

Goose Bay Marina

Canyon Ferry Reservoir

Agreement No. 6-LM-60-L3651

Lease and Permit Between the State of Montana  
and  
Gerald and Muriel Reller  
for  
Operation of Goose Bay Marina, Canyon Ferry Reservoir  
Bureau of Reclamation Lease and Permit No. 6-LM-60-L3651

Modification No. 4

The Lease and Permit dated January 1, 1986, (equally referred to throughout this document as the original Lease and Permit, and in previous modifications as the "Agreement", "Lease and Permit", "Lease", or "Permit"), as amended by Modification No. 1, dated May 20, 1996; Modification No. 2, dated December 31, 1996; and Modification No. 3, dated December 30, 1998, for the operation of Goose Bay Marina, Canyon Ferry Reservoir, is hereby further amended as follows:

1. Article 3. Term., is hereby amended to read, in its entirety: "This Permit is valid from July 14, 2000 to July 14, 2010, inclusive, unless otherwise terminated as provided herein".
2. Article 4. Renewal., is hereby eliminated from the Agreement in its entirety. Future renewal or extensions shall not be automatically granted to the Concessionaire.
3. Article 5. Concession Fee., is hereby amended by inserting, " less fees collected for the sale of hunting and fishing licenses", in the first sentence of the first paragraph, after "...any other transaction" and before "provided for by this Permit...".
4. Article 8.C. is hereby amended to read, in its entirety: "The repair of boats and motors, camping vehicles and equipment and other recreational gear".
5. Article 8.G. is hereby eliminated from the Agreement in its entirety.
6. Article 8.M. is hereby eliminated from the Agreement in its entirety.
7. Article 11. Posting of Rates and Charges., is hereby amended by adding the following sentence to the end of the first sentence: "Reclamation reserves the right to review, and approve such rates for all goods and services; and, should Reclamation exercise that right, shall so notify the Concessionaire by May 1 of each year for that calendar year, of the new approved rates".
8. Article 14. Labor and Wages., is hereby eliminated from the Agreement in its entirety.
9. Article 15. Montana Products Preference., is hereby eliminated from the Agreement in its entirety.

10. Article 18. Assignment and Hypothecation Prohibited., is amended to read, in its entirety “This Agreement may be assigned only for its un-expired term and only with the express prior written consent of Reclamation. Reclamation shall review the business management capability of the proposed buyer, shall require a background survey including a financial profile and felony arrest record report of the proposed buyer, and may require that a financial analysis of the concession operation including an appraisal of real property improvements be conducted before approving an assignment of the Agreement. The Concessionaire shall provide Reclamation with sufficient prior notice of a sale or transfer of the Agreement so any requested analysis or study can be completed in a timely manner. The Concessionaire shall pay Reclamation an initial administrative transfer fee of \$200 upon notification of a potential assignment. The Concessionaire must also agree to pay any additional charges Reclamation incurs as a result of the assignment. Reclamation understands that the Concessionaire has made substantial investments in the concession area and Reclamation will work with the Concessionaire and any potential concessionaires to expedite the sale and transfer of the Agreement to a reasonable person, firm or corporation. In the event of the death of the Concessionaire during the term of the Agreement, Reclamation will honor the transfer of the Agreement to any designated heirs as prescribed by and in accordance with due process of law, provided that, such heirs are determined capable of managing the concession in a manner consistent with the terms and conditions of the Agreement”.

11. Article 34. Liability Insurance., is amended by deleting the requirement that the State of Montana, Department of Fish, Wildlife and Parks be declared as an additional insured under the Concessionaire’s insurance policy.

12. Article 36. Compliance with Laws., is hereby amended to read, in its entirety: “The Concessionaire shall comply with applicable Federal, State and local rules, regulations, laws or ordinances, including Reclamation Policies and Directives and Standards, governing the operation of the premises. Violation of such rules, regulations, laws, ordinances, or policies and directives and standards, may be considered as cause for termination of this Agreement”.

13. Article 39. Removal of Improvements., is amended to include the following sentences at the end of the existing paragraph: “In the event that Reclamation determines that any such Concessionaire owned personal property should remain within the concession area at the expiration or termination of this Agreement, Reclamation will afford the Concessionaire the opportunity to sell such identified personal property to a new concessionaire, provided that the new concessionaire agrees to purchase the personal property, and provided that both parties and Reclamation agree to an acceptable price for such personal property. However, a new or prospective concessionaire shall not be required to buy such personal property from the current Concessionaire, and in such case the current Concessionaire shall remove all such personal property from the concession area in a timely manner, consistent with provisions of this Agreement”.

14. Article 42. Liaison., is hereby amended to read, in its entirety: "Reclamation appoints its Montana Area Office Area Manager, or its duly assigned staff, to act as liaison between the Concessionaire and Reclamation for the administration of this Agreement. All written correspondence shall be deemed formally submitted to Reclamation, when delivered to the following address: Area Manager, Montana Area Office, PO Box 30137, Billings, MT 59107-0137".

15. Article 51. Venue., is hereby eliminated in its entirety.

I agree to and accept the above modifications of the Agreement.

  
Gerald Reller (Date) 7/13/00  
Concessionaire

  
Susan Kelly (Date) 7-14-00  
Area Manager, Montana Area Office  
Bureau of Reclamation

  
Muriel Reller (Date) 7/13/00  
Concessionaire

Lease and Permit Between State of Montana  
and  
Gerald and Muriel Reller  
for  
Operation of Goose Bay Marina, Canyon Ferry Reservoir  
Bureau of Reclamation Lease No. 6-LM-60-L3651

Modification No. 3

The above titled agreement, being the current lease and permit arrangement for the operation of Goose Bay Marina, Canyon Ferry Reservoir is hereby amended:

1. Article 3, "Term," is hereby amended to read, in entirety:  
*"This permit is valid from December 31, 1997 until April 30, 1999, inclusive, unless otherwise terminated or renewed as provided herein."*

I agree to the above modifications of this Agreement.

  
Gerald Reller  
Concessioner

12/24/98  
(Date)

  
Susan Kelly  
Area Manager  
Bureau of Reclamation

12/30/98  
(Date)

  
Muriel Reller  
Concessioner

12/24/98  
(Date)

Lease and Permit Between State of Montana  
and  
Gerald and Muriel Reller  
for  
Operation of Goose Bay Marina, Canyon Ferry Reservoir  
Bureau of Reclamation Lease No. 6-LM-60-L3651

\* \* \* \* \*

Modification No. 2  
December 31, 1996

The above titled agreement, being the current lease and permit arrangement for the operation of Goose Bay Marina, Canyon Ferry Reservoir is hereby amended:

1. Article 3, "Term," is hereby amended to read, in entirety:  
*"This Permit is valid from January 1, 1986, until December 31, 1997 inclusive, unless otherwise terminated or renewed as provided herein."*

I agree to the above modifications of this Agreement.

Gerald Reller 2/18/97  
Gerald Reller (Date)  
Concessioner

ACTING

Robert L. Schroeder 2/26/97  
Robert L. Schroeder (Date)  
Area Manager  
Bureau of Reclamation

Muriel Reller  
Muriel Reller (Date)  
Concessioner

Lease and Permit Between State of Montana  
and  
Gerald and Muriel Reller  
for  
Operation of Goose Bay Marina, Canyon Ferry Reservoir

\* \* \* \* \*

Modification No. 1

May 20, 1996

The above titled agreement, being the current lease and permit arrangement for the operation of Goose Bay Marina, Canyon Ferry Reservoir is hereby amended:

1. The concession agreement for Goose Bay Concession Area is hereafter referred to as, "*Contract No. 6-LM-60-L3651.*" This unique contract number will be used internally by Reclamation to track and record correspondence, payments, and other activities associated with this agreement. Assigning this contract number does not change or alter any of the terms or conditions of the concession agreement.
2. Reference in the concession agreement to the State of Montana, Montana Department of Fish, Wildlife, and Parks, or "*Department,*" as the administrator of the agreement, is hereby changed to the United States Bureau of Reclamation, or "*Reclamation.*" This change of name reflects that the Department has terminated its recreation management agreement for Canyon Ferry and that Reclamation is now the sole administrator of the Goose Bay concession agreement. The change of name does not otherwise change or alter any of the terms or conditions of the agreement.
3. Article 3, "Term," is hereby amended to read, in entirety:  
*"This Permit is valid from January 1, 1986, until December 31, 1996 inclusive , unless otherwise terminated or renewed as provided herein."*
4. Article 21, "Boat Docks," is hereby amended to read, in entirety:  
*"All boat docks and wave suppression structures (breakwaters) placed in public waters must be approved and permitted by the U.S. Army Corps of Engineers. Docks and breakwaters placed in concession areas on Reclamation reservoirs must additionally be approved by Reclamation. All boat docks placed in Canyon Ferry Reservoir in the Goose Bay Concession Area must comply with the standards established in the attached Exhibit B, "Boat Dock Standards for Goose Bay Concession Area."*

I agree to the above modifications of this Agreement.

*Gerald Reller* *5/24/96*  
Gerald Reller (Date)  
Concessioner

*Katherine Jabs* *7/1/96*  
Katherine Jabs (Date)  
Area Manager  
Bureau of Reclamation

*Muriel M. Reller* *5/24/96*  
Muriel Reller (Date)  
Concessioner

**EXHIBIT B.**  
**BOAT DOCK STANDARDS FOR GOOSE BAY CONCESSION**

**Introduction.** The standard and drawings used here are adopted from the U.S. Army Corps of Engineers (Corps) Minimum Design Standards For Moorage Facilities, the Corps' Marina Safety Standards For Commercial Concessions and Gasoline Docks, and from recommendations from the National Park Service, and commercial dock manufacturers. All new or replacement boat docks approved by Reclamation for the Goose Bay Concession Area shall meet or exceed the minimum design standards listed below. All replacement flotation used for the existing docks must meet the requirements of Section 3(d) of these standards. These standards shall not otherwise apply to the existing boat dock system, provided that, the existing boat docks are modified and maintained by the Concessioners to correct the safety concerns identified in the 1994 "Safety Evaluation of Goose Bay Marina", conducted by the Montana Area Office safety manager.

**1. Boat Docks (Moorage and Service Docks):**

**a. Wood Frame Construction:**

- (1) All wood in the structure including the deck must be treated with a preservative. The preservative used will not be toxic to fish and wildlife if leached from the wood. CCA treatment is acceptable.
- (2) Floor joists and flotation frames shall not be less than 2"X 6" s4s dimension material and spaced in such a manner to allow for expansion. No part of the wood frame shall rest in the water under minimum live load conditions.
- (3) All wood frame docks shall comply with the attached drawing, "Suggested Construction Plans For A Safer Boat Dock", except where in conflict with the written standards of this Exhibit.

**b. Other Construction Requirements:**

- (1) Docks using other than wood frame construction (aluminum, steel, plastic, concrete, etc.) must be commercially engineered and manufactured.
  - (2) Horizontal joints on the walking surface (decking) may not exceed ½" in width (for instance, cross-plank spacing), and vertical joints on the walking surface may not exceed ¼" in height (thresholds, the joint where two dock sections meet, etc.) unless they are sloped back to 1:12 (8.3%). In constructing new wood decking, care should be taken to insure that shrinkage will not form gaps in the decking that exceed ½" in width.
  - (3) Finger docks (walkways between boat slips) shall be a minimum 36" wide (48" is recommended). Main docks serving the public (basically all other public docks, service docks, walkways, gas docks, etc.) shall be a minimum of 48" wide (60" wide is recommended).
  - (4) Decking shall be firm and slip-resistant. If exposed wood decking is used as a surfacing material, planks should run perpendicular to the direction of travel.
- c.** In construction, all connections will be secured with sheet metal, steel plates, metal straps, or plywood gussets to resist wave action.
- d.** Storage compartments and other mounted or built-in marina equipment are permissible on docks, providing walkways at least 48" wide are provided around any and all equipment stored or mounted on the dock.
- e.** All electrical service on docks must be installed, operated and maintained in accordance with the requirements of the National Electrical Code (NEC), the National Electrical Safety Code, and applicable State and local codes. Concessioners must obtain a certificate from a licensed/certified and practicing electrician stating that all electrical wiring is in compliance with the NEC and local codes.
- f.** Reclamation reserves the right to allow fuel dispensing from service docks. The concessioner is responsible for developing and submitting detailed plans for Reclamation's review and approval of a dock-based fuel dispensing system. The concessioner will be required to strictly comply with all applicable Federal, State and local codes or guidelines regarding fuel dispensing, storage and safe handling.
- g.** Storage of fuel or any other flammable liquids on docks is not permitted.
- h.** Docks shall be designed for a minimum structural load of 50 lbs. per square foot.

- i. Variance from any of the standards set forth in this Exhibit may be granted by Reclamation only after a review of detailed plans submitted by the concessioner, subject to the approval of the Corps, and subject to a final inspection of the finished structure.

2. Walkways (Connecting Finger Piers And Accessing Other Docks And The Shore):

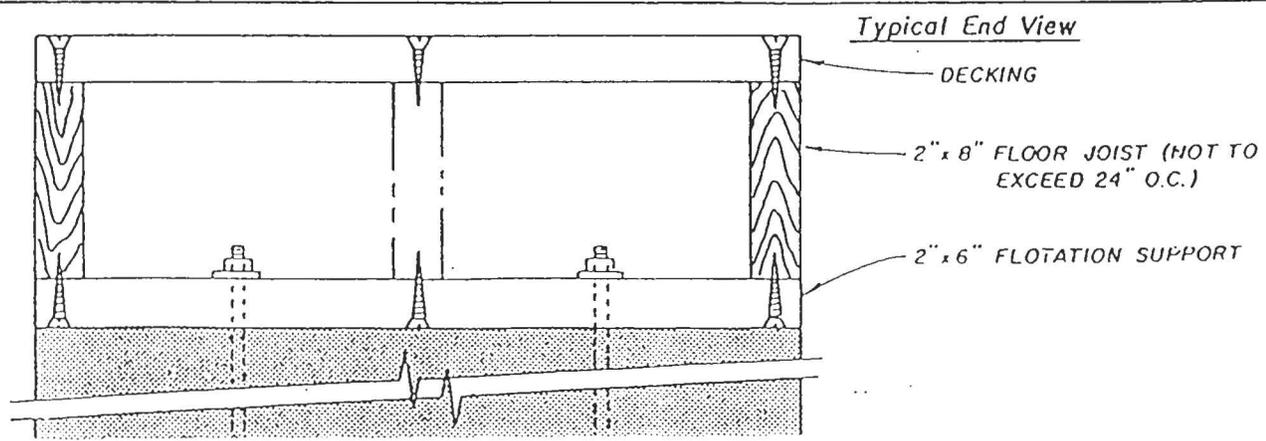
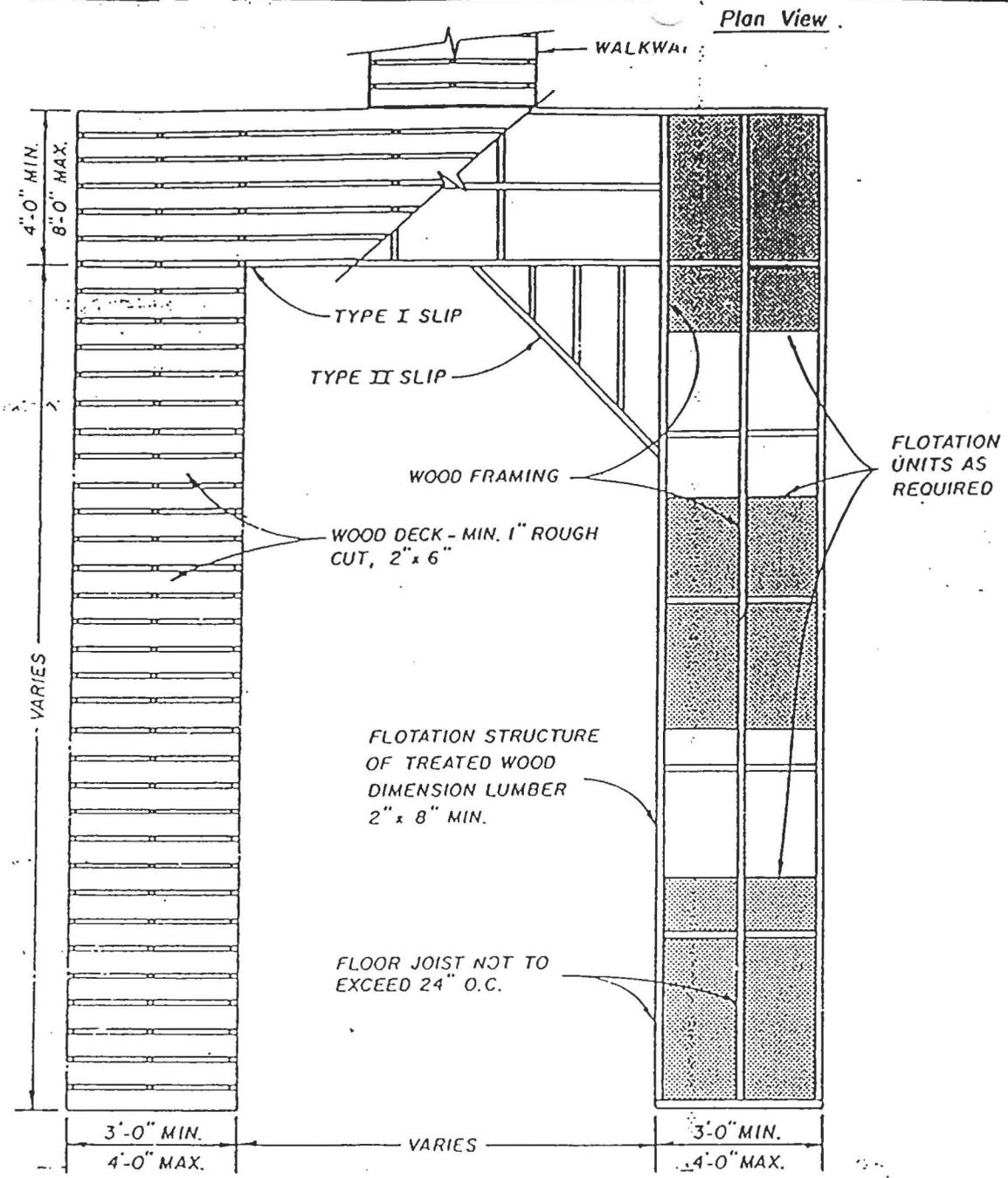
- a. Walkways will be at least 48" in width (60" minimum is recommended).
- b. Walkways connecting main piers to the shore, including ramps, gangways, and stairs, shall be constructed with handrails at each side of the walkway. Handrails shall be approximately 42" in height, with an intermediate rail approximately 22" in height below the handrail. Posts for handrails should be spaced no farther than 8 feet apart. Handrails must have a smooth surface and be able to withstand a load of at least 200 pounds applied in any direction at any point with a minimum of deflection.
- c. Walkways shall be structurally sound. If lumber is used, it will have a minimum size of two inches by six inches or be of equivalent strength. The lumber shall be free of knots, splits, decay, and protruding nails, or conditions which would decrease the strength and impair the safety of the walkway.
- d. Walkways from shore to dock shall be free from excessive spring, deflection, or lateral movement and adequately supported with flotation where necessary. Walkways shall be accessible from the shore along a clearly marked path. Walkways from shore to dock shall be adjusted with changing water levels so as to minimize the slope of the walkway, but shall not be allowed to exceed a 1:3 running slope (1 foot drop in 3 foot run, or 33%).

3. Flotation:

- a. Freeboard. Flotation shall be adequate to support the top of the decking no less than 12" and no more than 20" above the water level under dead load conditions (the entire weight of the floating units and all permanently mounted equipment), and no less than 8" above the water level under minimum live load conditions. Flotation shall be designed for a minimum dead load of 19 lbs. per square foot (p.s.f.), and a minimum live load of 30 lbs. p.s.f.
- b. Flotation shall consist of commercially manufactured polyethylene flotation structures (billets) injected with polystyrene or urethane foam. Reclamation may consider allowing other commercially manufactured flotation structures if the alternate flotation will not:
  - (1) sink or become water-logged if punctured,
  - (2) be subject to damage by animals,
  - (3) deteriorate on contact with petroleum products
  - (4) contaminate the water when punctured.
- c. Docks must be maintained in such a manner that they are easily visible above the surface of the water. Some portion of the structure must be at least 18 inches out of the water (i.e., handrails, surface of the dock, storage cabinets, etc.)
- d. All new or replacement flotation shall comply with Section 3(b), above.

4. Anchorage:

- a. An anchorage system shall be provided which will insure secure mooring of the structure. The anchorage shall provide safety against extreme water fluctuations, currents, drift impact, and wave action.
- b. The use of vegetation or the placement of permanent structures on the shoreline as an anchorage system is not allowed.



LEASE AND PERMIT

THIS LEASE and PERMIT, herein also called Permit, between the State of Montana, acting by and through its STATE DEPARTMENT OF FISH, WILDLIFE AND PARKS of Helena, Montana, herein called the Department, and GERALD RELLER and MURIEL RELLER of Townsend, Montana, herein called the Concessionaire,

WITNESSETH:

WHEREAS, the Department has administrative control over certain areas at Canyon Ferry Lake in Lewis and Clark County, Montana under a Memorandum of Understanding from the United States Department of the Interior, Bureau of Reclamation, via Contract Number 14-06-600-2186 dated February 21, 1957, and the Management Plan, Canyon Ferry Reservoir, incorporated by reference herein, and

WHEREAS, the Department is desirous of providing to the recreating public at Canyon Ferry certain commercial services and

WHEREAS, the Concessionaire is desirous of providing those services through the operation of a concession site,

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Void previous lease and permit. This Lease and Permit supersedes and makes null and void that certain "Lease and Permit" granted to Dorcas/Hegle and dated the 24th day of June 1975, and assigned to Rellers.

2. Grant and Description of Premises. Pursuant to the authority of, and in accordance with Section 23-1-102 M.C.A., the Department grants to the Concessionaire and the Concessionaire accepts from the Department permission to use and occupy the following described tract of land for the purposes herein described and for no other purposes, to wit:

All those portions of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$  and SW $\frac{1}{4}$ NE $\frac{1}{4}$  lying North of Canyon Ferry Reservoir and above the 3795 foot elevation in Section 14, Township 9 North, Range 1 East, P.M.M.; both tracts in Broadwater County, Montana.

The above described property is shown on the attached plat which is entitled "Goose Bay Concession Area" dated November, 1985, which is marked Exhibit "A", which exhibit is hereby incorporated in and made a part of this Permit.

The Concessionaire's use will be restricted to those areas herein described on Exhibit A and his activities will be in accordance with the Master Site Plan entitled "Master Site Plan, Goose Bay Marina, Townsend, Montana," which is marked as Exhibit "B", which exhibit is hereby incorporated in and made a part of this Permit.

3. Term. This Permit is valid from January 1, 1986 until December 31, 1995 inclusive, unless otherwise terminated or renewed as provided herein.

4. Renewal. The Concessionaire shall have the first right and option to renew this Permit for an additional 10-year period upon such terms and conditions as may be negotiated and agreed to between the parties, provided that the Concessionaire gives the Department notice in writing of intent to exercise such right at least sixty (60) days prior to the expiration of the term hereof and provided that the Concessionaire has complied with the terms of this Permit; and provided that no public agency desires to utilize the tract; and that concession facilities continue to be considered by the Department to be desirable at that tract. The Department, recognizing the concessionaire's investment in the area, shall not unreasonably withhold the option to enter a new ten year Lease and Permit.

5. Concession Fee. The Concessionaire shall pay to the Department an amount equal to two (2) percent of all gross sales whether derived from sales of merchandise, service, rentals or any other transaction provided for by this Permit and conducted upon the premises herein described; provided, however, that

there shall be a minimum yearly fee of \$1,000. The fee payment is based upon gross sales by calendar year (January 1 through December 31) and is due not later than April 15 of each year for business conducted the previous calendar year.

This fee shall be paid for calendar years 1986 through 1991 inclusively. The fee will be renegotiated during 1991 for remaining term of this Permit.

The Concessionaire shall keep true and accurate books and records showing all of its business transactions and separate records of account for the concession in a manner acceptable to the Department. The Department shall have the right through its representative and at all reasonable times to inspect such books and records, and the Concessionaire hereby agrees that all such records and instruments are available to the Department. Further, the books and records shall be kept in a manner so as to be auditable by the Legislative Auditor of the State of Montana, and said office representative shall have the right at all reasonable times to inspect such books and records.

The Concessionaire shall submit to the Department an annual financial report not later than April 15 of each year for the preceding calendar year.

6. Fee Waiver. The Department may agree to accept in lieu of cash the value of equipment, materials, services, or the cost of including the Department and the Bureau of Reclamation as an additional named insured as provided in item #34, provided by the Concessionaire for any calendar year(s) of this permit. Such agreement shall be via an addendum to this lease permit and fully executed by both parties.

7. Required Services. The Concessionaire is hereby required to provide certain minimum services for a reasonable fee to the public who desire to avail themselves of recreation opportunities at Canyon Ferry State Recreation Area. These services shall include:

A. Rental of boats and motors.

- B. Sale of gasoline, oil and boating supplies.
- C. Boat launching facilities.
- D. Boat docking facilities.
- E. Operation of the camping facilities located on the concession premises.
- F. Camper's supply store for sale of firewood, food and beverages, fishing tackle and equipment, and sundries.

8. Allowable Services and Activities. The Concessionaire is hereby granted permission to operate a business for offering to the public for a reasonable fee the following additional activities and services and no other:

- A. Year round boat storage areas and/or buildings.
- B. The renting of camping or sporting equipment.
- C. The repair and sale of boats and motors, camping vehicles and equipment and other recreational gear.
- D. The sale of beverages, including alcoholic beverages.
- E. Restaurant services.
- F. The right to construct and operate outdoor game areas such as ball diamonds, tennis courts, horseshoe areas, play equipment, miniature golf courses or other such facilities which may be approved by the Department and be included in the Master Plan.
- G. Installation and operation of ski jumps and race courses subject to Department, Bureau of Reclamation and U.S. Coast Guard regulations.
- H. The organizing and conducting of water recreation festivals, competition and demonstrations.
- I. Charter fishing parties, provided that such charter fishing services shall not be exclusive.
- J. Trailer utility hookups and trailer sanitary disposal station. Trailers and occupants limited to length of stay provisions in accordance with item 9 below.
- K. Boat sanitary disposal station.
- L. Buoy - line boat mooring.
- M. 4th of July fireworks.
- N. Laundry and shower facilities.

These activities shall be conducted in accordance with the provisions of this Permit and with the Master Site Plan marked Exhibit "B". The Concessionaire shall not use the premises for any other purpose without obtaining prior written consent of the Department.

9. Trailer Occupancy and Length of Stay.

a. It is the intent of the Department and of this Lease and Permit that the permit area be used for seasonal recreational purposes. Permanent year around occupancy by persons other than the Concessionaire, his immediate family, the Concessionaire's employees and their immediate families, and persons whose mobile home sites are identified as "permanent" on Exhibit "B" and below, is not permitted.

b. Mobile Homes in Tract 1. There exists, on-site, within tract 1 at the time of execution of this Permit, 31 mobile homes, which are privately owned and which have been installed and outfitted in ways which make them suitable for permanent year-round occupancy. The Concessionaire agrees to manage these facilities in such a way as to maintain aesthetic quality to the tract. These facilities will be permitted to remain on-site on a year around basis so long as they do not violate any condition of this Agreement and Permit. No more than 31 "permanent" mobile home shall be allowed and these may be replaced as further provided below in item 9k.

c. Camper Unit and Storage, Tract 7. The Department and Concessionaire recognize the public demand for on-site year around storage of recreational vehicles such as camper trailers, motor homes and similar non-permanent recreational living quarters. The Department also recognizes the nuisance caused by requiring such storage to be elsewhere than at the concession area. Therefore, the Concessionaire may allow year around storage of up to 75 units in the spaces identified in tract 7 on Exhibit "B"; provided that such year-round storage does not unreasonably compete for space needed by other recreationists or other recreation

purposes. The Department retains the right to change the space allocation or eliminate year around storage if the demand for space is evident as a result of public complaints.

d. It is further the intent of the Department and of this Lease and Permit that camping facilities including undeveloped tent sites, parking spurs, developed trailer pads and utilities and the cabin facilities be available to itinerant as well as and in preference to seasonal recreationists.

e. Itinerant recreationists are those persons whose length of stay is no longer than 30 days in any 45 day period. Seasonal recreationists are those persons whose length of stay is no more than 72 days in any 90 day period.

Length of stays exceeding 72 days in a 90-day period are not permitted without prior written approval of the Department excepting those as provided for "permanent" mobile homes in item #9b and on-site storage as provided in #9c.

f. Seasonal and Itinerant Camping Tracts 2 and 3. A ratio of itinerant to seasonal occupancy shall exist. This occupancy need not be defined site by site, but may be considered on the basis of gross capacity in tracts 2, and 3. The ratio is understood to be at the discretion of the Concessionaire, provided he makes a reasonable attempt to serve both itinerant and seasonal clients in proportion to the demand for such facilities with itinerant recreationists given preference over seasonal occupants. Seasonal occupancy in said tracts shall be on sites located farthest from the shoreline and their location and numbers may be required to be approved in advance by the Department.

g. Itinerant use only will be allowed in Tracts 4 and 6.

h. No year around storage of any camper trailer, R.V. or boat shall be permitted in Tracts 2, 3, 4, 5, or 6. Such storage is allowed only as provided in item #9c.

i. Tract 5 shall be restricted to day-use only.

j. All recreational camping vehicles must be kept in a readily moveable condition and none may be "permanently" installed by removing wheels, adding foundations, skirting or extra room additions, decks, patios or out buildings, or making any site alterations. Only "permanent" mobile homes identified in item #9b above are exempt. The area around such mobile homes in Tract 1 must be kept in a neat, clean condition and any additions to mobile homes in Tract 1 such as rooms, decks, patios or other building or site alterations must be proposed to and approved by the Department in advance.

k. In order to encourage more itinerant and seasonal use of the concession area, each and any present "permanent" mobile home space vacated may be exchanged and replaced for six itinerant and seasonal unit spaces, the location of such spaces to be negotiated, but to be in Tracts 1, 2, and 3 if itinerant/seasonal or Tracts 1, 2, 3, 4, and 6 if exclusively itinerant.

10. Quality of Service and Control of Rates and Charges. All items sold by the Concessionaire shall be of first-class quality and all services provided by the Concessionaire shall be rendered courteously and efficiently. The Concessionaire agrees that he will furnish and dispense foods and beverages of the best quality and will maintain a high standard of service equal to that of other establishments in adjacent communities or those prevailing in areas where similar products and services are provided and obey state and federal laws, including but not limited to container laws and obey State Department of Health and Environmental Sciences regulations.

The Department reserves the right to prohibit the sale or rental of any item which it deems objectionable or beyond the scope of merchandise deemed necessary for proper service to the public and to order improvement of the quality of merchandise or services rendered. The sale of beer or soft drinks in glass containers for off premise (outside of store building) consumption is prohibited.

The Concessionaire shall employ sufficient, qualified employees of good moral character to properly operate his concession facilities. A competent person shall be on the premises at all times when the concession is in operation. If the on-site manager is other than the Concessionaire, the Department reserves the right to approve such manager.

11. Posting of Rates and Charges. The Concessionaire shall post in a conspicuous place the prices for all goods and services and shall provide to the Department, no later than April 15 of each year for that calendar year, a written copy of such rates and charges.

12. Hours of Operation. The concessionaire shall operate the business permitted by this Agreement at sufficient hours and times to serve the public wishing to avail themselves of the Concessionaire's services. The concessionaire shall be open for business daily beginning on the Friday before Memorial Day of each year ending the day after Labor Day of each year. He may operate on any other days of the year at his discretion. Hours of operation shall be at least from 9:00 a.m. until sundown of each day beginning the Saturday before Memorial Day and ending Labor Day of each year. The concessionaire may also operate at other hours at his discretion.

13. Nondiscrimination. The Concessionaire shall not discriminate against any person because of race, color, religious creed, political ideas, sex, age, marital status, physical or mental handicap, national origin or ancestry by refusing to furnish such person any service or privilege offered to or enjoyed by the general public. Neither the concessionaire nor

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his employees shall publicize the services provided hereunder in any manner that would directly or inferentially reflect upon the acceptability of the patronage of any person because of race, color, religious creed, political ideas, sex, age, marital status, physical or mental handicap, national origin or ancestry. The Concessionaire shall use or cause to be used hiring practices which are in compliance with all existing Fair Labor Standards Laws. The Concessionaire shall post in a prominent public area on the premises the following statements: "These are public facilities. If you are discriminated against, call the Human Rights Division, Helena 449-2884", and "This business is an equal opportunity employer. If you are discriminated against, call the Human Rights Division 449-2884".

14. Labor and Wages. This item applies only to persons hired or contracted to build capital improvements which are to become the property of the department.

- a. The Concessionaire shall give preference to the employment of bona fide Montana residents in the performance of the work and shall pay the standard prevailing rate of wages, including fringe benefits for health and welfare and pension contributions and travel allowance provisions in effect and applicable to Broadwater County (18-2-403 M.C.A.).
- b. The Montana Commissioner of Labor and Industry has established the standard prevailing rate of wages in accordance with Sections 18-2-401 and 18-2-402, M.C.A. A current copy of which can be obtained by writing the Department of Labor and Industry, Labor Standards Division, Capitol Station, Helena, Montana 59620.
- c. The Concessionaire shall classify all workers in the project in accordance with the Special Required Contract Provisions. In the event the Concessionaire is unable to classify a worker in accordance with these rates he shall contact the Department of Labor and Industry, Labor Standards Division, Capitol Station, Helena, Montana 59620, for a determination of the prevailing wage rate to be paid that particular worker.

The Concessionaire shall be responsible for obtaining wage rates for all workers in the project prior to their performing any work on the project.

15. Montana Products Preference. This item shall apply only to the purchase of products that are to be used in the construction of capital facilities that are to become the property of the Department.

Products manufactured or produced in the State of Montana by Montana industry and labor shall be preferred for use in this project in all materials, supplies and equipment procured if such products, materials, equipment and supplies are comparable in price and quality as described in Section 18-1-112, M.C.A.

16. Force Majeure. Any prevention, delay or stoppage due to strikes, walkouts, labor disputes, acts of Gods, inability to obtain labor, materials or reasonable substitutes, government restrictions, controls or regulations, enemy or hostile government action, civil commotion, fire or any other causes determined by the Department (in the exercise of fair discretion) to be beyond the reasonable control of the Concessionaire shall not be deemed to be a breach of this Contract. The Concessionaire shall have a reasonable time after cessation of any of the above mentioned causes to render performance.

17. Competition. During the term of this Permit, the Department shall not grant a permit or license on or within the premises described in this Permit to any other private person which would allow that person to offer goods and services offered by the Concessionaire. In the event the Department deems desirable the offering of additional goods and concession services at Canyon Ferry State Recreation Area, the Concessionaire shall have the first right to offer such goods and services provided that his concession location is deemed by the Department to be convenient and suitable for the providing of such goods and services. This section shall not be interpreted as being an exclusive license to offer any goods or services at Canyon Ferry State Recreation Area except within the area described in this Lease and Permit. The

Department, however, shall not knowingly introduce competition that may be detrimental to the Concessionaire in the immediate vicinity of his permit area. "Immediate vicinity" includes the area of the east shore of Canyon Ferry Reservoir wholly within Broadwater County that extends from Hellgate Campground to the northeastern city limits of Townsend. In addition, the Department agrees that, should it determine that an additional concession operation is required to serve the public with boat docking facilities in the Broadwater County portion of Canyon Ferry Reservoir, such concession permit would be awarded through a competitive bid process.

The Department reserves the right to permit recreation area visitors to bring and use all equipment, food or other property for their own personal use and consumption to any location on the recreation area including the premises described in this Lease and Permit provided, however, they are not otherwise disallowed by the Department or by state or federal law.

It is further agreed that the Concessionaire will extend the same courtesy to the general public as to the visitors of this concession, and that all persons shall be permitted to enter the public portion of the premises and buildings freely and to enjoy the conveniences and privileges accorded to the patrons of the concession governed by this Permit.

The Concessionaire, however, has the right to expel from the concession area or refuse admittance or service to persons who violate Department regulations, state or federal laws or who owe delinquent debts to the concessionaire.

18. Assignment and Hypothecation Prohibited. The Concessionaire may not assign this Permit or any right, privilege or license conferred by this Permit except upon written approval of the Department. The Concessionaire may not lease or encumber any portion of the concession premises without first obtaining the written permission of the Department. It is understood, however, that the Concessionaire has made a very substantial investment and that the Department will not unreasonably withhold its

consent to any such transfer to a reasonable person, firm or corporation and if consent is granted the Department will at the Concessionaire's request accept assignment conditioned upon payment of purchase price to the Concessionaire. In the event of death of either or both Gerald and Muriel Reller during the term of the Permit, the Department will honor transfer of this Permit to any designated heirs as prescribed by and in accordance with due process of law.

19. Planning, Approval and Quality of Improvements. The concession facilities will generally conform to Exhibit "B", attached hereto. The Concessionaire shall provide to the Department, for approval in advance of any new construction or alteration of existing facilities or site features, drawings of proposed work which are suitable for Department review and sufficiently detailed to accurately specify the work to be done and the materials to be used. Depending upon the work contemplated, and at the discretion of the Department, such drawings may consist of simple sketches or may require the services of Montana licensed architects, landscape architects or engineers. The Department may also agree to supply technical, engineering or landscape design services to the Concessionaire.

The Department reserves the right to inspect for faithful compliance with approved drawings, any construction taking place on the site.

20. Approval for Alterations or Modifications to Improvements Required. No alterations or additions to the site or facilities thereon including land manipulation, facilities construction, or changes of the color scheme shall be made on or to the subject premises or facilities by the Concessionaire without first obtaining written consent of the Department. If alterations or additions are permitted, they shall be made at the sole expense of the Concessionaire and shall be the property of the Concessionaire.

Request for major improvements shall be submitted in writing at least 45 days in advance of beginning the proposed work and

written approval shall be received prior to commencing any of the work. All work will be completed on the schedule established at the time of approval.

21. Boat Docks. The purpose of this section is to ensure the operation of safe public dock facilities.

- a. Inspection. Docks will be inspected by the Department each spring prior to the use of the facilities by the public and may be periodically inspected by the Department throughout the boating season. Inspections will be conducted by the liaison officer as provided in this Agreement and Permit. Within a reasonable time after inspection the inspector shall submit a list of deficiencies, if any, and set forth his recommendations on how the deficiencies shall be corrected. The Concessionaire will have fourteen (14) days after receipt of written notice in which to make the corrections unless a longer period of time is granted in advance by the Department liaison officer. If the written notice specifies that a particular deviation from the standards creates a safety hazard then the Concessionaire will, as soon as possible, remove the particular facility from public use, barrier to protect users, and will repair or remove the unit.
- b. Flotation (for protected bay areas). Flotation will be sufficient to maintain a freeboard of at least six inches between the walking surface and the water surface under calm weather conditions when the docks are being used by the public. Flotation shall be placed and secured under docks in a manner which will provide level stable units. Flotation material shall be wood, styrofoam, or other material which may be approved by the Department. Empty barrels may not be used for flotation.
- c. Superstructure. The superstructure of docks will be sufficiently sound to hold the flotation in place, hold hinges and fasteners securely and to provide a sound stable base for the deck.

Nail or spikes shall be driven flush with the surface. Fasteners, joints, hinges and other hardware shall be maintained in a condition sufficient to properly perform the function intended. Broken or worn out hardware will be replaced or repaired or the facility shall be removed from public use as directed in #21a, "Inspection" above.

For those joints and connections which require periodic tightening/loosening of bolts, that action shall be performed when necessary to maintain proper alignment and to ensure proper connection. Hinges and joints which create a gap in decking of more than two inches shall be covered with belting, metal plate or other approved material. Flexible joints shall be constructed such that they can not open to a gap of more than four inches when the joint is under a public walking area.

- d. Decking. Decking shall be constructed of wood or other material of reasonably uniform thickness evenly laid to provide a flat surface with gaps between deck planks of 3/8 to 1/2 inch wide.

Deck surface shall be rough textured wood or other approved non-skid material. Decking shall be kept free of grease, oil, fuel, slime, moss, leaves, dirt, mud or other materials (except water) that would make the surface hazardously slick to the public.

Decking shall be free of protruding bolts, nails or other hardware or obstructions. When bolts or screws are used on decking, counter-sinking is required on that portion of the center of the deck used by the public for walking.

Any decking showing evidence of deterioration shall be replaced. Evidence of deterioration means broken, cracked or rotten wood, or wood unless structurally unsafe.

- e. Catwalks. Shore to dock catwalks shall be at least 24 inches wide and of sufficient structural strength as to be

rigid under normal loading and have decking with a nonslip surface which may be rough textured wood. Catwalks with a grade of more than one foot fall and six feet run will be provided with deck cleats or otherwise made skid resistant. Skid resistant material including the rough textured wood is subject to approval of the Department liaison officer. Catwalks should at no time be steeper than one foot fall in six feet run.

Catwalks will be sufficiently anchored at both ends to provide stability when they are available for public use. Movable joints shall be covered with belting, a metal plate or other approved material when the joint poses a hazard to the public walking area.

- f. General. Because no structure, regardless of materials used in its construction, is entirely and consistently maintenance free, inspection and maintenance should be given priority by the Concessionaire to ensure safety for the public using the dock facilities.

22. Extension of Dock Facilities. The Concessionaire may, upon approval by the Department, increase the number of boat docks under the following conditions.

- a. Existing docks are maintained in an acceptable condition.
- b. Expansion of associated shoreline support facility including, but not limited to parking area, may be required by the Department concurrent with or prior to the expansion of dock facilities.
- c. The Concessionaire is in compliance with all conditions of this Agreement and Permit.

23. Landscaping. The Concessionaire shall landscape all areas disturbed by construction and maintain landscape plantings in accordance with the Master Site Plan and Specifications approved by the Department. This shall be done at the sole expense of the Concessionaire.

24. Repair and Maintenance. The Concessionaire agrees to maintain the premises and any and all improvements or facilities in good order for the entire term of this Permit and shall perform any required maintenance and repairs at his own expense. Should the Concessionaire fail, neglect or refuse to do so, the Department shall have the right to: (a) Perform such maintenance or repair for the account of the Concessionaire and the Concessionaire shall promptly reimburse the Department for the cost thereof provided that the Department shall first give the Concessionaire thirty (30) days written notice of its intent to perform such maintenance or repair for the account of the Concessionaire to enable the Concessionaire to perform such maintenance and repairs at his own expense and (b) Terminate this Permit in accordance with the provisions of item number 38 "termination by the Department" herein.

25. Utilities and Services. The Concessionaire shall be responsible for provision and installation of all utilities used in connection with this concession. The Concessionaire shall install the appropriate meters and be responsible for payment before delinquency of all utility charges. Electrical, gas and water service lines shall be installed underground in accordance with applicable standards for underground utility installation (existing Montana Power Company or Mountain Bell owned transmission lines exempted). The Concessionaire shall receive approval from the Department before installing, altering or removing utility lines and services. The Department will secure, where necessary, the concurrence of the Bureau of Reclamation for such work. The Concessionaire shall be responsible for furnishing all necessary refuse and garbage containers and removal and disposal of all rubbish, refuse and garbage resulting from concession operations. All such refuse, rubbish and garbage removed shall be disposed outside of Canyon Ferry State Recreation Area in nearest Montana Department of Health and Environmental Sciences licensed disposal area. No wastes of any kind except sewage via an approved disposal system will be disposed of on the concession area or in the public recreation area.

26. Condition of Premises. Taking of possession of the subject premises by the Concessionaire shall in itself constitute acknowledgement that the subject premises are in good and tenable condition. The Concessionaire agrees to accept such premises and all facilities thereon in their present existing condition "as is" and that the Department shall not be obligated to make any alterations, additions or betterments thereto.

27. Equipment. The Concessionaire shall, at his own expense, completely equip the concession improvements described herein and shall keep the same equipped in a first-class manner through out the term of this Permit. Ownership and title to such equipment shall be in the name of the Concessionaire except for equipment which may be purchased by the Department in accordance with item #6 herein. Concessionaire shall prepare and keep current an inventory of all equipment. The inventory shall identify the ownership of each item and shall become a part of this Permit.

28. Signs, Advertising and Approval of Name. No signs, names, placards, or advertising matter other than those approved by the Department shall be inscribed, painted or affixed upon said premises. The Department will provide at no cost to the Concessionaire permanent exterior signs which shall be the only ones erected on the premises. The Concessionaire shall, at his cost, provide the sign mounting materials and the labor for installation. All alterations to signs shall be approved in advance by the Department.

29. Right of Access. The Concessionaire recognizes the right of ingress and egress to authorized employees and agents of the United States Bureau of Reclamation, the State of Montana and other governmental agencies for the purpose of engaging in any activities deemed necessary for construction, operation and maintenance of Canyon Ferry Lake, Canyon Ferry State Recreation Area, the Concession and all works and facilities pertinent thereto or for any other purpose authorized or required by law.

The Concessionaire further agrees that the Department or its designee may at all reasonable times and during reasonable hours

have full access to the concession premises and through the facilities or structures located thereon for the purpose of examining and inspecting the condition thereof, or of exercising any of the rights or powers reserved to the state and the United States under the terms, conditions and provisions of the Permit.

The Concessionaire shall not prohibit fishing or restrict access to fishing along any of the shoreline of Canyon Ferry Lake except in the immediate vicinity of concession boat docks, boat launching or fueling areas if such fishing causes a hazard or interferes with concession operation or public use of concession facilities.

The Concessionaire shall not charge a fee for fishing or access to fishing except through sale of Department fishing licenses.

30. Bureau of Reclamation. The Concessionaire understands and agrees that this Permit is subject to all rules, regulations, and restrictions of the Bureau of Reclamation which are binding upon the Department by virtue of any license, lease, or agreement which the Department may have with said Bureau.

Further the Concessionaire understands and agrees that in the event of termination of the Memorandum of Understanding between the United States and the Department, Contract Number 14-06-600-2186, dated February 21, 1957, or the non-renewal thereof during calendar 1987, the United States shall be deemed to stand instead of the Department as grantor for the remainder of the term of this Permit; provided however, in the event of such termination the United States at any time within ninety (90) days thereafter may terminate this Permit by giving to the Concessionaire thirty (30) days written notice thereof and in such event the Concessionaire shall have the privilege of selling or removing for a period of thirty (30) days after termination of this Permit or such longer period as may be determined by the Bureau of Reclamation to be reasonable, improvements which have been constructed on the premises at the sole cost and expense of the Concessionaire (excepting those items which may be purchased by the Department); otherwise after the expiration of said period

of time the title of such improvements shall vest in the United States.

31. Ditches and Canals. There is reserved from this Lease and Permit the right of way for all ditches and canals as may later prove necessary and desirable and there is reserved all private rights if any which have attached prior to the date of this Permit.

32. Water Rights. All water obtained directly from Canyon Ferry Lake is reservoir storage. Permission is granted to the Concessionaire to pump storage water from the reservoir for domestic purposes only. Such use is by permission only and grants no water rights to the user. It is understood by the Concessionaire that the grant of permission to pump storage water from Canyon Ferry Lake does not preclude the Bureau of Reclamation from requiring the Concessionaire to enter into an appropriate water service contract if it is determined to be a requirement of such water use. The United States does not warrant the quality of the water for domestic use and assumes no liability for water used for such purposes and is under no obligation to construct or furnish water treatment facilities. Ground water developed by the Concessionaire for domestic purposes shall be developed in the name of the United States Department of Interior, Bureau of Reclamation. Ground water may not be developed for other than domestic purposes. Plans for water facilities hereon must be approved by the Department and the Bureau of Reclamation prior to any such development.

This provision acknowledges and honors existing water agreements which may be valid and in effect before the Concessionaire on the premises.

33. Fire Insurance. (This item pertains only to those facilities presently owned by the Department). The Concessionaire shall provide and maintain in force during the term of this Permit fire insurance with extended coverage endorsements thereon on all concession improvements presently owned by the Department or being purchased from the

Concessionaire by the Department in an amount equal to ninety (90) percent of the full replacement cost or value thereof. Said policy to contain a replacement cost endorsement naming the Concessionaire as the insured provided, however, that if there is a lender on the security of the improvement so insured, the proceeds of any such policy or policies may be made payable to such lender. In either case, whether proceeds are paid to the Concessionaire or to the lender, the policy shall contain a special provision that such proceeds shall be used to repair or rebuild any such improvements so damaged or destroyed, and if not so used, such proceeds shall be paid to the Department.

A complete signed certificate of insurance with all endorsements required by this paragraph shall be filed with the Department upon construction or installation of each major insurable improvement. Such policy or policies shall provide that such insurance coverage will not be cancelled or reduced without at least thirty (30) day prior written notice to the Department and that the Department is not responsible for payment of any premiums or assessments thereon. At least thirty (30) days prior to the expiration of any such policy a signed completed certificate of insurance with all endorsements required by this paragraph showing that such insurance coverage has been renewed shall be filed with the Department. In the event of destruction, loss, or damage by fire or other cause of any of the Department owned buildings, improvements or fixtures used in connection with said concession which in the opinion of the Department (notification of which opinion shall be given to the Concessionaire in writing within fifteen (15) days after such occurrence) cannot be repaired within 180 days either party may terminate this Agreement as to that area by notice in writing to the other party given fifteen (15) days after such notification. In the event of such termination the Department shall be entitled to any fire insurance proceeds. In the event of any such destruction, loss or damage and where the Permit is not terminated under this paragraph, any building, improvements or fixtures constructed by the Department in replacement of such damaged or destroyed properties shall be subject to the terms and provisions of this Permit.

34. Liability Insurance. The Concessionaire shall immediately provide and shall maintain in force during the term of this Permit public liability insurance in the sum of one million dollars for injury to or death of any one person and one million dollars for injury to or death of more than one person, and property damage and products liability insurance in the sum of two hundred fifty thousand dollars. Amounts will be reviewed every five years by the Department and adjusted appropriately. This policy or policies of liability insurance shall contain the following special endorsement:

The State of Montana, Department of Fish, Wildlife and Parks, their officers, employees and agents and the United States Bureau of Reclamation, its officers, employees and agents are hereby declared to be additional insureds under the terms of this policy both as to the activities of the Concessionaire and as to the activities of the Department.

This insurance policy will not be cancelled or reduced without thirty (30) days prior written notice to said Department.

For calendar 1986, the Department agrees to bear the \$200 cost of being named as an additional insured on the policy referred to in this item, through fee waiver as provided in item #6. For the remaining term of this Lease and Permit, the allocation of the cost of naming the Department and the Bureau as an additional insured shall be negotiated during the 60 day period prior to the end of the calendar year.

No cancellations provision in any insurance policy shall be construed in derogation of the continuous duty of the Concessionaire to furnish insurance during the term of this Permit. Said policy or policies shall be written to the satisfaction of the Department. A signed, completed certificate of insurance with all endorsements required of this paragraph shall be submitted to the Department concurrently with the execution of this Permit. At least thirty (30) days prior to the expiration of any such policy a signed complete certificate of

insurance with all endorsements required by this paragraph showing that insurance coverage has been renewed or extended shall be filed with the Department.

35. Indemnification and Hold Harmless Agreement. The Concessionaire hereby waives all claims and recourse against the Department and the Bureau of Reclamation including the right to contribution for loss or damage to persons or property arising from, growing out of or any way connected with or incident to this Permit except claims arising from the concurrent or sole negligence or willful misconduct of the Department, its officers, its agents and employees or the Bureau of Reclamation, its officers, agents and employees.

The Concessionaire shall indemnify, hold harmless and defend the Department, officers, agents and employees and the Bureau of Reclamation, officers, agents and employees against any and all claims, demands, damages, costs, expenses, or liability costs arising out of development, construction, operation or maintenance of the property described herein, except for liability arising out of the concurrent or sole negligence of the Department, its officers, agents or employees or the Bureau of Reclamation, its officers, agents or employees.

In the event the Department and/or Bureau of Reclamation is named as a codefendant, the Concessionaire shall notify the Department and/or Bureau of Reclamation of such fact and shall represent the Department and/or Bureau of Reclamation in such legal action unless the Department and/or Bureau of Reclamation undertake to represent themselves as a codefendant in such legal action, in which event the Department and Bureau of Reclamation shall bear their own litigation expenses and attorney fees.

In the event judgment is entered against the Department, the Bureau of Reclamation and Concessionaire because of concurrent negligence of the Department, Bureau of Reclamation and Concessionaire, their officers, agents or employees an apportionment of liability to pay such judgment shall be made by

a court of competent jurisdiction. None of the parties shall request a jury apportionment.

36. Compliance with Laws. The Concessionaire shall comply with applicable federal, state and local laws or ordinances governing the operation of the premises. Violation of such laws or ordinances may be considered as cause for termination of this Permit.

37. Taxes. The Concessionaire agrees to pay promptly, before the penalty date, all taxes of any nature which are levied by federal or state governments or any subdivision or agency of either. Also any license fees and any and all fees that are lawfully required.

38. Termination by the Department. If, in the judgment of the Department, the manner of operation of the premises or services does not meet the requirements of this Permit or if the Concessionaire is in default of any term of this Permit, the Department shall give the Concessionaire written notice specifying the particulars of unsatisfactory performance or default. If the Concessionaire fails or refuses to remedy such unsatisfactory performance or default within sixty (60) days of receipt by the Concessionaire of such notice or within the time periods specified in item #41 for specific default, the Department may terminate this Permit.

39. Removal of Improvements. The Concessionaire shall be permitted for a period of ninety (90) days after the expiration or termination of this Permit to remove any improvements, buildings or other property thereon (excepting those which are the property of the Department) and restore the premises to a condition satisfactory to the Department and to the Bureau of Reclamation except as noted in item 31 hereof. Removal of the Concessionaire's improvements or other property and cleanup (including foundations) of the premises within said ninety (90) day period are the responsibility of the Concessionaire. All improvements or other property not removed with the ninety (90) day period will thereafter be considered abandoned and will automatically become the property of the United States and

subject to disposal under federal regulations. Any removal of improvements or other property and cleanup work remaining (including foundations) will be performed by the Department or the Bureau of Reclamation and the Concessionaire will be liable for all costs thereof.

40. Modification of Agreement. Notwithstanding any of the provisions of this Permit, the parties may hereafter by mutual consent agree to modifications thereof or additions thereto in writing which are not forbidden by law. The Department shall have the right to grant reasonable extensions of time to the Concessionaire for any purpose or for the performance of any obligation of the concession hereunder.

41. Breach of Agreement. This Permit is made upon the condition that if the rents or other sums which the Concessionaire herein agrees to pay or any part thereof shall be unpaid on the date on which the same shall become due or if any default be made in any of the terms, agreements, conditions or covenances herein contained on the part of the Concessionaire or should the Concessionaire become insolvent or bankrupt either voluntarily or involuntarily, then, and in such an event, the Department shall give written notice of such default to the Concessionaire and the Concessionaire shall have <sup>60</sup>~~30~~ days from the notice of such default to cure said default. In the event the said default is not cured within <sup>60</sup>~~30~~ days, the Department may terminate this Lease and Permit and enter upon and take possession of the premises.

Notwithstanding any of the above breach of contract provisions, should the Concessionaire create or allow to be created a nuisance on the premises described herein, the Department shall give notice of the nuisance. In the event that the nuisance is not abated within 15 days, the Department may terminate this Lease and Permit and may enter upon and take possession of the premises.

42. Liaison. The Department appoints its Canyon Ferry Park Manager to act as liaison between the Department and Concessionaire for the operation of this Permit. The

Concessionaire appoints Gerald Reller to act as liaison between the Concessionaire and the Department for the operation of this Permit.

43. Fire Hazards. The Concessionaire shall not create or suffer to exist any fire hazard. The Concessionaire shall take all reasonable precautions to prevent and to suppress grass fires.

44. Weeds. The Concessionaire shall use the land in such manner as to control the growth and spreading of noxious weeds and promote acceptable conservation of the land. Also, the Concessionaire shall consult with and obtain the consent of the Department for the establishment of any plant species proposed on the premises. The Concessionaire shall further cooperate in any weed control programs in compliance with applicable federal, state and county laws which allow representatives of public bodies to enter the land to control noxious weeds under specified conditions. Such control, if exercised by lawfully authorized bodies other than the Concessionaire, shall be billed to the Concessionaire who will be responsible for the costs thereof.

45. Pesticides. The use of pesticides, defined herein as including herbicides, fungicides, insecticides, pesticides, or other similar substances on the land covered by this permit, shall comply with all provisions of Federal and state pesticide laws and amendments thereto." Written approval of the Department is required prior to the use of any pesticides on the land.

46. Pollution. The Concessionaire agrees to comply fully with all applicable federal laws, orders and regulations as well as the laws of the State of Montana as administered by appropriate authorities concerning the pollution of the surface or ground water at Canyon Ferry State Recreation Area with respect to thermal pollution or discharge of refuse, garbage, sewage effluent, industrial waste, oil, mineral salts or other pollutants and concerning the air with respect to dust, smoke, or other pollutants.

47. Paragraph Titles. The paragraph titles in this Permit are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Permit or in any way affect this Permit.

48. Agreement in Writing. This Permit contains and embraces the entire Agreement between the parties hereto and neither it, nor any part of it, may be changed, altered, modified, limited or extended orally or by any agreement between the parties unless such agreement be expressed in writing, signed and acknowledged by the Department and the Concessionaire or their successors in interest.

49. Terms Binding on Successors. All the terms, covenants and conditions of this Permit shall adhere to the benefit of and be binding upon the successor and the assigns of the party hereto. The provisions of this paragraph shall not be deemed as a waiver of any of the conditions against assignment herein before set forth.

50. Agent for Service of Process. It is expressly agreed and understood that if the Concessionaire is not a resident of Montana or is an association or partnership without a member or partner resident in this state, or is a foreign corporation, then in any such event, the Concessionaire shall file with the Department, upon his execution of the Permit, a designation of a natural person residing in the State of Montana, giving his name, residence, and business address as his or its agent for the purpose of service of process in any court action between him, or it and the State of Montana arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon such Concessionaire; and it is further expressly agreed, covenanted and stipulated that if for any reason service of such process upon such agent is not possible, then in such event the Concessionaire may be personally served with such process out of the State and that such service shall constitute valid service upon such Concessionaire; and it is further expressly agreed that the Concessionaire is amenable to the process so served, submits

to the jurisdiction of the court so acquired, and waives any and all obligation and protest hereto.

51. Venue. The Department and Concessionaire agree that venue for any court action arising under this Permit shall be in the First Judicial District in and for Broadwater County, Montana. Further, the Department and Concessionaire agree that this Permit shall be interpreted according to the laws of the State of Montana.

52. Waiver of Claims. Both parties hereby waive any claim against the other, their officers, agents or employees for damage or loss caused by any suit or proceeding brought by any third party directly or indirectly attacking the validity of this Permit, or any part thereof or by any judgment or award in any suit or third party proceeding declaring this Permit null, void or voidable or delaying the same or any part thereof from being carried out.

53. Waiver of Breach. No waiver of any breach of the terms, provisions, covenants, agreements or conditions herein contained shall act as a waiver or relinquishment for the future of any such term, provision, covenant, agreement or condition, or as a waiver or relinquishment of any other term, provision or covenant, agreement or condition thereof, nor in the event of waiver by the Department of any breach of any of the terms, provisions, covenants, agreements or conditions hereof, shall the Department be obligated to notify the Concessionaire that strict performance will be required thereafter.

54. Attorneys Fees Paid. In the event litigation arises from the interpretation or enforcement of this Permit the prevailing party as determined by judgement in a court of law shall be entitled to reasonable attorneys fees and costs which will be paid by the other party.

IN WITNESS WHEREOF, The Director of the Montana Department of Fish, Wildlife and Parks and the Chairman of the Montana Fish and Game Commission by the authority vested in them, have hereunto

subscribed their names on behalf of the State of Montana by and through the Department of Fish, Wildlife and Parks and the Montana Fish and Game Commission and Gerald Reller and Muriel Reller, Concessionaire, have hereunto set their hands on the day(s) and year(s) indicated hereinafter.

James A. Johnson \_\_\_\_\_ 1-27-86  
Director Date

Guendri R. Brunst  
Notary public for the State of Montana,  
residing at Helena, mt  
Montana. My commission expires:  
May 9, 1987

Spencer S. Hackett \_\_\_\_\_ 1-27-86  
Chairman Date

Guendri R. Brunst  
Notary public for the State of Montana,  
residing at Helena, mt  
Montana. My commission expires:  
May 9, 1987

Gerald M. Reller Muriel M. Reller \_\_\_\_\_ 12/16/88  
Gerald Reller & Muriel Reller Date  
Concessionaire

Althea L. Green  
Notary public for the State of Montana,  
residing at Townsend, Mont. Towne  
Montana. My commission expires:  
12/27/87

Approved:  
Bureau of Reclamation

\_\_\_\_\_  
Name