPOR), and the exclusive right to lease and construct a marina/docks complex on the south shore. CDPOR agreed at the start of those negotiations to pay ½ of whatever we ended up having to pay to the Stahl Family to terminate that old recorded Easements Agreement. We finalized negotiations, CDPOR staff agreed, but the State Controller vetoed the agreement from CDPOR, so that we alone paid out almost \$1.7Million to the Stahls to get a full release of the Easements Agreement. CDPOR had to renege on its promise to pay ½. I said at the time that the only way for UYWCD to get back a portion of that half payment which was expected from CDPOR would be to NOT renew the annual subsidy when the lease comes up in 2024 for renewal. I still believe that.

2. Paragraph 2, Subsection 5, and middle of Paragraph 4--Right to withdraw land/water on south side for marina, docks, commercial use: We still need to keep and retain in this lease the

right and authority of the District, in its sole discretion, to withdraw lands and surface water on the south side of the Reservoir to support a private/public/commercial marina and water-front development if the Stahl Family or successor owner of the large tract on the south side of the Reservoir, and the County planning commission and Commissioners, propose and approve such a development. At that time, CDPOR may well be active in expressing its opposition in the public forums to such a development, but I strongly believe that the right and option to consider and grant leases for such purposes should, for UYWCD, be left to the District and FERC alone, and that CDPOR should not have a veto. I don't know whether a future UYWCD board would entertain such a development concept, but we DID entertain it a number of years ago, and helped with the master planning of such beach front development commissioned by Brian Stahl, when he proposed such a development on the corner of "Pike's Cove." Such a development may be a real amenity for the Reservoir, and for the Morrison Creek District under the master plan for Stagecoach as approved by the County, and it is folly for us to grant CDPOR a veto over that. It will be tough enough to get FERC to approve doing it.

3. Paragraph 4, top of Page 4: Keep the following sentence in the Lease: "The District may in its sole discretion withdraw portions of the Reservoir Property southerly of the Reservoir for inclusion in a golf course or for adjusting the boundaries of the Reservoir Property." That adjustment or inclusion may still need to occur depending upon the ultimate development plans of the Stahl property. There were survey irregularities on our project lands in the past.

4. Near the end of Paragraph 5, the District must retain the right to close the boat ramp on the south side in the Morrison Cove, but I would agree that such closure would have to be in connection with construction of a replacement public boat ramp in connection with a new public marina on the south side of the Reservoir.

5. In Paragraph 5, an additional Subsection 19 should be added to include the following as part of "Recreational Facilities": "19. All Roadways into and within the Stagecoach State Park including the entry/check-in building shall be deemed "Recreational Facilities," and CDPOR shall be responsible for maintenance, management, repair, improvement, and upkeep of such roads and building, and the next update or amendment to the Master Plan after the date of this Agreement shall include a commitment of CDPOR to pave the main internal roads within the Park at the sole cost of CDPOR within 3 years after the effective date of such update or amendment."

I believe that the status and responsibility and determination of cost responsibility of the roadways within the Park needs to be expressly set forth in this Lease renewal. It isn't in the existing Lease. I also believe that the CDPOR must commit to pave the roads within a certain period of time after it does any future amendment to its Master Plan, so that the roads eventually have the same character as Steamboat Lake State Park where all the internal roads are paved.

6. Paragraph 10 (renumbered as Para 9 after deletion of Paragraph 9): I believe the lease term should be 20 years, not 30 years. USFS special term use permits are all 20 years, for the very logical reason that the shorter periodic time for bringing up renewals allows for sooner dealing with "changed circumstances" that manifestly supports some renegotiation and changes.

7. Paragraph 14: CDPOR proposes that the District agree to reimburse and pay back to the State a “depreciated” value of fixtures and improvements installed by CDPOR on the Park property during its leasehold. Including during the current leasehold. I am very opposed to that. The District built the entirety of the Park at its cost in 1988-89, but CDPOR has made upgrades over the years. When a real estate tenant upgrades the landlord's property, with the consent of the landlord, by installing fixtures and buildings, for the business purposes of the Tenant, and THEN the tenant's lease is terminated, commercial real estate practices are clear that the Tenant doesn't get "paid" by the landlord for the improvements made, unless that reimbursement was separately bargained for, improvement by improvement, during the lease. Instead, they revert to ownership by the landlord. Here, CDPOR proposes to be reimbursed for the depreciated cost of the State to install fixtures/buildings done during the EXISTING lease, which contains no such reimbursement provision. The biggest item that this proposal could effect is the new visitor center. But the District didn't require that addition. CDPOR chose to do it. It makes no sense to require UYWCD to "buy" out the depreciated value of that building in the future if the new lease terminates.

I recognize that CDPOR will likely disagree with much of the above concerns, and that a number of fellow board members may also disagree with some or all of the above concerns. But since the Board appointed a CDPOR lease negotiations committee quite some time ago, and I was among the appointees to that committee, I believe it is incumbent upon me to share with all of you, and with CDPOR, these above concerns.

Tom Sharp

LEASE AGREEMENT

THIS LEASE AGREEMENT (“Agreement”), made effective as of this ____ day of _____ 20__, by and between the STATE OF COLORADO, acting by and through the Department of Natural Resources for the use and benefit of the Division of Parks and Wildlife and the Parks and Wildlife Commission (hereinafter referred to as the “State”), whose legal address is 6060 Broadway, Denver, Colorado 80216 and the UPPER YAMPA WATER CONSERVANCY DISTRICT (hereinafter referred to as the “District”), a public corporation and quasi-governmental entity organized pursuant to §37-45-101 to §37-45-153, C.R.S., acting by and through the Board of Directors of the Upper Yampa Water Conservancy District, whose legal address is P.O. Box 775529, Steamboat Springs, Colorado 80477.

WHEREAS, required approval, clearance, and coordination has been accomplished from and with appropriate agencies; and

WHEREAS, the District has been organized as a quasi-governmental entity pursuant to the provisions of §37-45-101 through §37-45-153, C.R.S., to operate, manage, and store water for irrigation and other beneficial purposes in a reservoir; and

WHEREAS, the District owns certain property upon which it has constructed water works and a water storage reservoir known as the Stagecoach Reservoir (hereinafter referred to as “Reservoir,” including any expansion or enlargement thereof); and

WHEREAS, the District has agreed and desires, pursuant to authority in §37-45-118, C.R.S., to make a portion of such property available to the State for public recreational purposes; and

WHEREAS, the parties hereto desire to define their respective rights and obligations regarding management, operation, maintenance, repair, and replacement of the Recreational Facilities as defined herein; and

WHEREAS, the State desires to lease the Reservoir Property, as hereinafter defined and as may be hereafter changed, from the District in order to manage and operate the Recreational Facilities thereon for public recreational purposes; and

WHEREAS, the District has constructed certain Recreational Facilities on the Reservoir Property and desires to lease the Reservoir Property and such Recreational Facilities to the State for public recreational purposes pursuant to the terms hereof; and

~~**WHEREAS**, the District may be required under that certain Property Contribution Agreement dated October 1, 1986 to grant easements or other interests in the Reservoir Property to third parties at locations and for certain commercial purposes identified in such Agreement (the “Mountain Air Agreement”).~~

NOW, THEREFORE, in consideration of the mutual covenants, terms conditions, restrictions, and requirements contained herein, it is hereby agreed that:

1. This Agreement is subject to and subordinate to the terms, covenants, and conditions of all agreements, licenses, permits, easements, reservations, covenants, restrictions, and water rights decrees now and hereafter entered, and all governmental licenses, permits, and approvals now or hereafter obtained or issued, pertaining to the Reservoir, the Reservoir Property, the Recreational Facilities, or the District's construction, operation, maintenance, repair, replacement, change, modification, enlargement, expansion, or use of the Reservoir and the waters stored therein and all appurtenant facilities including but not limited to the power plant at the dam of the Reservoir.
2. The District hereby leases to the State for recreational purposes only all that portion of the real property described in Exhibit "A" attached hereto excluding from such lease, however, any of the following: (1) water and water rights, (2) real property subject to a Conservation Easement in gross to the State of Colorado, (3) a 60-foot-wide strip of land whose centerline is the access roadway to Stagecoach Dam, the Dam itself, all appurtenances and facilities attached or related to the dam including the power plant (but excluding the trail across the Dam unless the trail is closed by the District for security or construction purposes by notice to the State), and such real property surrounding the Dam as is reasonably necessary for the operation, protection, maintenance, improvement, enlargement, and security of the Dam and Power Plant and delivery of water and power therefrom and being not less than 200 feet wide, (4) that portion of the real property located east of the north-south centerline of the Stagecoach Reservoir dam and south of a line 20 feet northerly of the north high water line of the Yampa River, (5) so much of the land and water surface of the Reservoir along and adjacent to the south shoreline of the Reservoir as are hereafter designated by the District in its sole discretion for a marina and related docks and facilities and commercial purposes, (6) any other conveyances, licenses or grants of easements for utilities and utility facilities, roads, fences, signs, drives, paths, wildlife or conservation purposes which the District, in its sole discretion, may hereafter grant to any other person or entity, (7) the surface of the reservoir adjoining the spillway in the dam and for a reasonable safe distance away from such spillway up to 200 feet as the District shall from time to time designate in writing to the State, and (8) such other real property as the District, from time to time in its sole and exclusive discretion, may withdraw and exclude from the real property subject to this Lease Agreement by written notice to the State (hereinafter all of the real property subject from time to time to this Lease Agreement shall be referred to as the "Reservoir Property"). No portion of the Reservoir Property shall be excluded or withdrawn from this Lease Agreement or made subject to any conveyance, license or grant of easement under subparagraphs 2(5), 2(6), or 2(8) of this paragraph 2 except following written notice given by the District to the State no later than 90 days prior to the effective date of such exclusion, withdrawal or other action. In addition, the District agrees to consult with the State regarding any such notice within 30 days after such notice is given.

Commented [PC1]: Why does the District need to maintain this opportunity to build a Marina on the south shoreline realizing that literally anything along these lines...boat ramp, boat slips, boat rentals, swim beach, marina store, etc would be in direct competition with the park and our concession. This situation could result in putting our concessionaire out of business, creating safety issues with increased boating on the reservoir, increasing the potential for aquatic invasive species to be introduced, reduce customer satisfaction and customer service due to overcrowding on the reservoir, and reduce revenues for the park and the agency. CPW proposes removing this from the agreement.

3. State shall have the use, control of, and responsibility for the Reservoir Property, including the surface of the Reservoir, and for the management, administration, and maintenance of permitted public recreational purposes and the Recreational Facilities existing thereon or hereafter constructed thereon as it deems necessary for the use of this Reservoir Property by the general public, such use to be exclusive for recreational activities only, pursuant to the State's authority and discretion as set forth in §33-10-101 through §33-10-114, C.R.S., as may be amended, and in rules and regulations. The aquatic wetland habitat refuge located on the western portion of the Reservoir Property is included as part of the Recreational Facilities which shall be maintained by the State at its cost in the manner and to the degree required of the District in all obligations of the District regarding this refuge, including the irrigation system for the refuge, such maintenance obligation to include operation of the irrigation system and annual ditch cleaning and vegetation removal, but not major repairs or replacement of the irrigation system at a cost of \$10,000 or more in any calendar year, which shall be the responsibility of the District. The State agrees that the District shall have no responsibility for livestock damage which occurs to Recreational Facilities or other facilities or property or equipment of the State or any portion of the Reservoir Property. No portion of the Reservoir Property shall be leased by the District for grazing without the prior written consent of the State.
4. The District shall have the use, control of, and total responsibility for the Reservoir Property for all other purposes ~~not granted to CPW in paragraph 3~~, including (but not limited to) operation and expansion, modification, repair, replacement, protection, and maintenance of the Reservoir works, dam and appurtenances, water intake, outlet, and storage, power plant and appurtenances, the generation and delivery of electricity, the release and delivery of water, and compliance with all agreements, easements, reservations and restrictions, and all governmental licenses, permits, and approvals to which the Reservoir or Reservoir Property is now or hereafter becomes subject (except to the extent assumed by the State under this agreement). The rights of the District in the preceding sentence shall at all times be senior and paramount to the rights of the State granted under this ~~Lease~~ Agreement. Additionally, the District or its licensee, easement beneficiary, grantee, or designee, shall have the use, control of, and total responsibility for so much of the land and water surface of the Reservoir along and adjacent to the south shoreline of the Reservoir as are hereafter designated by the District in its sole discretion for a marina and related docks and facilities ~~and commercial purposes~~, and may withdraw such area from the Reservoir Property under this Agreement in the sole discretion of the District. Further, the District reserves the right to make and grant any other conveyances, licenses or grants of easements for utilities and utility facilities, roads, drives, parking areas, paths, fences, gates, signs, boat ramps, or wildlife or conservation purposes which the District, in its sole discretion, shall determine, to any other person or entity, which shall be senior and paramount to the interests of the State under this ~~Lease~~ Agreement. If the District enlarges the Reservoir, the District may in its sole discretion withdraw any Reservoir Property, and any Recreational Facilities located on such withdrawn Reservoir Property (which may include but not be limited to the swim beach, volleyball court, boat ramp, courtesy docks and fueling station), as may be in the sole discretion of the District be necessary or convenient for the enlargement of the Reservoir and the use, operation, and

Commented [PC2]: See above

management of the enlarged Reservoir. ~~The District may in its sole discretion withdraw portions of the Reservoir Property southerly of the Reservoir for inclusion in a golf course or for adjusting the boundaries of the Reservoir Property.~~ Any withdrawal or exclusion of property from the Reservoir Property pursuant to this paragraph, or the grant or license of any interest in the Reservoir Property by the District pursuant to this paragraph is subject to the notice and consultation requirements set forth in paragraph 2 hereof. If the enlargement of the Reservoir results in the inundation of any Recreational Facility other than the aquatic wetland habitat refuge or any part of the non-motorized hiking trail around the Reservoir, the District, at its cost, shall replace such facilities with equivalent facilities at the location or locations approved by the State, which approval shall not be unreasonably withheld.

5. The State has prepared and provided to the District a Master Management Plan dated ~~April 30, 1997 (the "Master Plan")~~ May 19th, 2011 that specifically identifies the Reservoir Property and designates and locates the type, location, and specifications of all of the existing Recreational Facilities thereon. Any change to the Master Management Plan shall be made only with the prior written approval of the District, which approval shall not be unreasonably withheld. The Master Management Plan includes the following facilities, which, together with any expansions, modifications, ~~or~~ replacements thereof, shall hereinafter be referred to as the "Recreational Facilities":

1. ~~One hundred (100) unit campground~~ Individual Campsites and one Group Campsite
2. ~~8 Seventy-five (75) car parking lots. 11 eight to thirty car parking lots.~~ 8 Seventy-five (75) car parking lots and 11
3. Swim beach, volleyball court, concrete patio
4. ~~One (1) marina~~ One (1) marina ~~with courtesy docks, wet storage docks, a~~ with courtesy docks, wet storage docks, a
~~Marina Store, long term dry storage, and fueling station along the north shore~~
5. ~~One (1) main boat ramp with courtesy dock along the north shore.~~ One (1) main boat ramp with courtesy dock along the north shore.
6. ~~One (1) boat ramp with courtesy dock in Morrison Cove.~~ One (1) boat ramp with courtesy dock in Morrison Cove.
7. Picnic pavilion
8. ~~Park Headquarters building, including shop, visitors center, garage, and on-site employee housing~~
9. ~~Dump station~~
10. Entrance station
11. Fifty (50) picnic sites
12. ~~Three~~ Four (34) campgrounds, ~~two (2)~~ with electrical outlets for RVs
13. Concession building with showers and bathrooms
14. Three (3) restrooms with water and ~~96~~ vault toilets
15. Grills and picnic tables

Commented [MP3]: Recommend resolving this compensation in 14 where we have a placeholder for other compensation for CPW's improvement investments. I'm not sure how you calculate the 125% present when dealing with an original location that is inundated? Recipe for disputes. CPW should also have the option to not rebuild and just receive compensation for inundated improvements (less depreciation).

Commented [PC4R3]: Does the District have capabilities or plans to further enlarge the reservoir or can this section be removed?

~~14.16. Eighty (80) acre wetland outdoor recreation center with trail and viewing deck~~

~~15.17. Dual potable water and irrigation systems and the electric system.~~

~~16.18. Sanitary facilities including land treatment and nursery site~~

~~17. The aquatic wetland habitat refuge at the westerly end of the Reservoir and all paths, structures, facilities, and improvements related to or integrated therewith~~

19. All Roadways into and within the Stagecoach State Park including the entry/check-in building shall be deemed “Recreational Facilities,” and CDPOR shall be responsible for maintenance, management, repair, improvement, and upkeep of such roads and building, and the next update or amendment to the Master Plan after the date of this Agreement shall include a commitment of CDPOR to pave the main internal roads within the Park at the sole cost of CDPOR within 3 years after the effective date of such update or amendment.

In addition, “Recreational Facilities” shall include the non-motorized hiking trail along the south shore, an ashore and shall also include the existing parking lot and boat ramp in Morrison Cove on the south shore of the Reservoir near the South Shore Subdivision unless and except if the District shall in its sole discretion withdraw such parking lot Reservoir Property pursuant to paragraph 2(5) above. The non-motorized hiking trail may be relocated or modified by the District or its designee at the District’s cost at any time, and shall not be fenced or gated without the prior written consent of the District. The existing parking lot and boat ramp in Morrison Cove shall not be removed except in connection with any construction of a replacement boat ramp and parking lot on the south shore of the Reservoir pursuant to paragraph 2(5) above. “Recreational Facilities” shall include any other facility or property interest which the State and the District hereafter mutually agree be added as Recreational Facilities hereunder.

Commented [PC5]: Even if we are not in agreement to remove the option of a marina and amenities (Paragraph 2(5)), we would like this part removed referencing that the District can remove/withdraw the “Morrison Cove” parking lot and boat ramp.

6. In the administration, operation, and maintenance of the Reservoir Property and the Recreational Facilities for recreational purposes, and including any further development by the State of Recreational Facilities on the Reservoir Property, the State shall follow the Management Plan dated ~~October 15, 2009~~ ^{March 10th, 2011}, as may hereafter be amended (the “Management Plan”) Amendments to the Management Plan shall be prepared by the State pursuant to its statutory authority and discretion in cooperation with and subject to the written approval of the District and any other appropriate agencies, and shall comply with State recreational policies and procedures. All Recreational Facilities shall be managed, repaired, improved, replaced, maintained and operated in a manner that will not interfere with the rights of the District reserved in this Lease Agreement, including (but not limited to) the operation and maintenance of the Reservoir Property by the District for power generation and water storage and delivery purposes and the expansion and enlargement of the Reservoir. The Management Plan shall not be amended without the prior written approval of the District, which approval shall not be unreasonably withheld.

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7. The State shall be responsible for payment of all costs, including electrical utility bills, incurred by the State in the operation of all existing and future Recreational Facilities and support facilities constructed by the State or the District at the Reservoir Property pursuant to the terms of ~~the Master Plan and 33~~ the Management Plan.

8. The District shall provide to the State up to 25 acre feet of water from the Reservoir annually at no charge for public use at the Recreational Facilities. Such water is allocated from the ~~recreational~~ Preferred Remainder pool of the Reservoir and is not charged to any storage water now or hereafter allocated by the District for sale or lease from the Reservoir. The State shall be responsible for the maintenance, repair, and replacement of the entire potable water system and the quality and fitness of water for public use,

domestic purposes, and human consumption. The water delivered pursuant to this paragraph shall be raw untreated water in the condition existing after diversion from the

Reservoir and the District shall have no obligation with respect to water quality. The State shall provide only water that has been suitably treated as necessary for the purposes intended and is wholesome and sanitary for such public purposes pursuant to this Agreement.

9. The term of this [Lease Agreement](#) shall be twenty (20) years, from May 1, 2024, to April 30, 2044, unless sooner renewed or terminated as herein provided.
10. Either party may terminate this [Lease Agreement](#) without cause at any time. To terminate the [Lease Agreement](#), the party wanting to terminate shall give the other party written notice in the manner provided for in Paragraph 23 below. Termination shall be effective one hundred eighty (180) days after said notice. Upon termination, a party's rights and obligations under this [Lease Agreement](#) shall cease, except that liability for

Commented [PC7]: CPW proposes/supports making this a 30 year lease to match your "new" lease standards as described by Andy.

DRAFT

DRAFT PROPOSED UYWCD-CPW STAGECOACH LEASE AGREEMENT 01/09/23

acts or omissions occurring prior to ~~transfer~~ termination shall survive ~~transfer~~ termination.

- 12 The State may establish and collect use fees for the recreational purposes of the Reservoir Property ~~in the amount of and~~ in accordance with ~~a uniform fee schedule aits rules, regulations, and dopted by the State for Colorado State Parks and in accordance with Colorado law.~~ Said fees shall belong exclusively to the State. The District shall not charge or collect fees for recreational purposes on the Reservoir Property.
13. Consistent with any budgetary constraints and with personnel availability, and within its lawful discretion, the State shall operate and manage the Reservoir Property for recreational purposes in accordance with the Management Plan, and enforce the laws, rules, and regulations relating to parks and recreation areas on the Reservoir Property in order to supervise and control the public recreational use of the Reservoir Property. The State shall consult with the District prior to the adoption of any new rules and regulations by the State regarding public use of the Reservoir Property, which are specific to the Reservoir Property. In addition, the State shall at all times maintain at its cost all Recreational Facilities and support facilities in good and safe order, condition, and state of repair, usable by the public.
14. The State shall have the right to construct, operate, and maintain on the Reservoir Property Recreational Facilities, provided that such Facilities are in accordance with the ~~Master Plan~~ Management Plan prepared and existing pursuant to Paragraph's 5 and 6, as may be amended. ~~the Management Plan prepared and existing pursuant to Paragraph 6, as may be amended,~~ such amendments to be as approved in writing by the District. All Recreational Facilities or improvements or structures constructed by the State or the District shall become the property of the District and shall not be removed by the State without the written consent of the District. ~~After the termination of the Lease Agreement,~~ the District may remove such improvements and Recreational Facilities in its sole discretion. [placeholder – we need a provision that provides for reimbursement of remaining value in CPW improvements at the end of the lease, upon early termination, or in the event of damage to the improvements from District]
15. The State shall have the right to enter into any written contract or permit with a third party ("Agent") to act as the agent of the State for the purpose of performing and carrying out any of the functions provided for in this Agreement which, in the State's sole authority and discretion, it deems appropriate to delegate to such Agent, provided that (a) the State shall promptly provide a true copy of each such contract or permit to the District, (b) such contract or permit shall refer to and incorporate by reference this Lease Agreement, and (c) no such contract or permit shall relieve the State from the full and complete performance of its obligations and responsibilities under this Lease Agreement. Said contracts shall be subject and subordinate to this Agreement and to all matters referenced in paragraph 1 of this Agreement. Said contracts shall specifically include concession contracts, provided that concession contracts shall be subject to the prior written approval of the District. The District shall be named as an additional insured in all such contracts and agreements. Notwithstanding the above, the State shall not delegate by contract or permit to any **person or entity** the obligation of the State to manage and

Commented [SZ8]: See draft depreciation schedule

operate the entry stations into Stagecoach State Park and the campgrounds, RV campgrounds, parking lots, swimming beach, picnic sites and pavilion, boat ramps, non-motorized hiking trail, and potable water and sanitary sewer buildings within the Recreational Facilities, all of which must be managed and operated by the State itself. The State's obligation to provide copies of contracts to the District under this paragraph shall be limited to concession contracts and contracts for the construction of Capital ~~Facilities~~ Improvements exceeding \$10,000.

16. To the greatest extent possible, the State and District shall cooperate with each other to assure that each is able to exercise its rights and perform its obligations under this Lease Agreement with minimum interference to the other party's activities. Further, each party shall use every reasonable effort to prevent damage to the property and facilities managed, operated, or maintained by the other party. The State's manager of Stagecoach State Park, and the manager of the District, shall meet at least ~~semi~~ annually to discuss issues of mutual concern to the parties.

17. The District shall have sole control in its sole discretion over the diversion, intake, storage, allocation, and release or disposal of water in and from the Reservoir, generation of power from the power plant at the dam, the enlargement and expansion of the Reservoir, the timing and rate of increase and drawdown of water, the water levels and fluctuations thereof, water temperatures, circulation of water in the Reservoir, dredging of the Reservoir, and prohibition of boats and persons on the water surface for a reasonable safe distance from the spillway and intake structure, and the State shall have no right, interest, or entitlement thereto whatsoever. Further, the District, its agents, and employees shall have access at all times to ~~the control of~~ structures, dams, headgates, and all of the Reservoir Property and Recreational Facilities in order to manage, control, protect, and administer the intake, diversion, storage, management, allocation, and release or disposition of water in and from the Reservoir, generation of power at the power plant, and the expansion or enlargement of the Reservoir. If the District intends to cause or is aware of the pending occurrence of a substantial reduction in the water level of the Reservoir resulting from the release from storage at a rate of more than 200 cfs, it shall, ~~within 24 hours,~~ notify the State in writing at least XX24 hours in advance of such fact in order that fish and wildlife may be salvaged and other necessary steps may be taken to ensure the safety of public recreation users unless such release is necessary for human health and safety. The District shall also have the right to raise the level of the dam at Stagecoach Reservoir for the purpose of expanding the storage capacity of the Reservoir and subject additional land area within and outside of the Reservoir Property and portions of the Recreational Facilities to inundation.

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CRS §33-41-101, et seq., may provide for ~~Lessor~~the District to enjoy limitations on its potential liability which arise from use of the Property by members of the public for recreational purposes. In accordance with the provisions of CRS Section 33-41-103(2)(e)(II.5), the ~~Lessor~~District acknowledges that this paragraph constitutes notice of the right to bargain for indemnification from liability for injury resulting from use of the Property by members of the public for recreational purposes, as those terms are defined in CRS Section 33-41-103(2)(e), and ~~Lessor~~the

District is advised that such right can be exercised prior to the execution of this lease Agreement at the request of Lessor the District. Lessor The District has exercised this right as agreed to in paragraph 20.

~~The parties acknowledge that the District benefits from limitations on potential liability which may arise from use of the Reservoir Property by members of the public for public recreational purposes, pursuant to the provisions of Article 41 of Title 33, C.R.S. and to §13-21-115, C.R.S., as may be amended. In accordance with the provisions of § 33-41-103(2)(e)(H.5), C.R.S., the District acknowledges that it has been advised of its right to bargain for indemnification from liability for injury resulting from use of the Reservoir Property by all persons or guests of persons on the Reservoir Property for recreational purposes, at the invitation or consent of the State, and all persons present on the Reservoir Property at the invitation or consent of the District or the State for business or other purposes relating to or arising from the use of the Reservoir Property for recreational purposes. No such indemnification agreement has been entered into by the parties hereto.~~

19. Notwithstanding any other provision of this [Lease Agreement](#) to the contrary, no term or condition of this [Lease Agreement](#) shall be construed or interpreted as a waiver, either expressed or implied, of any of the immunities, rights, benefits, or protection provided to the parties under the Colorado Governmental Immunity Act, §§ 24-10-101, et seq., C.R.S., as amended or as may be amended (including, without limitation, any amendments to such statute, or under any similar statute which is subsequently enacted). The parties hereto understand and agree that liability for claims for injuries to persons or property arising out of the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of §§ 24-10-101, et seq., C.R.S., as amended or as may be amended, and §§ 24-30-1501, et seq., C.R.S., as amended or as may be amended. Any provision of this [Lease Agreement](#), whether or not incorporated herein by reference, shall be controlled, limited, and otherwise modified so as to limit any liability of the parties to the above-cited laws.

20. To the extent authorized by § 24-30-1510(3)(e), C.R.S., the State shall defend and hold harmless the District against claims arising from the alleged negligent acts or omissions of the State and its public employees which occurred or are alleged to have occurred during the performance of their duties and within the scope of their employment, except where such acts or omissions are willful and wanton. Such claims shall be subject to the limitations of the "Colorado Governmental Immunity Act," §§ 24-10-101 to 24-10-120, C.R.S., as now or hereafter amended.

21. It is an express condition of this Lease Agreement that no employee of the Colorado Division of Parks and ~~Outdoor Recreation Wildlife~~ or member of the Colorado Board of Parks and ~~Outdoor Recreation Wildlife~~, and no person acting as Agent under paragraph 15 above or as agent for or pursuant to the direction and instruction from any such employee or member, will express verbally or in writing to any governmental agency or entity or public official the opposition of the State or of such employee or member or of the Colorado Board of Parks and ~~Outdoor Recreation Wildlife~~ to the enlargement and expansion of Stagecoach Reservoir or the storage, use, or release of additional water in such enlargement as may hereafter be proposed by the District, or to the design,

Commented [PC9]: Per Mitra's comment about is we can and how we would bind future commissions to something like this, CPW would recommend removing or rewording this paragraph.

Commented [MP10]: We need to discuss internally if we can agree to this. Binding future commissions is problematic.

permitting, or construction of such Reservoir expansion and enlargement by the District. If such condition is for any reason broken, violated, or in default, then at any time within one year thereafter the District may at its sole election and upon written notice to the State terminate and rescind this Lease Agreement and may re-enter and take possession of the Recreational Facilities as in the prior estate, without liability to the State or any concessionaire or licensee of the State or any third party beneficiaries or the public. It is the intent and purpose of the parties that the District shall have a valid and enforceable right of entry on condition broken under the provisions of the preceding sentence until termination of this Lease Agreement or until completion of the Reservoir enlargement and expansion, whichever first occurs. The prohibition set forth in this paragraph shall not apply to any employee of the Division of Parks and Wildlife, Colorado Water Conservation Board or other State agency, or any concessionaire of the State on the Reservoir Property, nor shall such prohibition apply to any employee of the State or member of the Colorado Board of Parks and Outdoor Recreation Wildlife who expresses an opinion in his or her private capacity.

22. This Lease Agreement shall be binding upon the parties hereto, their successors, and assignees. However, the State shall not assign this Lease Agreement without the prior written consent of the District. Time is of the essence of this Lease Agreement. In case any one or more of the provisions contained in this Lease Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall conclusively be presumed to affect adversely all other provisions hereof, as one integrated Lease Agreement, and therefore any such holding shall conclusively be deemed to be a complete termination of this Lease Agreement. This Lease Agreement may not be altered or amended, and no right under this Lease Agreement may be waived, except by a written instrument executed by the parties (or, in the case of a waiver, by a written instrument executed by the party granting the waiver) to this Lease Agreement. No waiver of any breach of any portion of this Lease Agreement shall be deemed a waiver of any preceding or succeeding breach of that provision. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts. This Lease Agreement, and the Master Plan and the Management Plan to which this Agreement refers, contain the entire agreement between the parties with respect to the subject matter of this Lease Agreement and supersedes the prior lease between the parties and all prior understandings with respect to the subject matter of this Lease Agreement, the Master Plan, and the Management Plan. The parties have made no prior representations and have given no warranties with respect to the subject matter of this Lease Agreement except as specifically provided herein. The parties do not intend to confer any benefit on any person, firm or corporation other than the signatory parties to this Lease Agreement.
23. Notices. Any notice required or permitted to be provided hereunder shall be deemed given when either personally delivered or mailed by certified mail, return receipt requested, to the parties at their following addresses or such other addresses as they may designate in a notice duly delivered:

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If to the District: Upper Yampa Water Conservancy District
P.O. Box ~~880339~~775529
Steamboat Springs, CO ~~80488-03398~~0477
Attn: Manager

If to State: Colorado Division of Parks and ~~Outdoor Recreation~~Wildlife
Attn: Stagecoach Lake Park Manager
P.O. Box 98
Oak Creek, CO 80467

24. The District warrants and represents itself to be the owner of the Reservoir Property in the form and manner as stated herein; that it has the authority to enter into this [Lease Agreement](#) with the State and that it has taken appropriate action to approve this [Lease Agreement](#); and that during the term of this [Lease Agreement](#) it covenants and agrees to warrant and defend the State in the quiet, peaceable enjoyment and possession of the premises against the adverse property claims of any person which arise by, through, or under the District.

25. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to the District under this Agreement is \$100,000 or greater, either when this Agreement goes into effect or at any time thereafter, this section shall apply. The District agrees to be governed by and comply with the provisions of §§24-106-103, 24-102-206, 24-106-106, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). The District's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

26. DIGITAL SIGNATURES

If any signatory signs this Agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

27.5. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This [Lease Agreement](#) shall not be valid until it has been approved by the Colorado State Controller or designee. If this [Lease Agreement](#) is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this [Lease Agreement](#) shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this [Lease Agreement](#) shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. COMPLIANCE WITH LAW.

~~Lessor~~ [The District](#) shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

E. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this [Lease Agreement](#). Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this [Lease Agreement](#) shall be filed and proceedings held in the State of Colorado and venue shall be in the county in which the Property is located. Venue shall be proper in any county in which the Property is located if it is situate in more than one county.

F. PROHIBITED TERMS.

Any term included in this [Lease Agreement](#) that requires the State to indemnify or hold ~~Lessor~~ [the District](#) harmless; requires the State to agree to binding arbitration; limits ~~Lessor's~~ [the District's](#) liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this [Lease Agreement](#) shall be construed as a waiver of any provision of §24-106-109 C.R.S.

G. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this [Lease Agreement](#). ~~Lessor~~ [The District](#) has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of ~~Lessor's~~ [the District's](#) services and ~~Lessor~~ [the District](#) shall not employ any person having such known interests.

H. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, et seq., C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid

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debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State’s discretion, payments made to ~~Lessor~~ the District in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by ~~Lessor~~ the District by deduction from subsequent payments under this Lease Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and ~~Lessor~~ the District, or by any other appropriate method for collecting debts owed to the State.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

Persons signing for the District hereby swear and affirm that they are authorized to act on the District’s behalf and acknowledge that the State is relying on their representations to that effect.

<p>LESSOR Legal Name of Lessor _____ By: Name or Authorized Individual _____ Title: Official Title of Authorized Individual _____ By: _____ <i>Signature</i> Date: _____</p>	<p>STATE OF COLORADO Jared S. Polis, Governor acting by and through the Department of Natural Resources, for the use and benefit of the Division of Parks and Wildlife and the Parks and Wildlife Commission Heather Disney Dugan, Acting Director By: _____ <i>Signature - Name & Title of Person Signing for DPW</i> Date: _____</p>
	<p>OFFICE OF RISK MANAGEMENT DHR Division Director Limited Indemnification Approval Under CRS §24-30-1510(3)(e) By: _____ <i>Signature - Name, Program Supervisor</i> Date: _____</p>

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER
CRS §24-30-202 requires the State Controller to approve all State Contracts/Leases. This Lease is not valid until signed and dated below by the State Controller or delegate. Lessor is not authorized to begin performance until such time. If Lessor begins performing prior thereto, the State of Colorado is not obligated to pay Lessor for such performance or rents or costs incurred hereunder.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____

DRAFT

Authorization ID: YAM116
Contact Name: UPPER YAMPA WATER CONSERVANCY DIST
Expiration Date: 12/31/2046
Use Code: 922

FS-2700-4 (V. 01/2014)
OMB 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE
SPECIAL USE PERMIT**

Authority: FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976

UPPER YAMPA WATER CONSERVANCY DISTRICT of PO BOX 775529 STEAMBOAT SPRINGS CO UNITED STATES 80477 (hereinafter "the holder") is authorized to use or occupy National Forest System lands in the Medicine Bow-Routt National Forests, Yampa Ranger District of the National Forest System, subject to the terms and conditions of this special use permit (the permit).

This permit covers 203 acres of 0.32 miles in Sec. 16, T. 1 N., R. 86 W., 6TH PRINCIPAL MERIDIAN, Sec. 17, T. 1 N., R. 86 W., 6TH PRINCIPAL MERIDIAN, and Sec. 20, T. 1 N., R. 86 W., 6TH PRINCIPAL MERIDIAN, ("the permit area"), as shown on the map attached as EXHIBIT A.
This permit issued for the purpose of:

Operating and maintaining Yamcolo Reservoir including dam, bridge, spillway, road on dam and other related structures. This authorization contains approximately 203 surface acres as follows;

Reservoir Surface acres: 188 acres

Dam, road and bridge: 11 acres

Spillway: 3 acres

Monument and parking area: 1 acre.

The following Exhibits are attached hereto and made a part hereof.

Exhibit A- Map

Exhibit B- Operation and Maintenance Plan

Exhibit C- Stream Flow Monitoring Plan

Exhibit D- Yamcolo Operation and Maintenance Procedures prepared by Western Engineers, Inc, and subsequent revisions

Exhibit E- Department of Army permit dated March 15, 1978, letter dated February 17, 1982, letter dated October 30, 1996.

Exhibit F- Emergency Action Plan dated November 18, 2015 and subsequent revisions

TERMS AND CONDITIONS

I. GENERAL TERMS

A. AUTHORITY. This permit is issued pursuant to Federal Land Policy and Management Act, as amended October 21, 1976 and 36 CFR Part 251, Subpart B, as amended, and is subject to their provisions.

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

C. TERM. This permit shall expire at midnight on **12/31/2046**, 30 years from the date of issuance.

D. RENEWAL. This permit is not renewable. Prior to expiration of this permit, the holder may apply for a new permit that would renew the use and occupancy authorized by this permit. Applications for a new permit must be submitted at least 6 months prior to expiration of this permit. Renewal of the use and occupancy authorized by this permit shall be at the sole discretion of the authorized officer. At a minimum, before renewing the use and occupancy authorized by this permit, the authorized officer shall require that (1) the use and occupancy to be

authorized by the new permit is consistent with the standards and guidelines in the applicable land management plan; (2) the type of use and occupancy to be authorized by the new permit is the same as the type of use and occupancy authorized by this permit; and (3) the holder is in compliance with all the terms of this permit. The authorized officer may prescribe new terms and conditions when a new permit is issued.

E. AMENDMENT. This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms that may be required by law, regulation, directive, the applicable forest land and resource management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

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

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

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

I. TRANSFER OF TITLE TO THE IMPROVEMENTS:

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

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

II. IMPROVEMENTS

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

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

C. CONSTRUCTION. Any construction authorized by this permit shall commence by N/A and shall be completed by N/A.

III. OPERATIONS.

A. PERIOD OF USE. Use or occupancy of the permit area shall be exercised at least 365 days each year.

B. CONDITION OF OPERATIONS. The holder shall maintain the authorized improvements and permit area to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer and consistent with other provisions of this permit. Standards are subject to periodic change by the authorized officer when deemed necessary to meet statutory, regulatory, or policy requirements or to protect national forest resources. The holder shall comply with inspection requirements deemed appropriate by the authorized officer.

C. INSPECTION BY THE FOREST SERVICE. The Forest Service shall monitor the holder's operations and reserves the right to inspect the permit area and transmission facilities at any time for compliance with the terms of this permit. The holder's obligations under this permit are not contingent upon any duty of the Forest Service to inspect the permit area or transmission facilities. A failure by the Forest Service or other governmental officials to inspect is not a justification for noncompliance with any of the terms and conditions of this permit.

IV. RIGHTS AND LIABILITIES

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

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

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

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

E. RISK OF LOSS. The holder assumes all risk of loss associated with use or occupancy of the permit area, including but not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), avalanches, rising waters, winds, falling limbs or trees, and other forces of nature. If authorized temporary improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, the permit shall terminate.

F. DAMAGE TO UNITED STATES PROPERTY. The holder has an affirmative duty to protect from damage the land, property, and other interests of the United States. Damage includes but is not limited to fire suppression costs; damage to government-owned improvements covered by this permit, and all costs and damages associated with or resulting from the release or threatened release of a hazardous material occurring during or as a result of activities of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees on, or related to, the lands, property, and other interests covered by this permit. For purposes of clause IV.F and section V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials, pollutant, contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws.

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

2. The holder shall be liable for all injury, loss, or damage, including fire suppression, prevention and control of the spread of invasive species, or other costs in connection with rehabilitation or restoration of natural resources associated with the use or occupancy authorized by this permit. Compensation shall include but not be limited to the value of resources damaged or destroyed, the costs of restoration, cleanup, or other mitigation, fire suppression or other types of abatement costs, and all administrative, legal (including attorney's fees), and other costs. Such costs may be deducted from a performance bond required under clause IV.i.

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

G. HEALTH, SAFETY, AND ENVIRONMENTAL PROTECTION. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any activity or condition arising out of or relating to the authorized use or occupancy that causes or threatens to cause a hazard to public health or the safety of the holder's employees or agents or harm to the environment (including areas of vegetation or timber, fish or other wildlife populations, their habitats, or any other natural resources). The holder shall prevent impacts to the environment and cultural resources by implementing actions identified in the operating plan to prevent establishment and spread of invasive species. The holder shall immediately notify the authorized officer of all serious accidents that occur in connection with such activities. The responsibility to protect the health and safety of all persons affected by the use or occupancy authorized by this permit is solely that of the holder. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations and activities of the holder for hazardous conditions or compliance with health and safety standards.

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

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

J. STRICT LIABILITY. The holder shall be strictly liable (liable without proof of negligence) to the United States for one million dollars per occurrence for any injury, loss, or damage arising in tort under this permit. Liability in tort for injury, loss, or damage to the United States exceeding the prescribed amount of strict liability in tort shall be determined under the law of negligence.

K. INSURANCE. The holder shall furnish proof of insurance, such as a certificate of insurance, to the authorized officer prior to issuance of this permit and each year thereafter that this permit is in effect. The Forest Service reserves the right to review and approve the insurance policy prior to issuance. The holder shall send an authenticated copy of any insurance policy obtained pursuant to this clause to the authorized officer immediately upon issuance of the policy. Any insurance policies obtained by the holder pursuant to this clause shall name the United States as an additional insured, and the additional insured provision shall provide for insurance coverage for the United States as required under this clause. Such policies also shall specify that the insurance company shall give 30 days prior written notice to the authorized officer of cancellation of or any modification to the policies. The certificate of insurance, the authenticated copy of the insurance policy, and written notice of cancellation or modification of insurance policies should be sent to Medicine Bow-Routt National Forests, 2468 Jackson Street Laramie WY 82070. Minimum amounts of coverage and other insurance requirements are subject to change at the sole discretion of the authorized officer on the anniversary date of this permit.

1. The holder shall have in force liability insurance covering losses, including those arising from strict liability associated with the use or occupancy authorized by this permit arising from personal injury or death and third-party property damage in the minimum amount of \$1,000,000 (one million dollars) as a combined single limit per occurrence.

2. Depending on the holder's operations, the Forest Service may require the holder to demonstrate the availability of funds to address any release or threatened release of hazardous materials that may occur in connection with the holder's use or occupancy. Any requirements imposed would be established on a case-by-case basis by the authorized officer based on the degree of environmental risk from the holder's operations. The storage and use of normal maintenance supplies in nominal amounts generally would not trigger financial assurance requirements.

V. RESOURCE PROTECTION

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

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

C. PESTICIDE USE. Pesticides may not be used outside of buildings to control undesirable woody and herbaceous vegetation (including aquatic plants), insects, rodents, fish, and other pests and weeds without prior written approval from the authorized officer. A request for approval of planned uses of pesticides shall be submitted annually by the holder on the due date established by the authorized officer. The report shall cover a 12-month period of planned use beginning 9 months after the reporting date. Information essential for review shall be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests or weeds require control measures that were not anticipated at the time an annual report was submitted. Only those materials registered by the U.S. Environmental Protection Agency for the specific purpose planned shall be considered for use on National Forest System lands. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers.

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

E. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION. In accordance with 25 U.S.C. 3002(d) and 43 CFR 10.4, if the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on National Forest System lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall immediately notify the authorized officer by telephone of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the authorized officer certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a binding written agreement has been executed between the Forest Service and the affiliated Indian tribes that adopts a recovery plan for the human remains and objects.

F. PROTECTION OF HABITAT OF THREATENED, ENDANGERED, AND SENSITIVE SPECIES. The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA) of 1973, 16 U.S.C. 1531 et seq., as amended, or identified as sensitive or otherwise requiring special protection by the Regional Forester under Forest Service Manual

Termination of this permit is not subject to administrative appeal and shall not give rise to any claim for damages by the holder against the Forest Service.

E. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT RENEWAL. Upon revocation or termination of this permit without renewal of the authorized use, the holder shall remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and shall restore the site to the satisfaction of the authorized officer. If the holder fails to remove all structures and improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

VIII. MISCELLANEOUS PROVISIONS

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

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

C. SUPERSEDED PERMIT. This permit supersedes a special use permit designated **UPPER YAMPA WATER CONSERVANCY DIST, YAM97, dated 01/28/2013.**

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

E. DAM SAFETY (R2-B110).

1. Definitions. The following definitions apply to this clause:

a. Qualified Engineer. An engineer authorized to practice engineering in the field of dams in the State where the dam is located, either by professional registration as provided by State law (Colorado PE license) or by reason of employment by the State or Federal Government.

b. Dam Failure. Catastrophic event characterized by the sudden, rapid, and uncontrolled release of impounded water. It is recognized that there are lesser degrees of failure and that any malfunction or abnormality outside the design assumptions and parameters which adversely affect a dam's primary function of impounding water may also be considered a failure.

c. Rehabilitation or Modification. Repair of major structure deterioration to restore original condition; alteration of structures to meet current design criteria, improve dam stability, enlarge reservoir capacity, or increase spillway and outlet works capacity; replacement of equipment or to meet public safety requirements.

d. Hazard Potential. The classification of a dam based on the potential for loss of life or property damage that could occur if the structure failed (FSM 7500).

e. Emergency Action Plan. A formal plan of procedures to prevent or reduce loss of life and property that could occur if the structure failed or for immediate defensive action to prevent the failure of the dam. The plan does not include flood plain management for the controlled release of floodwaters for which the project is designed.

2. Dam Classification. The dam constructed pursuant to this authorization shall be classified according to its height and storage capacity (water debris or both) as well as its hazard potential as follows:

Height and Storage Capacity (A, B, C, or D):

Hazard Potential (Low, Significant/Moderate, High):

Dam inspections will generally be governed by the following schedule based on hazard unless a different schedule is documented in writing by the Colorado State Engineer or authorized Forest officer.*

Colorado Class I Dam	Forest Service High Hazard	Annually
Colorado Class I Dam	Forest Service Significant/Moderate Hazard	Once Every Two Years
Colorado Class III and IV* Dam	Forest Service Low Hazard	Once Every Six Years

*Colorado Class IV dams are not inspected periodically by the Colorado Division of Water Resources (CDWR) unless a complaint is received about their safety. It is the special use holder's responsibility for inspection by a qualified engineer if the CDWR does not inspect a given facility

Classification criteria are contained in FSM 7511, which the Forest Service may amend periodically.

The provisions of sections 5 and 8 of this clause apply only to dams classified as HIGH hazard, or as otherwise may be specifically provided for in this authorization to address special or unique circumstances.

The hazard potential of the dam shall be reassessed by CDWR or other qualified engineer retained by the holder in accordance with State or Federal regulations at least every five years, and this information made available to the authorized officer and Regional Engineer. A more frequent reassessment of hazard potential may be required if changes in downstream development warrants. The Forest Service may change the hazard potential at any time based on changed conditions or new information consistent with the criteria provided in FSM 7511.

The terms Significant and Moderate are both included in this clause pending a change in Forest Service Manual terminology from Moderate to Significant. The terms are considered equivalent in this clause.

3. Construction, Inspection, Certification, and Project Files. For construction, rehabilitation or improvement, the holder shall provide for inspection by a qualified engineer to ensure adequate control of the work being performed. At a minimum, the qualified engineer shall maintain a daily inspection diary, photographic documentation of general and critical design features (i.e. outlet works, grouting, filters, drains, foundation treatment, etc.), video recording of work, descriptions of design changes, and records of construction material and foundation tests.

Upon completion of construction, rehabilitation, or improvement, the holder shall forward to the Forest Service a statement from the qualified engineer responsible for inspection certifying that the works were built in accordance with the approved plans and specifications, or approved revisions thereto. No water shall be impounded until approval is given by the authorized officer and the Colorado State Engineer.

All design notes, as-built plans, and the aforementioned diaries and records shall be submitted to the Colorado State Engineer and maintained in a project file by the holder for the duration of this authorization, and shall be available to the Forest Service or other inspection personnel (not applicable to debris retention dams). A copy of the as-built plans should be forwarded to the Forest Service (Regional Engineer and/or the specific Forest Supervisors Office, Attention: Forest Engineer).

4. Dam Operation and Maintenance Plans. Dam operation and maintenance plans shall be prepared during the design phase for new dams. The plan(s) shall, as a minimum, describe operating requirements and procedures to be followed for the operation of the structure; routine or recurring maintenance required; record keeping to be performed for operation and maintenance; and individuals responsible for implementing the plans. At the time of the operation and maintenance inspection, the plan shall be reviewed and amended as needed by the individual responsible for implementation and the engineer performing any inspection. No plans or amendments thereto shall be valid until approved by the authorized officer.

5. Dam Emergency Action Plan. The following provisions are required for certain hazard classifications identified in section 2. The holder shall, during the design phase, prepare an emergency action plan which will include, but not be limited to:

a. Actions to be taken upon discovery of an unsafe condition or impending failure situation to prevent or delay dam failure, and reduce damage or loss of life from subsequent failure, including ingress and egress of potential equipment and manpower required for defensive actions and emergency repair.

b. Procedures for notification of law enforcement, civil preparedness, Colorado State Engineer, and Forest Service personnel (authorized officer and/or Regional Engineer).

c. Procedures for notifying persons in immediate danger of losing life or property. In Colorado the emergency notification is a responsibility of the local emergency manager. The dam owners are responsible for the

notification of these individuals rather than attempting to contact members of the general public. The Emergency Action Plan should include notification of the local emergency manager and annually meeting with the local emergency manager for coordination of notification of individuals in areas of high risk. This would also apply to Forest Service personnel that might have specific responsibilities associated with recreational use, campers, and other uses on federal lands.

d. Maps delineating the area which would be inundated by water, debris, or both in the event of dam failure (inundation maps).

e. The names of those individuals responsible for activating the plan and carrying out the identified actions (communications directory).

In preparing the emergency action plan, the holder shall consult and cooperate with appropriate law enforcement and civil preparedness personnel, who may be responsible for implementing all or part of the plan. Emergency action plans shall be reviewed and updated annually, and tested at intervals not exceeding five years.

6. Inspection and Maintenance of Dams. The holder shall have the dam and appurtenant structures inspected by a qualified engineer to determine the state of operation and maintenance according to the schedule in item 2 Dam Classification above unless otherwise determined and documented through consultation with the Colorado State Engineer and Forest Service personnel. An inspection shall also be made following earthquakes, major storms, or overflow of spillways other than the service spillway. Two copies of the inspection report shall be provided to the authorized officer and/or Regional Engineer within 30 days of the date of inspection.

Repairs or operational changes recommended by the inspecting engineer shall be made by the holder within a reasonable period of time following the inspection with proper written authorization from the Forest Service, but in no event later than one year from the inspection (unless a longer period of repairs is authorized in writing, or a shorter period is required when such repairs are deemed by the authorized officer as immediately required for reasons of public safety). Upon request by the authorized officer, the holder shall provide a plan of action outlining planned time and methods for performing said repairs or operational changes; and notify the authorized officer when actions are completed. The authorized officer shall specify a completion date for corrective work. If corrective action is not taken by the date specified by the authorized officer, the Forest Service shall have corrective action taken and the holder shall be responsible for all costs including legal and court costs.

7. Forest Service Inspection of Dams. The holder shall allow inspection of the dam and appurtenant structures at any time by the authorized officer. Any condition adversely affecting or which could adversely affect the operation of the facility; safety of the structure or the public or surrounding lands and resources shall, upon written notice, be corrected or changed by the holder at the holder's expense. The authorized officer shall specify a completion date for corrective work. If corrective action is not taken by the date specified by the authorized officer, the Forest Service shall have corrective action taken and the holder shall be responsible for all costs including legal and court costs. A copy of the Forest Service inspection report shall be provided to the holder. An inspection performed by the Forest Service does not relieve the holder of the responsibility of ensuring that inspections are made in accordance with section 6 of this clause.

8. Dam Safety Evaluations. The provision is required for certain hazard classifications identified in section 2. In accordance with the frequency described in Section 2 above, the holder shall have a formal dam safety evaluation performed by a qualified engineer (CDWR or other qualified engineer) to verify the safety and integrity of the dam and appurtenant structures. The evaluation will include, but is not limited to, a detailed field inspection of the dam and appurtenant structures and a review of all pertinent documents, such as investigation, design, construction, instrumentation, operation, maintenance, and inspection records. The evaluation shall be based on current accepted design criteria and practices. The holder shall provide two copies of the evaluation report to the authorized officer and Regional Engineer. Based on this report, the authorized officer may require the holder to perform additional evaluations pursuant to such standards as the officer may define and may require rehabilitation or modification of the structure within a reasonable time.

9. Right of Action to Abate Emergency Situations. In situations where the authorized officer determines on the available facts that there is danger of a dam failure for any reason, such officer may exercise discretionary authority to enter upon the structure and appurtenances authorized herein and take such actions as are necessary to abate or otherwise prevent a failure. Such actions include, but are not limited to, lowering the level of the impounded waters utilizing existing structures or by artificial breach of the dam. In the event that such actions are taken, the United States shall not indemnify or otherwise be liable to the holder for losses or damages,

Including losses or damages to the structure or the value of impounded waters. The holder shall be responsible for all costs including legal and court costs and damages as a result of required ingress and egress of manpower and equipment. The failure of the Forest Service to exercise any discretion under this provision shall not be a violation of any duty by the United States, and shall not relieve the holder of any and all liability for damages in the event of a dam failure.

10. Liability. The activities permitted by this authorization shall be deemed a high risk use and occupancy. Sole responsibility for the safety of the dam and associated facilities and any liability resulting therefrom shall be on the holder and his successors, agents, or assigns. Pursuant to 36 CFR 251.56(d), or its replacement, the holder shall be liable for injury, loss, or damage resulting from this authorization regardless of the holder's fault or negligence. Maximum strict liability shall not exceed \$1,000,000.00 except as that amount may be changed in the aforementioned regulations.

In addition to all waivers and limitations on liability of the United States under this authorization, the provisions of 33 U.S.C. 702(c) shall apply to any damages from or by floods or flood waters at any place.

**F. DAM SAFETY WHEN STATE REGULATIONS APPLY (B-36).
DAM SAFETY.**

1. The holder shall comply with all State standards and regulations pertaining to dam safety in the State of Colorado. Unless stated otherwise in a memorandum of understanding (MOU) or equivalent instrument between the State of Colorado and the Forest Service, the Forest Service has a role in enforcing applicable State of Colorado dam safety regulations within the permit area. Applicable MOUs regarding safety of the improvements authorized by this permit include N/A.

2. Any condition of the authorized improvements that adversely affects or that could adversely affect operation of the authorized dam, safety of the dam or the public, or the surrounding lands and resources shall, upon written notice from the authorized officer, be corrected or modified by the holder at the holder's expense. The authorized officer shall specify a completion date for corrective work in the notice.

3. The Forest Service reserves the right to abate emergencies. When the authorized officer determines that there is a danger of a failure for any reason of the authorized dam, the Forest Service has the right to take any actions deemed necessary to prevent or abate a failure, including lowering the level of impounded water by utilizing existing structures or by artificially breaching the dam. The United States shall not be liable to the holder for any loss or damage, including damage to the dam or loss of value of impounded water, associated with actions taken by the Forest Service under this clause. The holder shall indemnify the United States for all costs, including legal and court costs, associated with the Forest Service's exercise of its rights under this clause, other than costs attributed to the negligence of the United States or its officers, agents, or employees. Failure of the Forest Service to exercise its rights under this clause shall not constitute a violation of any duty of the United States or a defense to noncompliance with any terms and conditions of this permit, and shall not relieve the holder of any liability for damages in the event of a dam failure.

4. The holder and the holder's successors, agents, and assigns shall have sole responsibility for the safety of the authorized dam and appurtenant structures and any associated liability.

5. If a State regulatory entity claims jurisdiction over the dam authorized by this permit, the holder shall provide correspondence and reports associated with regulation of the dam to the authorized officer upon request.

G. OPERATION AND MAINTENANCE PLAN (R2-C102). An Operation and Maintenance Plan, described as Exhibit B is attached hereto and made a part hereof.

H. STREAM FLOW (R2-D101). The Holder shall maintain stream flows adequate to protect the environment, including fishery resources and channel stability. Minimum flows shall be specified by the Authorized Officer. During high spring runoff, natural peak discharge will be maintained for a period of not fewer than five (5) days. The Holder shall be responsible for monitoring streamflow and determining when reservoir releases, diversion curtailments, or other measures are required to maintain required stream flow levels. Prior to development, the Holder shall submit a Stream Flow Monitoring Plan for approval by the Authorized Officer.

I. MINIMUM RESERVOIR OR CONSERVATION POOL (R2-D105). The holder shall maintain the minimum level of the reservoir pool at 1000 acre feet unless specifically authorized in writing by the Authorized Officer to lower the reservoir pool below the said specified minimum level.

J. CERTIFIED COPIES FOR ADMINISTRATION OF WATER RIGHT (R2-D106). The Holder hereby agrees to furnish certified copies of the State Water Decree from the Colorado Division of Water Resources associated with the use permitted by this authorization. Any future decrees issued associated with the water right shall be provided to the Forest Service within 90 days of such decree.

K. AUGMENTATION PLANS FOR EXISTING WATER RIGHTS (R2-D108). In the event that the authorized facilities/activities result in an out-of-priority diversion that requires augmentation, the Forest Service authorized officer must approve the augmentation plan in writing prior to the applicant submitting the plan for final decree by the court.

L. WATER RIGHTS, BOULDER CANYON ACT (R2-X102). This authorization is issued subject to the Boulder Canyon Project Act of December 21, 1928 (45 Stat., 1064).

M. AUTHORIZATION LIMITATIONS (R2-X105). Nothing in this special use authorization allows or implies permission to build or maintain any structure or facility, or to conduct any activity unless specifically provided for in this authorization. Any use not specifically identified in this authorization must be approved by the authorized officer in the form of a new special use authorization or authorization amendment.

N. USE OF CERTIFIED NOXIOUS WEED FREE HAY, STRAW OR MULCH (R2-X107). Only hay, grain, straw, cubes or mulch certified as noxious weed free or noxious weed seed free by an authorized State Department of Agriculture official or designated county official may be used. Each individual bale or container must be tagged or marked as a certified weed free product and reference a written certification, if one exists.

The following are exempted from this requirement:

1. Pelletized feed or grain products.
2. Persons with a permit specifically authorizing the prohibited act.
3. Transporting straw, hay or mulch on Federal, State, and County roads that are not National Forest System roads and trails.

O. WATER FACILITIES AND WATER RIGHTS (D-25). This permit does not confer any water rights on the holder. Any necessary water rights must be acquired by the holder in accordance with State law. Any expenses for acquiring water rights shall be the responsibility of the holder. The United States reserves the right to place any conditions on installation, operation, maintenance, and removal of facilities to pump, divert, store, or convey water on National Forest System lands covered by this permit that are necessary to protect public property, public safety, and natural resources on National Forest System lands in compliance with applicable law. The holder waives any claims against the United States for compensation in connection with imposition of any conditions on installation, operation, maintenance, and removal of water facilities under this permit.

P. RESERVOIR STORAGE INCREASE (X20). The Forest Service reserves the right to issue additional authorizations to other applicants to increase the storage capacity of this site if such action proves feasible. No authorization will be granted for additional facilities that will jeopardize the privileges granted by this authorization. Any additional authorizations permitting larger facilities will provide for payment of costs, including the cost of construction of the original project works, on a cost-benefit ratio mutually agreeable to the holder and the new applicant. If the holder and applicant cannot agree on division of costs, the Forest Service shall decide on an equitable division between the old and new works.

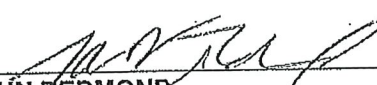
Q. AQUATIC NUISANCE SPECIES (ANS) PREVENTION OF INTRODUCTION, TRANSPORT AND SPREAD. RESERVOIR STORAGE INCREASE R2-D-110.

1. The holder shall be responsible for preventing transport and spread of Aquatic Nuisance Species (ANS) of concern on the area authorized by this authorization. ANS of concern are those species listed in the *Rocky Mountain Region Invasive Species Management Strategy*, dated June 09, 2009 or subsequent policy.
2. When determined to be necessary by the authorized officer, the holder shall develop a site-specific/activity specific plan that addresses the prevention of introduction, transport and spread of ANS. Such plan shall be subject to Forest Service approval. Upon Forest Service approval, the prevention of transport and spread of ANS control plan shall become a part of this authorization, and its provisions shall be enforceable under the terms of this authorization.

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

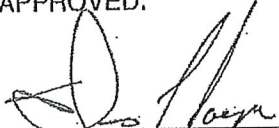
BEFORE ANY PERMIT IS ISSUED TO AN ENTITY, DOCUMENTATION MUST BE PROVIDED TO THE AUTHORIZED OFFICER OF THE AUTHORITY OF THE SIGNATORY FOR THE ENTITY TO BIND IT TO THE TERMS AND CONDITIONS OF THE PERMIT.

ACCEPTED:

 9/21/16

JOHN REDMOND
President
UPPER YAMPA WATER CONSERVANCY DISTRICT

APPROVED:

 9/27/16

DENNIS L. JAEGER
FOREST SUPERVISOR
Medicine Bow-Routt National Forests and
Thunder Basin National Grassland
DATE

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 975-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

YAM142 Audit 1/4/2023

	2019	2020	2021	2022	2023	
Garfield County Rent Sch Amount	67.29	68.7	70.15	71.62	73.12	
Routt County Rent Sch Amount	67.29	68.7	70.15	103.44	105.61	
Amount Owed	192.45	196.48	200.63	286.3	292.3	
Amount Paid	191.78	195.80	199.93	294.80	300.99	
Credit to 2024	-0.67	-0.68	-0.7	\$8.50	\$8.69	15.14

Relevant Forest Service Direction

- Rocky Mountain Region (Region 2) FSH 2709.11-2017-1 Special Uses Handbook - Chapter 30 – Fee Determination Medicine Bow-Routt National Forests and Thunder Basin National Grassland (MBRTB)
- Region 2 FSH 2709.11-2007-1 Special Uses Handbook – Chapter 30 – Fee Determination
- Region 2 FSH 2709.11-2007-2 Special Uses Handbook – Chapter 30 – Fee Determination
- FSH 2709.11-2020-4 Special Uses Handbook – Chapter 30 – Fee Determination (32.5 Appeals)
- FSH 2709.11-2021-1 Amendment Special Uses Handbook – Chapter 30 – Fee Determination

Additional Resources

- BLM memorandum on linear right-of-way fee re-assignment (2021-2025) and,
- Calendar Years 2016 – 2025 Per-Acre Linear Rent Schedule. Please note the asterisks at the bottom of the chart.

** FSH 2709.10-2016-2 Special Uses Handbook - Ch. 10 Application & Auth Processing*