

**AGENDA**  
**Game, Fish, and Parks Commission**  
December 6-7, 2012  
Pierre Ramkota RiverCentre  
920 West Sioux Ave, Pierre, SD

**Call to order 1 PM CDT**

**Division of Administration**

Action items:

1. Approve minutes of the November meeting  
<http://gfp.sd.gov/agency/commission/docs/draft-minutes.pdf>
2. Additional Commissioner Salary Days
3. License List Requests

Information items:

4. License Sales Report
5. SD Parks and Wildlife Foundation

**Open Forum**

**Public Hearing at 2 PM**

**Finalizations**

6. Spring Turkey Hunting Season

**Division of Parks and Recreation**

Action items:

7. Custer State Park Easement with The Nature Conservancy
8. Angostura Concession Agreement

Information items:

9. Angostura Sewer Project
10. Blood Run State Park Designation
11. Custer State Park Buffalo Sale

**Division of Wildlife**

Action items:

12. Bighorn Sheep Hunting Season
13. Bighorn Sheep Auction Tag Resolution

Information items:

14. Bighorn Sheep Action Plan
15. Wildlife Damage Management Working Group
16. Wind Cave elk movement plan
17. 2013 Season Setting Schedule
18. Returned deer hunting license results
19. Missouri River reservoir water levels

**Executive Session 8 AM on Friday**

**Adjourn**

Next meeting information: January 10-11, 2013 at Ft. Pierre AmericInn

This agenda subject to change without prior notice.

**GAME, FISH & PARKS**

523 East Capital  
Pierre, SD 57501  
(605)773-4510  
FAX (605)773-6245

Mary.Healy@state.sd.us

3a

**REQUEST FOR LISTS OF LICENSE HOLDERS**

Type of List Requested S.D. Private Shooting Preserves

Number of Licenses in list 201

Name of Person, Entity, or Organization requesting list:

TOM TREWICK

Phone Number

605-393-2745

Address of Person, Entity, or Organization:

2437 Sweet DRIAN  
Rapid City, S.D. 57703

How would you like your list sent to you: (email or disk)

E-Mail

Email Address: sandyt\_60@hotmail.com

Purpose for which list will be used:

To hunt or from Jan. 1<sup>st</sup> - March 31<sup>st</sup>

I travel the state & hunt in various  
areas & would like to know locations  
of all "Preserves" so I can choose which  
to hunt or in a given area.

**This list is Names and Mailing Addresses ONLY**

The sale of lists by the Department of Game, Fish & Parks is authorized by SDCL 1-27-1 and ARSD 41:06:02:04, 05 and 06. A fee of \$100 per thousand names will be assessed for the sale of this list, or a minimum of \$100 whichever is greater.

Unless requested and approved as part of this request, the license list will not include anyone under eighteen years of age. Names are for one-time use only and are to be used only by the person, entity or organization approved per this request.

Thomas M. Trewick

11-10-12

Authorized Signature of Purchaser

Date

Date of Commission Action



**GAME, FISH & PARKS**

523 East Capital  
Pierre, SD 57501  
(605)773-4510  
Fax (605)773-6245

**Mary.Healy@state.sd.us**

3b

**REQUEST FOR LISTS OF LICENSE HOLDERS**

Application for exception to regular fee

Type of List Requested RESIDENT MIGRATORY BIRD CERTIFICATION

Number of licenses in list LICENSE HOLDERS IN THE FOLLOWING COUNTIES- BUTTE, LAWRENCE, MEADE, PENNINGTON, CUSTER, FALL RIVER, SHANNON, AND BENNETT

Name of Person, Entity, or Organization requesting list:  
BLACK HILLS PUDDLE JUMPERS CHAPTER OF DELTA WATERFOWL

Address of Person, Entity, or Organization:  
Chairman- Eric Anderson, 808 Stanley, Belle Fourche, SD 57717

How would you like your list sent to you: (email or disk) EMAIL

Email Address: bhpuddlejumpers@gmail.com

Phone Number  
605-210-0723- Chairman Eric Anderson

Purpose for which list will be used:  
The list will be used to inform hunters about the organization and recruit membership.

**This list is Names and Mailing Addresses ONLY**

The sale of lists by the Department of Game, Fish & Parks is authorized by SDCL 1-27-1 and ARSD 41:06:02:04, 05 and 06. The fee for a Game, Fish & Parks Commission approved exception is \$100, otherwise the fee is \$100 per thousand names or a minimum of \$100 whichever is greater.

Unless requested and approved as part of this request, the license list will not include anyone under eighteen years of age. Names are for one-time use only and are to be used only by the person, entity or organization approved per this request.

Eric Anderson - Black Hills Puddle Jumpers 03/12/2012  
Authorized Signature of Purchaser Date

Date of Commission Action

**GAME, FISH & PARKS**

523 East Capital  
Pierre, SD 57501  
(605)773-4510  
Fax (605)773-6245

**Mary.Healy@state.sd.us**

3c

**REQUEST FOR LISTS OF LICENSE HOLDERS**

**Application for exception to regular fee**

**Type of List Requested:** Non-resident small-game license holders for 2012 season.

**Number of licenses in list:** Focus is on the following states: Alabama, Iowa, Illinois, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, New York, Texas, Tennessee.

**Name of Person, Entity, or Organization requesting list:** Jacki Miskimins, Director, Mitchell Convention & Visitors Bureau

**Address of Person, Entity, or Organization:**

Mitchell CVB  
601 N. Main Street  
PO Box 1026  
Mitchell, SD 57301

**How would you like your list sent to you: (email or disk)** Email

**Email Address:** jacki@visitmitchell.com

**Phone Number** 605-996-6223

**Purpose for which list will be used:**

This information will be used to market Mitchell as the premier destination for pheasant hunting, particularly late-season. This will be accomplished via direct mailer; targeted advertising, and research purposes.

**This list is Names and Mailing Addresses ONLY**

The sale of lists by the Department of Game, Fish & Parks is authorized by SDCL 1-27-1 and ARSD 41:06:02:04, 05 and 06. The fee for a Game, Fish & Parks Commission approved exception is \$100, otherwise the fee is \$100 per thousand names or a minimum of \$100 whichever is greater.

Unless requested and approved as part of this request, the license list will not include anyone under eighteen years of age. Names are for one-time use only and are to be used only by the person, entity or organization approved per this request.



Authorized Signature of Purchaser

11-09-2012

Date

Date of Commission Action



# License Sales Totals

(as of Dec 5)

4

date updated: 5 Dec 2012

	2011	2012	% Change
Resident Predator/Varmint	1,545	1,643	6.3%
Resident Small Game	31,683	27,605	-12.9%
Combination	43,423	46,171	6.3%
Junior Combination	7,488	8,173	9.1%
Resident Youth Small Game	5,794	5,717	-1.3%
Furbearer	3,053	3,883	27.2%
Resident 1-Day Fishing	6,857	6,792	-0.9%
Resident Annual Fishing	58,008	68,286	17.7%
Senior Fishing	16,176	13,333	-17.6%
Resident Migratory Bird Certificate	30,447	30,447	0.0%
Nonresident Predator/Varmint	5,020	5,345	6.5%
Nonresident Small Game	93,729	92,112	-1.7%
Nonresident Youth Small Game	3,080	2,996	-2.7%
Nonresident Spring Light Goose	3,643	2,738	-24.8%
Nonresident Youth Spring Light Goose	130	106	-18.5%
Nonresident 1-Day Fishing	19,196	22,441	16.9%
Nonresident 3-Day Fishing	18,478	22,131	19.8%
Nonresident Annual Fishing	14,928	20,367	36.4%
Nonresident Family Fishing	6,710	8,070	20.3%
Nonresident Migratory Bird Certificate	1,183	1,160	-1.9%
Nonresident Annual Shooting Preserve	535	480	-10.3%
Resident 1-Day Small Game	970	1,041	7.3%
Nonresident 5-day Shooting Preserve	8,355	9,093	8.8%
Nonresident 1-day Shooting Preserve	1,052	1,013	-3.7%
Nonresident Furbearer	86	16	-81.4%
Resident Gamefish Spearing/Archery	2,060	2,028	-1.6%
Nonresident Gamefish Spearing/Archery	310	310	0.0%
Nonresident Youth Annual Fishing	729	1,154	58.3%
Senior Combination	0	5,241	
<b>TOTAL ON FILE =</b>	<b>384,668</b>	<b>409,892</b>	<b>6.6%</b>

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**GAME, FISH AND PARKS COMMISSION ACTION  
FINALIZATION**

**Spring Wild Turkey Hunting Season**

**Chapter 41:06:13 and Chapter 41:03:01**

<b>Commission Meeting Dates:</b>	<b>Proposal</b>	<b>November 1-2, 2012</b>	<b>Madison</b>
	<b>Public Hearing</b>	<b>December 6, 2012</b>	<b>Pierre</b>
	<b>Finalization</b>	<b>December 6-7, 2012</b>	<b>Pierre</b>

**COMMISSION PROPSAL**

<b>Season Dates:</b>	April 6 – May 19, 2013	Archery
	April 13 – May 19, 2013	Black Hills regular and single-season Prairie units
	April 13 – April 30, 2013	Split-season early Prairie units
	May 1 – May 19, 2013	Split-season late Prairie units; Black Hills late season

<b>Licenses:</b>	Black Hills	Unlimited resident and nonresident one-tag "male turkey" licenses
	Prairie	2,930 resident and 32 nonresident one-tag "male turkey" licenses 4,960 resident and 367 nonresident two-tag "any turkey" licenses
	Archery	Unlimited resident and nonresident one-tag "male turkey" licenses

**Requirements and Restrictions:**

1. Turkey hunters may apply for and receive one license in each of the Black Hills regular, Black Hills bonus, Prairie and Archery Units in the first and second lottery drawings.
2. Turkey hunters may purchase only one regular Black Hills and one archery turkey license.
3. Residents may purchase one late Black Hills bonus season license.
4. One-half of the licenses in each prairie unit are available for land owner/operator preference.
5. Prairie units adjoining the White River and Cheyenne River also include an adjacent area one mile wide on the opposite side of the river.
6. No person may shoot a turkey in a tree or roost.
7. A person may use only bow and arrow, a shotgun using shot shells or a muzzleloading shotgun in state parks and recreation areas within prairie units; and all units in eastern SD (01A, 06A, 08A, 08B, 22A, 23A, 29A, 32A, 37A, 40A, 48A, 52A, 56A, 61A), and in the portion of Unit 58A lying south of Oahe Dam, east of SD Highway 1806 and north of U.S. Highway 14 except as posted by the Corps of Engineers and GFP.

**Recommended changes from last year:**

1. Offer residents 105 less one-tag "male turkey" licenses and 200 less two-tag "any turkey" licenses for the Prairie Units than 2012 for an overall decrease of 505 tags. Offer nonresidents 16 less two-tag "any turkey" licenses for the Prairie Units than 2012 for an overall decrease of 32 tags.
2. Allow 10 resident archery licensees to hunt at Blood Run Nature Area and 10 resident archery licensees to hunt at Adams Homestead and Nature Preserve through the issuance of "access permits" issued via lottery drawing. Access permits valid from April 6 – April 30.
3. Modify spring unit boundaries for Black Hills and 49A to be consistent with fall turkey unit boundaries.

**DEPARTMENT RECOMMENDATION**

Recommended changes from proposal: None.

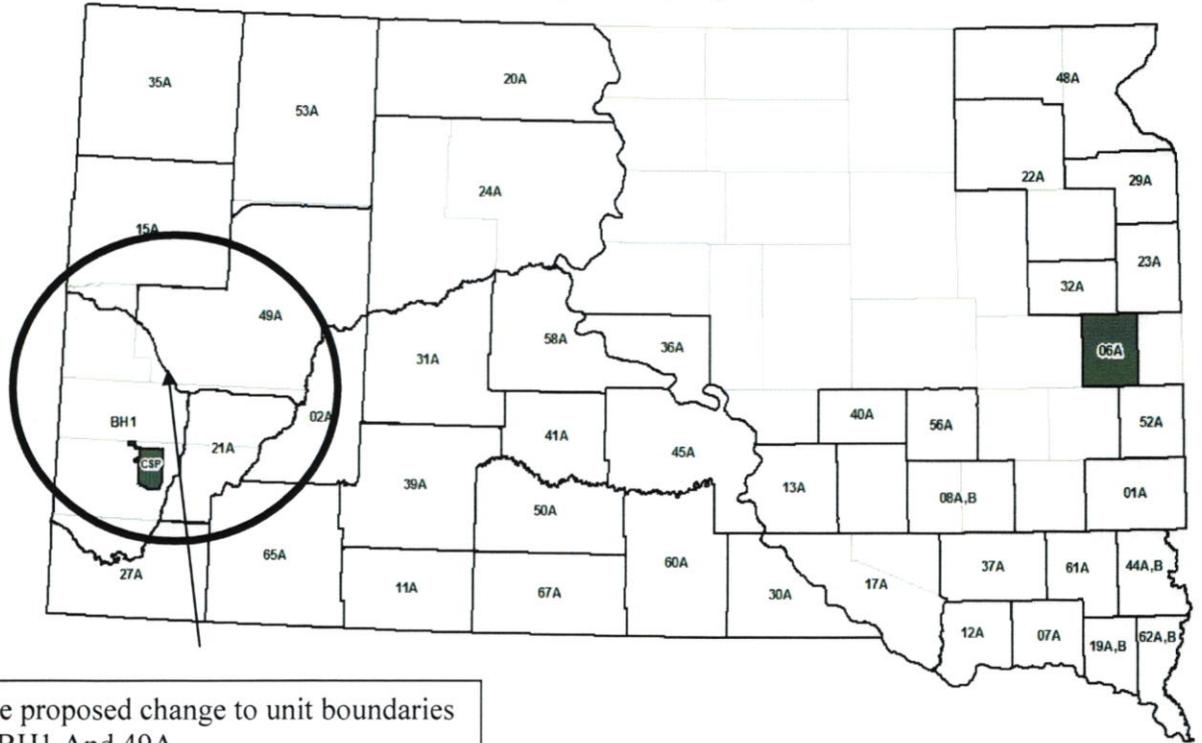
**SUPPORTIVE INFORMATION**

Year	Licenses			Harvest			Success		
	BH	Prairie	Archery	BH	Prairie	Archery	BH	Prairie	Archery
2008	6,508	7,370	2,658	2,743	5,921	722	42%	53%	27%
2009	5,474	7,479	2,567	2,346	6,369	844	43%	51%	33%
2010	5,244	7,691	2,548	2,195	6,564	780	42%	52%	31%
2011	4,808	8,064	2,721	1,693	5,536	686	35%	42%	25%
2012	4,435	7,863	2,555	1,685	5,554	739	38%	43%	29%

**APPROVE** \_\_\_\_\_ **MODIFY** \_\_\_\_\_ **REJECT** \_\_\_\_\_ **NO ACTION** \_\_\_\_\_

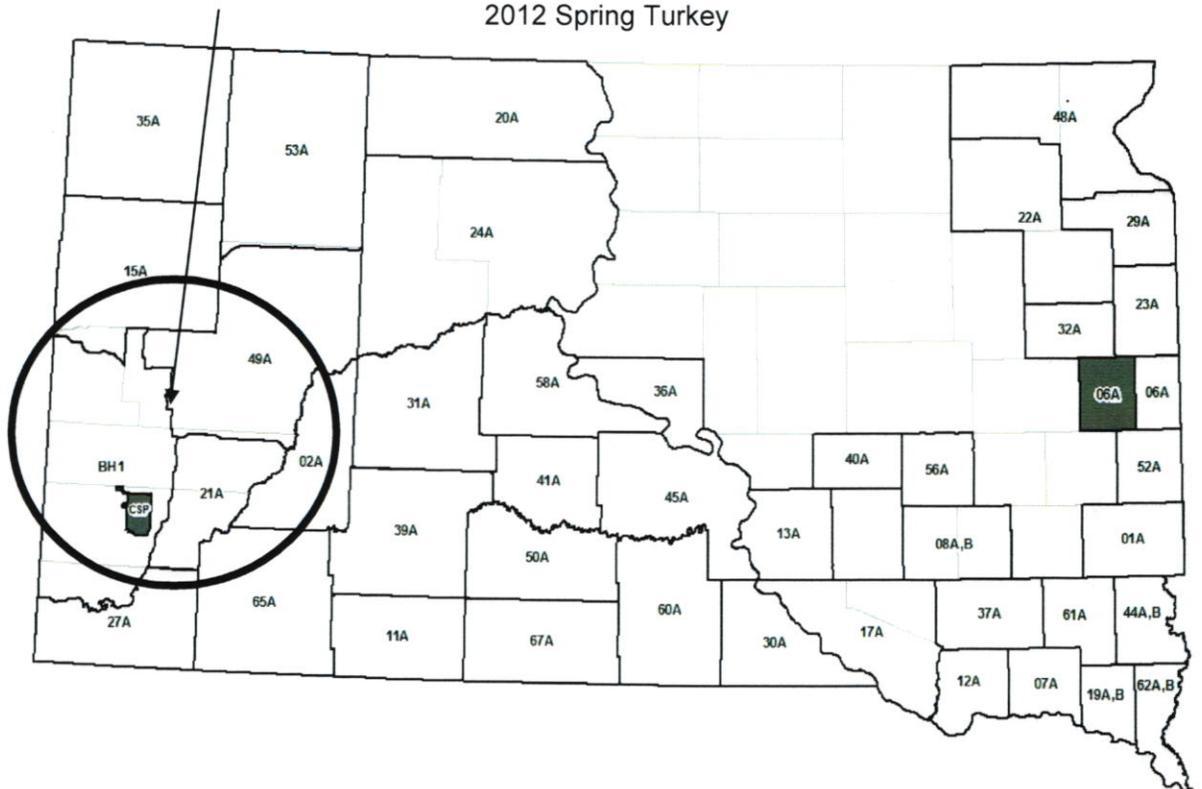
# SPRING TURKEY UNITS

2013 Proposed Spring Turkey



Note proposed change to unit boundaries for BH1 And 49A.

2012 Spring Turkey



Shaded areas are closed to archery hunting

2013 SPRING TURKEY

Reg	Unit #	Unit Name	Resident			Nonresident			License Totals							
			TomT	1AnyT	2 AnyT	TomT	1AnyT	2 AnyT	RES	RES	RES	RES	NR	NR	NR	NR
			32	31	37	32	31	37	1-tag	2-tag	Licenses	Tags	1-tag	2-tag	Lic	Tags
3	01A	Minnehaha	100						100		100	100				
1	02A	Pennington			300			24		300	300	600		24	24	48
3	06A	Brookings	40						40		40	40				
3	07A	Yankton	280						280		280	280				
3	08A	Davison/Hanson	80						80		80	80				
3	08B	Davison/Hanson	80						80		80	80				
1	11A	Bennett			70			6		70	70	140		6	6	12
3	12A	Bon Homme	300						300		300	300				
2	13A	Brule	150						150		150	150				
1	15A	Butte/Lawrence			450			36		450	450	900		36	36	72
2	17A	Charles Mix/Douglas			350					350	350	700				
3	19A	Clay	80						80		80	80				
3	19B	Clay	80						80		80	80				
2	20A	Corson			100			8		100	100	200		8	8	16
1	21A	Custer			180			15		180	180	360		15	15	30
4	22A	Day/Codington	60						60		60	60				
4	23A	Deuel	90						90		90	90				
2	24A	Dewey/Ziebach			150			12		150	150	300		12	12	24
1	27A	Fall River			150			12		150	150	300		12	12	24
4	29A	Grant	220						220		220	220				
2	30A	Gregory			950			76		950	950	1900		76	76	152
1	31A	Haakon			300			24		300	300	600		24	24	48
4	32A	Hamlin	0						0		0	0				
1	35A	Harding	150			12			150		150	150	12		12	12
2	36A	Hughes			40					40	40	80				
3	37A	Hutchinson	80						80		80	80				
1	39A	Jackson			200			16		200	200	400		16	16	32
3	40A	Jerauld	10						10		10	10				
2	41A	Jones	100			8			100		100	100	8		8	8
3	44A	Lincoln	50						50		50	50				
3	44B	Lincoln	50						50		50	50				
2	45A	Lyman			250			20		250	250	500		20	20	40
4	48A	Marshall/Roberts	500						500		500	500				
1	49A	Meade			350			28		350	350	700		28	28	56
2	50A	Mellette			550			44		550	550	1100		44	44	88
3	52A	Moody	40						40		40	40				
1	53A	Perkins			100			8		100	100	200		8	8	16
3	56A	Sanborn	40						40		40	40				
2	58A	Stanley	50			4			50		50	50	4		4	4
2	60A	Tripp			400			32		400	400	800		32	32	64
3	61A	Turner	40						40		40	40				
3	62A	Union	80						80		80	80				
3	62B	Union	80						80		80	80				
1	65A	Shannon			70			6		70	70	140		6	6	12
2	67A	Todd	100			8			100		100	100	8		8	8
TOTAL			2,930		4,960	32		367	2,930	4,960	7,890	12,850	32	367	399	766
Reg	Unit		TomT	1AnyT	2 AnyT	AnyT	1AnyT	2 AnyT	RES	RES	RES	RES	NR	NR	NR	NR
			32	31	37	32	31	37	1-tag	2-tag	Licenses	Tags	1-tag	2-tag	Lic	Tags
RES & NR:									2,962	5,327	8,289	13,616				

2012

TOTAL			3,035		5,160	32		383	3,035	5,160	8,195	13,355	32	383	415	798
Reg	Unit		TomT	1AnyT	2 AnyT	AnyT	1AnyT	2 AnyT	RES	RES	RES	RES	NR	NR	NR	NR
			32	31	37	32	31	37	1-tag	2-tag	Licenses	Tags	1-tag	2-tag	Lic	Tags
RES & NR:									3,067	5,543	8,610	14,153				

SPRING TURKEY  
2012--2013 Comparison

Unit #	Unit Name	2012 Resident Licenses	2013 Resident Licenses	# Change	% Change	2012 Resident Tags	2013 Resident Tags	# Change	% Change
01A	Minnehaha	120	100	-20	-17%	120	100	-20	-17%
02A	Pennington	300	300	0	0%	600	600	0	0%
06A	Brookings	40	40	0	0%	40	40	0	0%
07A	Yankton	280	280	0	0%	280	280	0	0%
08A	Davison/Hanson	80	80	0	0%	80	80	0	0%
08B	Davison/Hanson	80	80	0	0%	80	80	0	0%
11A	Bennett	70	70	0	0%	140	140	0	0%
12A	Bon Homme	350	300	-50	-14%	350	300	-50	-14%
13A	Brule	150	150	0	0%	150	150	0	0%
15A	Butte/Lawrence	450	450	0	0%	900	900	0	0%
17A	Charles Mix/Douglas	350	350	0	0%	700	700	0	0%
19A	Clay	80	80	0	0%	80	80	0	0%
19B	Clay	80	80	0	0%	80	80	0	0%
20A	Corson	150	100	-50	-33%	300	200	-100	-33%
21A	Custer	180	180	0	0%	360	360	0	0%
22A	Day/Codington	60	60	0	0%	60	60	0	0%
23A	Deuel	90	90	0	0%	90	90	0	0%
24A	Dewey/Ziebach	250	150	-100	-40%	500	300	-200	-40%
27A	Fall River	200	150	-50	-25%	400	300	-100	-25%
29A	Grant	240	220	-20	-8%	240	220	-20	-8%
30A	Gregory	950	950	0	0%	1900	1900	0	0%
31A	Haakon	300	300	0	0%	600	600	0	0%
32A	Hamlin	0	0	0	0%	0	0	0	0%
35A	Harding	150	150	0	0%	150	150	0	0%
36A	Hughes	40	40	0	0%	80	80	0	0%
37A	Hutchinson	60	80	20	33%	60	80	20	33%
39A	Jackson	200	200	0	0%	400	400	0	0%
40A	Jerauld	10	10	0	0%	10	10	0	0%
41A	Jones	100	100	0	0%	100	100	0	0%
44A	Lincoln	60	50	-10	-17%	60	50	-10	-17%
44B	Lincoln	60	50	-10	-17%	60	50	-10	-17%
45A	Lyman	250	250	0	0%	500	500	0	0%
48A	Marshall/Roberts	500	500	0	0%	500	500	0	0%
49A	Meade	350	350	0	0%	700	700	0	0%
50A	Mellette	550	550	0	0%	1100	1100	0	0%
52A	Moody	40	40	0	0%	40	40	0	0%
53A	Perkins	100	100	0	0%	200	200	0	0%
56A	Sanborn	55	40	-15	-27%	55	40	-15	-27%
58A	Stanley	50	50	0	0%	50	50	0	0%
60A	Tripp	400	400	0	0%	800	800	0	0%
61A	Turner	40	40	0	0%	40	40	0	0%
62A	Union	80	80	0	0%	80	80	0	0%
62B	Union	80	80	0	0%	80	80	0	0%
65A	Shannon	70	70	0	0%	140	140	0	0%
67A	Todd	100	100	0	0%	100	100	0	0%
<b>TOTAL</b>		<b>8,195</b>	<b>7,890</b>	<b>-305</b>	<b>-3.7%</b>	<b>13,355</b>	<b>12,850</b>	<b>-505</b>	<b>-3.8%</b>

Note: An additional 8% of the number of licenses will be available to nonresidents in West River units.

Instrument Drafted by:  
Diane B. Ray  
The Nature Conservancy  
1101 West River Parkway, Suite 200  
Minneapolis, MN 55415

## GRANT OF EASEMENT

**WHEREAS**, the State of South Dakota and its Department of Game, Fish, and Parks, Grantor, whose address is 523 East Capitol Avenue, Pierre, South Dakota, 57501 P.O., is the owner of the following described real estate in Custer County, South Dakota:

Section 36, Township 4 South, Range 6 East

(Grantor's Property).

**WHEREAS**, The Nature Conservancy, a non-profit corporation of the District of Columbia, Grantee, whose address is 4245 North Fairfax Drive, Arlington, Virginia 22203-1606 P.O., is the owner of the following described real estate in Custer County, South Dakota:

Section 31: E  $\frac{1}{2}$  of the W  $\frac{1}{2}$  and the NE  $\frac{1}{4}$

Section 30: SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$

Section 29: SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$

Section 32: N  $\frac{1}{2}$  of the N  $\frac{1}{2}$

all in Township 4 South, Range 7 East

(Grantee's Property).

**WHEREAS**, Grantee desires to cross the Grantor's property for access to Grantee's property;

**NOW, THEREFORE**, Grantor, for good and valuable consideration, hereby grants and conveys to Grantee a non-exclusive perpetual easement for ingress and egress over and across the Grantor's Property in order to gain access to Grantee's Property, and for the use and maintenance of an existing road 12 feet in width (the "Road"), the location of which is shown on Exhibit A attached hereto and incorporated herein by this reference.

Grantee shall have no right to widen, or expand the road across the Grantor's Property, nor shall Grantee have the right to relocate the Road. Grantee may, but is not obligated to, repair, maintain or improve the Road across Grantor's Property, provided that the surface of the Road may only be covered with pervious materials such as gravel.

Grantee may undertake improvements to the Road, such as grading, resurfacing with gravel, and culvert work, with the prior written permission of the Grantor. Grantor shall have no obligation to Grantee to repair, maintain, or improve the Road across the Grantors' Property.

Grantee, and its successors and assigns, agree to indemnify and hold the Grantor, its successors and assigns, harmless from any and all expenses, costs, or liability caused by or resulting from its actions or inactions in connection with its use of the Grantor's property.

The easement granted herein is appurtenant to the Grantee's Property. It shall run with that land for the benefit of the Grantee, for so long as Grantee holds an interest in the Grantee's property, and for the benefit of all subsequent owners of the Grantee's property, under the terms and conditions specified above.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2012.

ATTEST:

\_\_\_\_\_  
DENNIS DAUGAARD  
GOVERNOR of South Dakota

\_\_\_\_\_  
JARROD JOHNSON, Commissioner  
of School and Public Lands

STATE OF SOUTH DAKOTA     )  
  )   SS  
COUNTY OF HUGHES         )

On this \_\_\_\_ day of \_\_\_\_\_, 2012, before me the undersigned Notary Public, personally appeared DENNIS DAUGAARD, GOVERNOR of South Dakota, and known to me to be the person who executed the Deed for the purposes contained therein.

In witness whereof I hereunto set my hand and official seal.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public, South Dakota

My Commission expires: \_\_\_\_\_



**CONCESSION AGREEMENT  
ANGOSTURA RECREATION AREA**

This Concession Agreement is made and entered into on \_\_\_\_\_ ("Effective Date") by and between the South Dakota Department of Game, Fish and Parks ("Department") 523 East Capitol, Pierre South Dakota 57501, and Angostura Resort Management, LLC ("Concessionaire") P.O. Box 2860, Rapid City, SD 57709. This Agreement is subject to and governed by the requirements of ARSD Article 41:13 subtitled Park Concession Leases effective October 17, 2005, (the "Rules") all terms and conditions of Management Agreement No. R12MU60085, memorandum of understanding, hereinafter referred to as "MOU" and any amendments thereto or replacement contracts between the Department of Game, Fish and Parks and the U.S. Bureau of Reclamation ("Reclamation") and in accordance with Reclamation Manual Policy and directive and Standards, Concessions Management by Non Federal Partners. The Concessionaire has been provided a copy of ARSD Article 41:13, effective October 17, 2005, and the MOU between the Department and Reclamation.

**WITNESSETH**

**Whereas**, Angostura Recreation Area is administered by the Department for providing park and related services, tourism, and resource management; and

**Whereas**, the Department desires to have a limited and prescribed portion and areas of Angostura Recreation Area operated by a concessionaire as a resort open to the general public; and

**Whereas**, the Department chooses to commercially operate the area through a private concessionaire to provide services to the general public; and

**Whereas**, the Department has provided grounds and facilities of the area, and desires a private concessionaire to operate the same; and

**Whereas**, the Commission has promulgated the Rules relating to concession leases under which certain powers and authority to enter into concession leases and agreements have been delegated to the Department; and

**Whereas**, Concessionaire desires to enter into a concession agreement with the Department to operate a resort concession in portions of Angostura Recreation Area and be a concessionaire, as defined in the Rules.

**Now therefore**, for the purposes of carrying out concession operations in designated portions of the Angostura Recreation Area pursuant to the terms and conditions of this Agreement, the parties agree as follows:

**Section 1. Term of Agreement**

- (a) This Agreement shall be for a term of ten (10) years, commencing on the effective date, and ending on December 31, 2022.

## **Section 2. Definitions**

- (a) "Agreement" means this Concession Agreement, and all its amendments, addendums, exhibits, attachments, and all documents executed for the purpose of ensuring Concessionaire's performance of this Concession Agreement.
- (b) "Commission" means the South Dakota Game, Fish and Parks Commission.
- (c) "Concessionaire" means as defined under ARSD 41:13:01.
- (d) "Concessionaire Facilities" means as defined under ARSD 41:13:01.
- (e) "Department" means the South Dakota Department of Game, Fish and Parks.
- (f) "Division" means the Division of Parks and Recreation, a division of the Department of Game, Fish and Parks responsible for the administration of the state park system, including Angostura Recreation Area.
- (g) "Director" means the Director of the Division of Parks and Recreation, acting on behalf of the Secretary of the Department of Game, Fish and Parks, and his or her duly authorized representatives.
- (h) "Fair Market Value" means as defined under ARSD 41:13:01.
- (i) "Government Facilities" means as defined under ARSD 41:13:01
- (j) "Gross Receipts" means all revenue received, to be received, or realized by Concessionaire from all sales for cash or credit, of services, accommodations, materials and other merchandise made pursuant to the rights granted under this Agreement, Gross Receipts of SubConcessionaires, commissions earned on leases or agreements with other persons or companies operating in the Resort, and revenue earned from sales through electronic media, mail order or otherwise. Concessionaire shall report all of its revenues to the Department without allowances, exclusions or deductions of any kind. For purposes of calculating franchise fees and other fees and reserve amounts identified in this agreement,

hunting and fishing license sales (not including agent fees), and park entrance license sales will be excluded from Gross Receipts.

- (k) "Gross Receipts of SubConcessionaires" means all revenue received, to be received, or realized by SubConcessionaires from all sales for cash or credit, of services, accommodations, materials and other merchandise made as a result of the exercise of the rights conferred by a lease, license or agreement between the Concessionaire and a SubConcessionaire at the Resort, revenues of Sub-SubConcessionaires, commissions earned on leases or agreements between SubConcessionaires and other persons or companies operating in the Resort, and revenue earned from sales through electronic media, mail order or otherwise. A SubConcessionaire shall report all of its revenues to the Concessionaire without allowances, exclusions or deductions of any kind or nature.
- (l) "Park" means the property within the boundaries of Angostura Recreation Area.
- (m) "Personal Property" means as defined in ARSD 41:13:01.
- (n) "Possessory Interest" means as defined in ARSD 41:13:01.
- (o) "Qualified Appraiser" means as defined in ARSD 41:13:01.
- (p) "Resort" means the geographic area as set forth in Exhibit A-1 that includes Government Facilities and Concessionaire Facilities assigned to the Concessionaire as set forth in Exhibit A-2 and A-3, and the operation thereof as permitted under this Agreement.
- (q) "SubConcessionaire" means a third party that, with the approval of the Director, has been granted rights by Concessionaire to operate under a concession lease, license or agreement (or any portion thereof) between Concessionaire and a third party, or between a SubConcessionaire and a third party, whether in consideration of a percentage of revenues or otherwise.
- (r) "Park Supervisor" means the manager of Angostura Recreation Area or his or her duly authorized representatives.

### **Section 3. Accommodations, Facilities and Services**

- (a) Concessionaire shall provide the following accommodations, facilities, and services within the Resort, subject to the Performance Standards for the Operation and Maintenance of Angostura Recreation Area Resort attached to the Agreement as Exhibit B.

Minimum Required Accommodations, Facilities and Services

1. A minimum of 140 rental boat slips at water elevation 3175' MSL and higher. The Department reserves the right to alter this to a lesser amount should low reservoir water levels dictate.
  2. 3 Housekeeping cabins for daily rental.
  3. A convenience store offering grocery items, ice, fishing and camping supplies, fishing and park entrance licenses, basic first-aid supplies, and miscellaneous items
  4. Food service
  5. Fishing bait and tackle sales
  6. Fishing license sales
  7. On the water fuel sales at the main marina
  8. Oil and grease sales
  9. Operation of a marina sanitary pump station at no cost to users
  10. Management of 2 private exclusive trailer areas consisting of no more than 86 total trailers.
- (b) The Department authorizes the Concessionaire to provide only the following additional accommodations, facilities and services within the Resort. The Department retains the right to approve these or any other additional services contemplated by the Concessionaire in advance.

Additional Authorized Accommodations, Facilities and Services:

1. Additional rental lodging (as approved by the Department).
2. Additional boat slips (as approved by the Department).
3. Hunting license and supply sales.
4. Licensed off-sale beer sales between 7:00 a.m. and 11:00 pm.
5. Fishing guide service
6. Rental boats and motors
7. Firewood sales with written permission from the Department.

8. Dry-dock boat and trailer storage in Department-approved locations only
  9. No more than 3 time-share rental cabins which exist as of the effective date of this Agreement
- (c) The Department retains the right to authorize additional accommodations, facilities, services and merchandise within the Park. The Department shall give the Concessionaire first opportunity to provide such additional accommodations, facilities, services and merchandise. If Concessionaire does not desire to provide such additional accommodations, facilities, services and merchandise, or if the Department and Concessionaire are unable to agree upon the terms under which Concessionaire would provide such additional accommodations, facilities, services and merchandise, the Department shall be entitled to contract with a third party to provide said additional accommodations, facilities, services and merchandise within the Park under terms acceptable to the Department.
- (d) The Department reserves the right to establish reasonable standards as to the nature, type and quality of Concessionaire's services and merchandise. The Department retains the right to disapprove types of services and merchandise that do not meet these standards.

#### **Section 4. Rates and Quality Control**

- (a) All rates, fees and prices charged the public by Concessionaire must be reasonable and comparable to the fees, rates and charges charged for similar accommodations, facilities, services and merchandise in the region or outside the region if similar accommodations, facilities, services and merchandise are not provided in the region. All rates and prices for accommodations, facilities, services and merchandise shall be clearly posted or marked. Any annual rate modifications above and beyond the annual inflation rate as determined by the Consumer Price Index are subject to Department approval.
- (b) The Department reserves the right to establish reasonable standards as to the nature, type and quality of the Concessionaire's accommodations, facilities, services and merchandise. All accommodations, facilities, services and merchandise sold are subject to the rules and laws of the State of South Dakota and the United States.

#### **Section 5. Capital Development and Improvements**

- (a) Concessionaire is required to provide upgrades to Breakers beachside restaurant to include at least the following:
- i. Equipment replacement
  - ii. Install insect repellent equipment
  - iii. Remodel and refurbish the exterior deck
  - iv. Replacement of table and chairs

Concessionaire shall provide final construction and remodeling plans to the Department for approval according to Section 5(b) prior to the commencement of work

Concessionaire shall complete the project by no later than January 1, 2014 and shall spend a minimum of \$75,000.00 on the above stated upgrades.

Concessionaire shall provide to the Department a report of activities and expenses incurred for the project upon completion.

- (b) Concessionaire, with prior written approval of the Director, may construct, modify or install at its cost such fixtures, structures, or improvements to Government Facilities or Concessionaire Facilities necessary for the operations required or authorized hereunder, subject to the Possessory Interest (and extent thereof) as authorized by ARSD 41:13. Concessionaire shall acquire no Possessory Interest to any fixtures, structures, and improvements made to Government Facilities or Concessionaire Facilities without the written approval of the Director. Requests shall be made in writing to the Department in sufficient detail to determine the scope, financing and scheduling of the proposed project. Drawings, maps or illustrations shall accompany the written request which accurately describe the location and design of all proposed fixtures, structures and improvements and affected areas. All requests must address the requirements of the Americans with Disabilities Act.

Unless otherwise agreed upon by the parties in advance, professionally developed design and construction plans for each project contemplated and requested by Concessionaire, prepared by architects, engineers and/or contractors, shall be submitted to the Director for approval. No construction, modification, or installation of fixtures, structures and improvements shall commence without receipt of written approval from the Director. Once approved, Concessionaire shall make no changes or alterations to the construction plans except upon the Director's written approval. Concessionaire agrees that any review or approval by the Director of Concessionaire's construction plans is solely for the benefit of the Department, and without any

representation, warranty or liability whatsoever to Concessionaire or any other person with respect to the adequacy, correctness or sufficiency thereof or any compliance with all local, state and federal laws, regulations and building codes, or otherwise. All designs and construction of the fixtures, structures and improvements shall be in compliance with all local, state and federal laws, regulations and building codes. The Director may require plans to be prepared, approved and signed off by a professional licensed architect and/or engineer for a proposed project.

Upon completion of approved projects, Exhibit A shall be amended to include the additions and value of Possessory Interest associated with the fixtures, structures and improvements.

- (c) In addition to any rights and remedies afforded to the Department for breach of this Agreement, the construction of any unauthorized fixtures, structures and improvements to or of Concessionaire Facilities and/or Government Facilities, at the discretion of the Department, must either be:
  - (i) restored to their original condition at the expense of Concessionaire, or
  - (ii) become Government Facilities with no Possessory Interest compensation.
  
- (c) Activities involving any ground disturbance, placement of fill material, prescribed burning of vegetation or tree removal shall require prior written approval from the Department which shall be subject to approval from Reclamation. Any requests for these activities shall be made to the Department in writing in sufficient detail to determine the scope and schedule of the proposed project. Drawings, maps or illustrations accurately describing the location of these activities shall accompany the written request. All activities involving any ground disturbance, placement of fill material, prescribed burning of vegetation or tree removal shall be completed in compliance with all local, state and federal laws and regulations.
  
- (d) In the event that Concessionaire constructs fixtures, structures or improvements to Concessionaire Facilities or Government Facilities, Concessionaire shall be responsible for securing all necessary licenses and permits required under local, state and federal laws and regulations.
  
- (e) All construction activities must meet or exceed existing levels of craftsmanship. No Department owned resources or materials from the Park shall be used in any project, except by written consent of the Department.

- (f) Concessionaire shall not cause, permit or suffer any lien or encumbrance to attach to the Resort, the Concessionaire Facilities or Government Facilities, except for capital development improvements to Concessionaire Facilities as outlined in Section 5. If Concessionaire shall cause, permit or suffer a lien or encumbrance to attach, Concessionaire shall cause the same to be cancelled and discharged of record by bond or otherwise as allowed by law at the expense of Concessionaire within thirty (30) days after the filing thereof. Concessionaire shall defend on behalf of the Department, at Concessionaire's sole cost and expense, any action, suit or proceeding which may be brought thereon for the enforcement of such lien or encumbrance. Concessionaire shall pay any damages, including payment of any legal expenses incurred by the Department for doing the same in the event Concessionaire fails to obtain cancellation or discharge of the lien or encumbrance, fails to satisfy and discharge any judgment entered thereon and/or fails to save the Department harmless from any claim or damage resulting therefrom.

**Section 6. Facilities**

- (a) The Department hereby assigns for use by Concessionaire, the Government Facilities identified in Exhibit A-3, located within the Resort as identified in Exhibit A-1. The Department also assigns to Concessionaire the Concessionaire Facilities set forth in Exhibit A-2
- (b) Concessionaire has inspected the Government Facilities and Concessionaire Facilities identified in Exhibit A-2 and A-3 and is thoroughly acquainted with their condition, and accepts them and other items in an "as is" condition.
- (c) The Department reserves the right to withdraw or expand the land, Government Facilities and/or Concessionaire Facilities located within the Resort during the term of this Agreement for the purposes of protecting the Park and its visitors, and/or to restrict or provide additional accommodations, facilities, services and/or merchandise. Any material adjustment shall require an appropriate adjustment to the franchise fees, if necessary, and the terms of ARSD 41:13:03:04 (4) shall apply.
- (d) Both parties understand that the State of South Dakota self-insures Government Facilities. Therefore, if a Government Facility is destroyed or damaged to an extent that in the sole discretion of the Department it is impractical to repair or replace, the Department makes no assurance that the Government Facility shall be repaired, improved or replaced.

- (e) If Government Facilities are damaged by the acts, omissions, or conduct of Concessionaire, its agents, employees or customers, which damage in the sole discretion of the Department is practical to repair or replace, it shall be the responsibility of Concessionaire to make the necessary repairs/replacements at its own expense to a condition satisfactory to the Department in an amount not to exceed \$25,000 per occurrence. If Government Facilities are damaged by the acts, omissions, or conduct of Concessionaire, its agents, employees or customers, which damage in the sole discretion of the Department amounts to a total loss or is impractical to repair or replace, Concessionaire shall pay Department an amount not to exceed \$25,000 per occurrence to compensate Department for the loss.
- (f) The Department and Reclamation shall have the right to enter the Resort, Government Facilities and Concessionaire Facilities for the proper administration of the terms of this Agreement and other purposes the Department and Reclamation deem necessary, including health and safety inspections.
- (g) In the event that a Concessionaire Facility is removed, abandoned, demolished, or substantially destroyed and no other improvement is constructed on the site, Concessionaire shall at its own expense, promptly restore the site to its natural condition to the extent that the Concessionaire Facility had an impact upon the site.

## **Section 7. Operations and Maintenance**

- (a) Concessionaire shall operate the Resort in compliance with the terms and conditions of this Agreement including the performance standards for the Operation and Maintenance of the Resort set forth in Exhibit B. The performance standards are established in order to maintain a high standard of public service, physical appearance, operation, repair and maintenance.
- (b) Concessionaire shall comply with the specific dates and hours of services specified in Section 2 of Exhibit B.
- (c) Concessionaire, at its expense, shall provide all maintenance of Concessionaire Facilities, Government Facilities and Personal Property located within the Resort. The Concessionaire shall perform such work in accordance with the performance standards contained in Exhibit B. Concessionaire shall also be responsible for keeping the Resort free from litter, complying with environmental laws and regulations, complying with safety rules, laws and regulations, and maintaining in good order and in a safe condition the grounds, Government Facilities, Concessionaire Facilities, and

Personal Property of and within the Resort and in accordance with the performance standards contained in Exhibit B.

- (d) At the expiration or termination of this Agreement, Concessionaire shall return to the Department the Government Facilities in the same condition or better condition than existed at the initiation of this Agreement, reasonable wear and tear excepted.
- (e) Concessionaire shall not do or permit to be done any act or thing within the Resort and within Concessionaire's operations which shall or might subject the Department to any liability or responsibility or injury to any person or to property by reason of any business or operation being carried on or upon the Resort or by Concessionaire. Concessionaire shall comply with all laws, orders and regulations of federal, state and local authorities, and with any direction of any public officer or officers pursuant to applicable laws which impose any order or duty upon Concessionaire with respect to the Resort, the use or occupation thereof, or with respect to Concessionaire's business and operations.
- (f) Concessionaire shall occupy the Resort as of the Effective Date and thereafter will continuously use the Resort solely for the purpose of providing the accommodations, facilities, services and merchandise identified in Section 3 and other uses incidental thereto. Concessionaire shall not use or knowingly permit any part of the Resort to be used for any unlawful purpose, and shall not conduct or allow to be conducted any activity that shall constitute a nuisance.
- (g) Concessionaire shall not during the term of this Agreement, or during any period of holdover, use, store, generate or treat any Hazardous Materials on or within the Resort, except in accordance with all applicable, federal, state and local laws and regulations. Concessionaire shall not release or allow to be released into the environment any Hazardous Materials. Concessionaire shall indemnify, defend and hold harmless the Department from and against any loss, cost, damage, liability, or expense, including but not limited to attorneys' fees and disbursements, arising by reason of any clean-up, removal, remediation or detoxification action required under applicable federal, state and local laws and regulations by reason of the Concessionaire's use, generation, storage, treatment or release of Hazardous Materials. The foregoing covenants and indemnity obligation shall survive the expiration or any termination of this Agreement. "Hazardous Materials" shall mean (i) any biologically or chemically active or other toxic or hazardous wastes, pollutants or substances, including, without limitation, asbestos, PCBs, petroleum products and by-products, substances defined or listed as "hazardous

substances" or "toxic substances" or similarly identified in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., and as hazardous wastes under the Resources Conservation and Recovery Act, 42 U.S.C. § 6010 et seq., (ii) any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. § 2601 et seq., (iii) any "toxic pollutant" under the Clean Water Act, 33 U.S.C. §466 et seq., as amended, (iv) any hazardous air pollutant under the Clean Air Act, 42 U.S.C. § 7401 et seq., 9v) hazardous materials identified in or pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., and (vi) any hazardous or toxic substances or pollutant regulated under any federal, state or local law.

- (h) Any names, logos, trademarks, or copyrights (the "Intellectual Property") developed during or pursuant to this Agreement that in any way associates with, identifies, implicates, or infers an affiliation with the State of South Dakota, the Department, the State Park System, Angostura Recreation Area, and/or the Resort must receive prior approval from the Commission and belongs to the State of South Dakota upon creation and continues in the State of South Dakota's exclusive ownership upon termination of this Agreement. For all Intellectual Property approved by the Commission, Concessionaire shall receive a non-exclusive, non-transferable license to use the Intellectual Property with respect to the accommodations, facilities, services and merchandise offered for sale by Concessionaire. The license shall be limited to the sale of accommodations, facilities, services and merchandise from the Resort only. Concessionaire shall not offer for sale outside of the Resort, including by mail order, other store locations and the Internet, the services and merchandise without the Department's prior written consent. Concessionaire shall not be permitted to sublicense any of the Intellectual Property without the Department's consent. Concessionaire agrees to cooperate in the filing of any affidavits and applications by providing proof of use of the Intellectual Property upon the Department's reasonable request. Concessionaire acknowledges that the Department has the unrestricted authority to set the standards for the use of the Intellectual Property, as well as the standards, specifications and qualities of the accommodations, facilities, services and merchandise. As such, the Department shall have the right, at all reasonable times, to inspect Concessionaire's business locations, services and merchandise for quality verification purposes. The Department, on behalf of the State of South Dakota, does not make any representation or warranty with respect to the Intellectual Property and the use thereof, and expressly disclaims all representations and warranties including, without limitation, the warranty of non-infringement. Concessionaire agrees to promptly

notify the Department of any possible infringement of the Intellectual Property by third parties or, of any claims of infringement against Concessionaire and/or the State of South Dakota made by a third party. The State of South Dakota shall have the sole right to bring any action for infringement and to recover and retain any and all damages.

## **Section 8. Utilities**

Concessionaire shall pay costs for all utilities in the Resort, including but not limited to water, sewer, electricity and garbage disposal. Maintenance responsibilities of Concessionaire for Department-owned utility systems within the Resort shall be in accordance with the performance standards set forth in Exhibit B.

## **Section 9. Accounting Records and Other Reports**

- (a) Concessionaire shall prepare and maintain accounting records of the Resort segregated by profit center under generally accepted accounting principles that are customary for resort operating businesses. The records shall be made available for inspection by the Department on reasonable notice during normal working hours.
- (b) All capital costs of any fixtures, structures or improvements for which Concessionaire claims a Possessory Interest shall be recorded at actual cost and the depreciation schedule shall be based on generally accepted accounting principles, all of which shall be submitted to the Department at the time such capital assets are entered on Concessionaire's books.
- (c) Concessionaire shall submit to the Department annual accounting records and reports separated for the operation of the Resort to include Gross Receipts broken down by profit center. These records and reports along with state tax remittance forms are to be provided to the Department with the corresponding franchise fee payments as provided for in Section 10.
- (d) Concessionaire shall within one hundred twenty (120) days of the close of Concessionaire's fiscal year submit to the Department annual audited accounting records and reports for the operation of the Resort to include a consolidated balance sheet and income statement for all operations. Additionally, Concessionaire shall provide a profit and loss statement by profit center and all necessary supporting schedules.

- (e) The Concessionaire shall retain all records and reports required by law and under this Agreement for a period not less than five years following the expiration or termination of this Agreement and its amendments. The Department shall, at any time during the term of the Agreement and until five years after the expiration or termination of this Agreement, have access to and the right to examine any of the pertinent books, records, documents, and papers of Concessionaire related to this Agreement, including state and federal income tax records and returns. If the result of any audit or examination of the Concessionaire's financial records indicates substantial discrepancies from the information that is reported to the Department, the Department reserves the right to bill and the Concessionaire shall pay for the costs of conducting such audit or examination in addition to any other amounts payable to the Department pursuant to this Agreement.
- (f) In addition to the accounting records mentioned above, Concessionaire shall provide to the Department an annual lodging utilization report which shall include information relating to available rooms, occupied rooms, resulting levels of occupancy, revenues and resulting average daily rates (ADR) for each lodging property. These reports shall also comparisons with the previous year. These reports shall be submitted to the Department by May 1 for the previous year.
- (g) From time to time, the Department may require Concessionaire to submit other reports and data regarding the Resort, Concessionaire's performance under this Agreement or otherwise, including but not limited to, operational information and capital progress reports.
- (h) Concessionaire agrees to waive any right to confidentiality of all records and reports identified in this section for Commission purposes. This waiver is not intended to apply to third parties or the public at large, except as provided by State law and Subsection (i) below.
- (i) Concessionaire agrees to waive any right to confidentiality of records, reports and information contained therein for the purposes of preparing a prospectus and other documents for leasing the Resort, as necessary for any subsequent concessionaire to operate the Resort, or for other legislative or administrative purposes.

## **Section 10. Fees**

Franchise Fees: Concessionaire shall pay to the Department a franchise fee during each year of the Agreement term which shall be a sum of money equal to the following:

- (a) Five and one half percent (5.5%) of all Gross Receipts less those from the rental of boat slips attached to State owned structures; and,
- (b) Thirty five (35%) of Gross Receipts from the rental of boat slips attached to State owned structures; and,
- (c) Three cents (\$0.03) per gallon of gasoline sold.

Payments shall be made no later than January 30<sup>th</sup>, for the final calendar quarter of the proceeding calendar year; July 30<sup>th</sup>, for the first two quarters of the current year; and October 30<sup>th</sup> for the third calendar quarter of the current year and shall be accompanied by accounting records as described in Section 9(c). Payments to the Department by Concessionaire not received on or before the due date shall be considered to be in arrears and subject to an interest payment equivalent to one and one-half percent (1.5%) per month of the unpaid amount which shall be added to the following month's remittance.

Sewer System Assessment Fees: An annual fee may be assessed to the lot renters in Summersun and Horsehead trailer areas for the amortization of a central sewer system bonding package sponsored by the Department at time of execution of this Agreement. The annual assessment amount which is yet to be determined, shall be collected by the Concessionaire and submitted to the Department with Franchise Fees due on July 30<sup>th</sup> of each calendar year. The following condition shall apply:

- (a) Concessionaire shall not be liable to compensate the Department for unpaid wastewater assessment fees provided the correlating individual lot lease is terminated and the Concessionaire provides the Department with documented proof of such termination.

## **Section 11. Remedies, Termination or Expiration of the Agreement**

- (a) Procedures upon termination or expiration of this Agreement shall be in accordance with ARSD 41:13.
- (b) Upon termination or expiration of this Agreement for any reason, and, in the event that Concessionaire is not to continue the operations authorized under this Agreement after its expiration,

Concessionaire shall comply with all applicable requirements of Exhibit C to this Agreement, "Transition to New Concessionaire." This section and Exhibit C shall survive the expiration of this Agreement.

- (c) The Department may elect any and all remedies available to the Department under applicable law, including but not limited to the termination of this Agreement upon written notice in whole or in part at any time for default, and may terminate this Agreement upon written notice in whole or in part when necessary for the protection of visitors or area resources. Termination for default may be utilized in circumstances where the Concessionaire has materially breached any requirements of this Agreement, including but not limited to failure to maintain and operate the minimum required accommodations, facilities, services and merchandise as provided in Section 3 herein, sale of merchandise disapproved for sale, failure to meet the requirements of the operations and maintenance performance standards as set forth in Exhibit B, and has failed to cure the breach as set forth in this Subsection. If Concessionaire materially defaults on any of the terms or conditions of this Agreement, and does not cure or remedy such default within ten (10) days of receipt of written notice from the Department, or Concessionaire is not diligently proceeding to cure such default if the curing of such default cannot be reasonably effected within such ten (10) day period, the Department may terminate this Agreement without further notice.
- (d) In the event of termination of this Agreement for default, the provisions of this Section apply.
- (e) To avoid interruption of service at the Resort upon expiration or termination of this Agreement, Concessionaire shall, at the option of the Department:
  - (i) continue to provide visitor services for a reasonable time, as agreed upon in writing by the parties, to enable the Department to select a successor, and to allow the successor to otherwise comply with the terms of this Agreement in the ordinary course of business and endeavor to meet the standards of service and quality that are required by the Department in order to maintain customer service in conjunction with Exhibit B; or
  - (ii) consent to the assignment of a temporary operator, or operation by the Department, for the operation of the Concessionaire Facilities and Personal Property for a period not to exceed 365 days; provided that the temporary operator or the Department pays Concessionaire a

reasonable fee for the use of the Concessionaire Facilities and Personal Property, not to exceed ten percent (10%) annually of the depreciated book value of such Concessionaire Facilities and Personal Property used by the temporary operator or the Department, and prorated for the amount of time they are in use by the temporary operator or the Department.

- (iii) consent to the purchase of Concessionaire's inventory and supplies by the temporary operator or the Department for use or resale purposes. The temporary operator or the Department must reimburse Concessionaire for any inventory and supplies purchased by Concessionaire and retained by the temporary operator or the Department for use or resale purposes. The value of the inventory and supplies retained by the temporary operator or the Department shall be determined by actual invoice amounts submitted to or paid by Concessionaire.
- (f) The Department shall have a right of offset against amounts owed the Department for all amounts owed by the Department under this Agreement.
- (g) If any legal proceedings are brought by either party to this Agreement against the other in connection with the interpretation, application or performance of the terms and conditions of this Agreement, each party shall be required to pay its own attorney's fees and costs in connection with such proceedings. All amounts due the Department by reason of any default on the part of Concessionaire shall accrue interest at the rate of one and one-half percent (1.5%) per month from the date the amount is due until paid.
- (h) In addition to the rights and remedies provided for herein, the Department and Concessionaire shall each have all remedies at law or in equity, all remedies being cumulative.

## **Section 12. Possessory Interest Provisions**

Possessory Interests for Government Facilities and Concessionaire Facilities shall be determined in accordance with ARSD 41:13. The Department shall have a right of offset against amounts owed the Department for all amounts owed by the Department for any Possessory Interests purchased by the Department.

### **Section 13. Indemnification, Waiver of Claims and Insurance**

- (a) Concessionaire agrees to defend, hold harmless and indemnify the State of South Dakota, its officers, agents and employees, and Reclamation from and against any and all actions, suits, damages, liabilities and expenses, including but not limited to attorneys' fees, in connection with the loss of life, personal injury and/or damages to property of third persons that may arise from or out of the occupancy, use or maintenance of the Resort, and as a result of performing services hereunder. This section does not require Concessionaire to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees. This indemnification shall survive the termination or expiration of this Agreement.
  
- (b) Concessionaire agrees that during the term of this Agreement Concessionaire shall maintain such insurance as Concessionaire deems necessary but agrees that the minimum amount of insurance Concessionaire shall acquire and maintain in full force and effect throughout the period of time covered by this Agreement shall be as set forth below. Concessionaire shall maintain the following coverages and limits, but may attain the same by means of supplementing the respective coverages with Excess Umbrella Liability
  - (i) Commercial General Liability Insurance: Concessionaire shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than Two Million Dollars (\$2,000,000.00) for each occurrence and a per location aggregate limit of not less than Two Million Dollars (\$2,000,000.00). If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.
  
  - (ii) Business Automobile Liability Insurance: Concessionaire shall maintain business automobile liability insurance or equivalent form with a combined single limit of not less than One Million Dollars (\$1,000,000.00). Such insurance shall include coverage for owned, hired and non-owned vehicles.
  
  - (iii) Excess Umbrella Liability Insurance: This coverage may be used to supplement any of the above liability coverage policies in order to arrive at the required minimum limit of liability coverage. In addition, coverage shall be at least as broad as that provided by underlying insurance policies, and the limits of underlying insurance shall be sufficient to prevent any gap between such minimum limits and the

attachment point of the coverage afforded under the "Excess Umbrella" liability policy.

- (iv) Worker's Compensation Insurance and Unemployment Insurance: This coverage shall be as required by South Dakota law covering Concessionaire employees as will protect itself and the State of South Dakota and agencies thereof from claims under the Worker's Compensation laws and unemployment insurance laws of the State of South Dakota.
- (v) Personal Property Insurance:
  1. Amount of Insurance: 100% of replacement value, without deduction for physical depreciation
  2. Insurance shall cover the Personal Property contained in all buildings, structures, improvements & betterments for all Government Facilities and Concessionaire Facilities and/or used in Concessionaire's operations.
  3. Coverage shall apply on an "All Risks" or "Special Coverage" basis.
  4. The policy shall provide for loss recovery on a replacement value basis, without deduction for physical depreciation.
  5. "Blanket Amount" insurance is to be provided. The amount of insurance (limit of liability) should represent no less than 100% of the replacement value of the sum total of all insured property, without deduction for physical depreciation.
  6. The coinsurance provision, if any, shall be waived or suspended by an Agreed Amount or Agreed Value clause.
  7. The vacancy and unoccupancy restriction, if any, must be eliminated for Personal Property that shall be vacant or unoccupied beyond any time period specified in the policy.
- (vi) Real Property Insurance: Concessionaire shall provide real property insurance to cover against loss to Concessionaire Facilities at 100% of replacement value (without deduction for physical depreciation).
- (vii) Liquor Liability Insurance: Concessionaire shall maintain liquor liability insurance with a limit of not less than One Million Dollars (\$1,000,000.00).

- (c) These minimum requirements are subject to evaluation and revision every two years during the term of this Agreement or upon renewal or modification of this Agreement.
- (d) Concessionaire, prior to engaging in and/or providing the services described herein, shall furnish satisfactory proof of such insurance by filing with the Department, a Certificate of Insurance from the Insurance Company verifying and certifying to the existence and limits of the required insurance. Such Certificate shall provide therein that no cancellation of said insurance shall be made or become effective without at least thirty (30) days' written notice being provided to the Department. Concessionaire is required to provide to the Department a current certificate of insurance at all times.
- (e) Concessionaire agrees to report to the Park Supervisor any event encountered in the course of performance of this Agreement which results in injury or loss to any person or property, or which may otherwise subject Concessionaire, the State of South Dakota and/or their respective officers, agents or employees to liability. Concessionaire shall report any such event to the Park Supervisor immediately upon discovery. Concessionaire's obligation under this section shall only be to report the occurrence of any event to the Park Supervisor and to make any other report provided for by Concessionaire's duties or applicable law. Concessionaire's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the Park Supervisor under this section shall not excuse or satisfy any obligation of Concessionaire to report any event to law enforcement or other authorities under the requirements of any applicable law.
- (f) The Department has no obligation to and is not responsible for payment of any money to Concessionaire that results from disruption of services.
- (g) Except as set forth in Section 6(e), neither the Department nor Concessionaire shall be liable to the other, nor to any SubConcessionaires, for any loss or damage to any building, structure or other tangible property owned by the other, including but not limited to lost rents, income and profits, even through such loss or damage might have been occasioned by the negligence of such party, its employees, agents, contractors or invitees. Concessionaire shall include in any lease, contract or agreement with a SubConcessionaire a provision in accordance with this Subsection.

## **Section 14. Repair and Maintenance Reserve Provisions**

- (a) Concessionaire shall establish a repair and maintenance reserve (the "Repair and Maintenance Reserve"). Concessionaire shall contribute to the Repair and Maintenance Reserve a sum no less than two percent (2.0%) of the annual Gross Receipts less gasoline sales. This reserve shall be credited by the 15<sup>th</sup> of every month based upon the preceding month's Gross Receipts.
- (b) Use of Funds. Funds in the Repair and Maintenance Reserve shall be used for the maintenance, repair and renovation of existing Concessionaire Facilities and Government Facilities included in this Agreement.
  - (i) Of the 2%, 0.5% may be expended by Concessionaire for repair and maintenance of Concessionaire Facilities and Government Facilities on an emergency basis without prior approval. If not expended during any calendar year, the remainder shall be expended by Concessionaire under the provisions of Section 14 (b) (ii) hereof.
  - (ii) The remaining 1.5%, plus any amounts not expended under Section 14 (b) (i) shall be administered and utilized for maintenance, repair and renovation of Concessionaire Facilities and Government Facilities which projects have been previously approved by the Department.
- (c) Unallowable Uses. Funds in the Repair and Maintenance Reserve shall not be used for the following:
  - (i) Seasonal salaries of Concessionaire's employees, SubConcessionaire's employees, and/or independent contractors performing housekeeping and grounds keeping activities associated with Concessionaire's and SubConcessionaire's respective operations.
  - (ii) Routine maintenance including, but not limited to, periodic and/or occasional inspection, adjustment, lubrication, cleaning, painting, replacement of parts, repairs, and other activities intended to prolong service and prevent unscheduled breakdown.
  - (iii) Preventative maintenance, including planned or scheduled servicing, inspection and adjustment activities that result in continued service, fewer breakdowns, and intended to prevent premature failure of equipment and materials.
  - (iv) New construction or additions to existing facilities.

- (d) Possessory Interest. Concessionaire does not obtain any right to a Possessory Interest for repair and maintenance of Concessionaire Facilities or Government Facilities funded from the Repair and Maintenance Reserve.
- (e) Approval process. An annual repair and maintenance plan of action shall be developed by Concessionaire and submitted to the Department for approval prior to the commencement date of this Agreement, by November 1, 2012, and by November 1 of each year thereafter. The plan shall outline proposed repair and maintenance projects consistent with the above requirements for the succeeding calendar year. If Concessionaire and the Department cannot agree on the plan of action, then the Commission shall make the final determination on the plan. The repair and maintenance plan shall be performed as approved prior to December 15 of the following year unless the approval contemplated the extension thereof, or unless an extension is granted by the Department. Concessionaire shall provide the Department with a detailed report of activities and the costs expended and incurred, for the annual repair and maintenance work completed. This report is due by January 1 of each year, unless an extension of time was granted.

Carryover of funds on an annual basis. If a repair and maintenance project costs more than the balance included in the Repair and Maintenance Reserve, then Concessionaire, at Concessionaire's discretion may fund the repair and maintenance costs in excess of funds in the Repair and Maintenance Reserve. The excess costs shall be refunded, without interest, to Concessionaire from funding to occur in subsequent years.

- (f) Treatment of reserve funds at end of term. The parties agree to make every effort to exhaust all funds in the Repair and Maintenance Reserve by the end of the Agreement term. If there is a surplus at the end of the term, any remaining Repair and Maintenance Reserve funds shall be transferred to the Department for the purpose of ongoing maintenance of Concessionaire Facilities associated with this Agreement. If there is a deficit at the end of the Agreement term, Concessionaire shall be compensated by the Department in the amount of the deficit.
- (g) If this Agreement is terminated by the Department before the established expiration date, the Department shall reimburse Concessionaire for the cost of approved repairs and maintenance activities expended by Concessionaire which have been prepaid and un-recovered by application of the annual Repair and Maintenance Reserve.

## Section 15. General Provisions

- (a) Reference to the Department in this Agreement shall include the Secretary, Director, Park Supervisor and their authorized representative(s)
- (b) Concessionaire shall comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to operating the Resort and providing services pursuant to this Agreement, and shall be solely responsible for obtaining current information on such requirements.
- (c) This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
- (d) All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.
- (e) This Agreement and any operations and services authorized thereunder may not be assigned, sublet, extended, renewed or amended in any respect, except when agreed to in writing by the Department and Concessionaire.
- (f) Concessionaire may not use SubConcessionaires, subcontractors or sublessees to perform the services described herein without the express prior written consent of the Department. Concessionaire shall include provisions in its Department-approved SubConcessionaire agreements requiring its SubConcessionaires, subcontractors, or sublessees to comply with all provisions of this Agreement, to indemnify the Department, and to provide insurance coverage for the benefit of the Department in a manner consistent with this Agreement. Concessionaire shall cause its SubConcessionaires, subcontractors, sublessees, and their agents and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements, and shall adopt such review and inspection procedures as are necessary to assure such compliance. Concessionaire shall remain responsible to the Department for obligations, responsibilities, and rights assigned to another by Concessionaire.

Concessionaire agrees and Department acknowledges that all records required under this Agreement shall be maintained in the name of and provided by Resort Manager on behalf of Concessionaire.

- (g) In addition to the remedies afforded to the Department for breach of the terms of this Agreement, the Department reserves the right to bill Concessionaire for, and the Concessionaire agrees to pay to the Department, the actual costs incurred by the Department to provide any minimum required accommodations, facilities, services and merchandise for sale specified in Section 3 of this Agreement in the event Concessionaire fails to provide those minimum required accommodations, facilities, services and merchandise for sale.
- (h) In the event that the applicable court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.
- (i) Concessionaire acknowledges and supports the Department's effort to collect park entrance fees to provide for the continued maintenance of the South Dakota state park system.
- (j) In each instance where the consent, approval or acceptance of the Department is required under the terms of this Agreement, such consent, approval or acceptance shall not be unreasonably withheld by the Department.
- (k) Concessionaire agrees that in performance of this Agreement it is acting as an "independent contractor" and not as an employee of the Department.
- (l) Any notice or other communication required under this Agreement shall be in writing and sent or delivered to the address set forth below. Notices shall be given by and to the Director on behalf of the Department, and by and to on behalf of Concessionaire, or such authorized designees as either party may from time to time designate in writing.

<u>Department</u>	<u>Concessionaire</u>
Director	Manager
Division of Parks & Recreation	Angostura Resort Management
523 East Capitol	28075 Recreation Road
Pierre, South Dakota 57501	Hot Springs, SD 57747

Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail,

provided that notice of default or termination shall be sent by registered or certified mail or, if personally delivered, when received by such party. Copies of all correspondence from Concessionaire to the Department or Director shall be sent simultaneously to the Park Supervisor.

- (n) No amendment or modification of this Agreement shall be effective for any purpose unless the same be in writing and signed by authorized representatives of the parties.

#### **Section 16. Discrimination.**

Concessionaire shall not discriminate against any person based upon race, color, national origin, religion, sex and disability in the operation and maintenance of the Resort and shall fully comply with Title VI of the 1964 Civil Rights Act, and applicable federal and state laws and regulations.

Discrimination on the Basis of Residence. Discrimination on the basis of residence, including preferential reservation, membership or annual permit systems is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence.

Concessionaire shall not discriminate on the basis of disability, and is subject to Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, and applicable federal and state laws and regulations.

#### **Section 17. Park Entrance License Provisions.**

- (a) All individuals entering or utilizing the Resort are subject to the park entrance license requirements and payment of the required fee except for the following:
  - (i) Employees or volunteers traveling under the most direct route from the park entrance to their designated work duty stations during designated working hours. Concessionaire shall provide employees with entrance license exemption decals, approved by the Park Supervisor, to display in their vehicles.
  - (ii) Any commercial or service vehicles doing direct business with the Resort.
- (b) Concessionaire shall take reasonable steps to ensure that its patrons, employees, agents, and volunteers comply with the park entrance license fee requirements.

## **Section 18. Resident Use**

- (a) No portions of the facilities or Resort assigned hereunder shall be used for the purposes of seasonal or permanent residency unless authorized in writing by the Department.

## **Section 19. Procedure for Assignment, Sale or Transfer of Agreement**

The parties agree that the provisions of ARSD 41:13 shall apply to the sale, lease, or transfer of this Agreement.

## **Section 20. Timeshare Cabins**

The parties understand and agree that three (3) time share cabins exist at the Resort at the effective date of this Agreement and that these 3 timeshares will continue to be managed by the Concessionaire for use according to the terms of this Agreement. In regards to the timeshares It is further understood that:

- (a) No additional timeshare lodging units will be permitted to be constructed within the resort.
- (b) The timeshares shall be maintained and operated in accordance with the requirements as stated in Exhibit B of this Agreement.
- (c) Timeshares may be sold during the term of this Agreement only with the approval of the Department. Further, the Concessionaire and Department shall be given notification of the owners intent to sell and shall have the first right of refusal of the purchase. The terms of sale must be approved by the Department.
- (d) The Department reserves the right to require the removal or sale to the Department or Concessionaire of the 3 timeshare cabins upon the expiration or termination of this Agreement.
- (e) Any valuation of Timeshare Cabins for the purposes of compensation by the Department, the Concessionaire, or approved buyer shall be consistent with the Fair Market Value provisions and procedures provided for in ARSD 41:13 for compensation due to Concessionaire for Concessionaire Facilities.
- (f) Any agreement between Timeshare Cabin owners and the Concessionaire for the rental or management of cabins must be approved by the Department.
- (g) Specific terms of timeshare rental conditions are set forth in Section 2 (s) of Exhibit B.

## **Section 21. Seasonal Private Exclusive Use Trailers**

- (a) The parties understand and agree that at the effective date of this Agreement, two seasonal private exclusive use trailer areas exist within the Resort consisting of 86 total trailers.
- (b) The Department and Reclamation requires all private exclusive use trailers to connect to a modern waste water system approved by the Department. All costs of sewer upgrades will be borne by the owners of the private exclusive use trailer owners. Proof of such compliance will be submitted to the Department by January 1, 2014.
- (c) All seasonal private exclusive use trailers shall be permitted and operated, at minimum, in accordance with the Standards in Exhibit B. The Department reserves the right to require additional standards to ensure the safe, orderly, serviceable and enjoyable use of the Trailer sites.
- (d) The Department reserves the right to require a removal or relocation of individual trailers, a reduction or relocation of the total number of trailers, or an elimination of the trailers at any time during the term of this agreement for failure to comply with the terms of this Section 21 or failure to comply with the standards in Exhibit B.
- (e) In the event either or both trailer areas are eliminated, the Leased Areas as identified in Exhibit A-1 shall remained leased to Concessionaire for the remainder of the term of this Agreement and shall be available for proposed revenue generating improvements subject to Department approval.

END OF AGREEMENT TEXT

The above and foregoing CONCESSION AGREEMENT was approved by the Game, Fish and Parks Commission on \_\_\_\_\_ authorizing the Director of the Division of Parks and Recreation to execute the same on behalf of the Commission."

Dated at \_\_\_\_\_, South Dakota, this \_\_\_\_ day of \_\_\_\_\_, 2012.

SOUTH DAKOTA DEPARTMENT OF GAME, FISH AND PARKS

BY: \_\_\_\_\_  
Douglas Hofer, Director  
Division of Parks and Recreation

CONCESSIONAIRE

BY: \_\_\_\_\_

U.S. BUREAU OF RECLAMATION

BY: \_\_\_\_\_

## **List of Exhibits**

### Exhibit A

A-1 – Land Assignments (Resort) Maps for areas including Concessionaire and Government Facilities Assigned to the Concessionaire:

- A 1.1 – Angostura Concessions
- A 1.2 – Main Marina and Resort Complex
- A 1.3 – Summersun Trailer Area and Marina
- A 1.4 – Horsehead Trailer Area and Marina

A-2 – List of Concessionaire Facilities and associated possessory interest

A-3 – List of Buildings and Structures Constituting Government Facilities Assigned to the Concessionaire

### Exhibit B

PERFORMANCE STANDARDS FOR THE OPERATIONS AND  
MAINTENANCE OF THE ANGOSTURA RECREATION AREA RESORT

### Exhibit C

TRANSITION TO A NEW CONCESSIONAIRE

### Exhibit D

ADMINISTRATIVE RULES OF SOUTH DAKOTA ARTICLE 41:13, PARK  
CONCESSION LEASES

EXHIBIT A - 1.1  
Angostura Recreation Area Concession Agreement  
Lease Areas

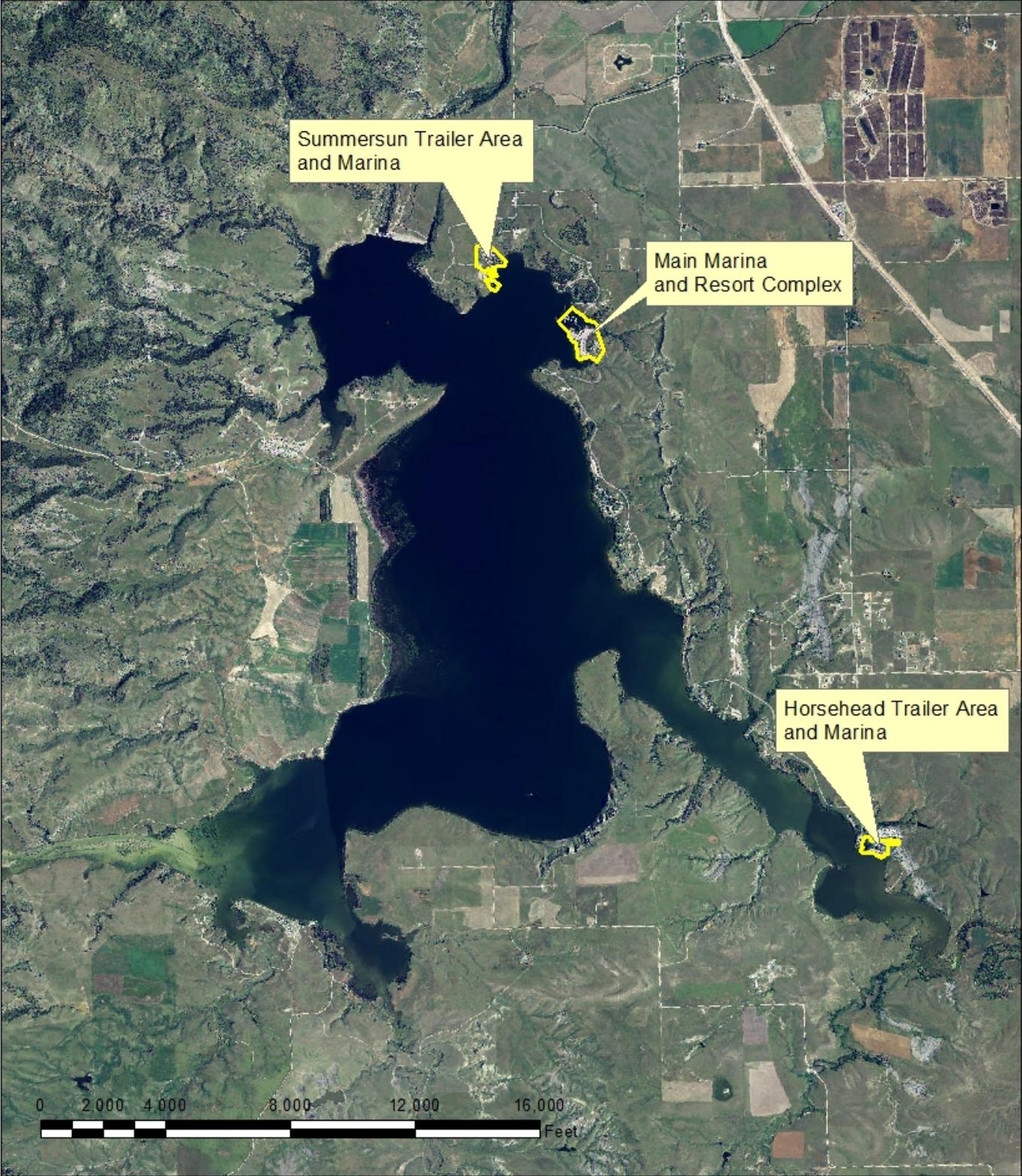


EXHIBIT A - 1.2  
Angostura Recreation Area Concession Agreement  
Main Marina and Resort Complex Lease Area



EXHIBIT A - 1.3  
Angostura Recreation Area Concession Agreement  
SummersunTrailer Area and Marina Lease Area



EXHIBIT A - 1.4  
Angostura Recreation Area Concession Agreement  
Horsehead Trailer Area and Marina Lease Area



## EXHIBIT A-2

List of Concessionaire Facilities and associated possessory interest

<b>CONCESSIONAIRE IMPROVEMENT AUTHORIZATION AND DETERMINATION OF POSSESSORY INTEREST</b>			
<b>South Dakota Division of Parks and Recreation</b>			
<b>Exhibit A-2 attached to and made part of Agreement:</b>			
<b>Concessionaire:</b>		<b>Agreement (Effective Date):</b>	
<b>Concessionaire Facilities and Associated Possessory Interest</b>			
<b>Fac. NO</b>	<b>Description</b>		<b>Possessory Interest at Agreement Effective Date</b>
<b>1</b>	Cabin #2 (2 Bedroom)		100%
<b>2</b>	Cabin #3 (2 Bedroom)		100%
<b>3</b>	Cabin #6 (3 Bedroom)		100%
<b>4</b>	Managers Office/Living Quarters		100%
<b>5</b>	Shed		100%
<b>6</b>	Pool and Heater		100%
<b>7</b>	Main Marina docks (including lifts)		100%
<b>8</b>	Summersun docks		100%
<b>9</b>	Horsehead docks		100%
<b>10</b>	Breakers building		100%
<b>11</b>	Floating Convenience Store building		100%
<b>12</b>	Sanitary pump out		100%
<b>13</b>	Fuel tanks and pumps		100%
<b>14</b>	Trailer area water systems		100%



## **EXHIBIT B**

### **PERFORMANCE STANDARDS FOR THE OPERATIONS AND MAINTENANCE OF THE ANGOSTURA RECREATION AREA RESORT**

The following Performance Standards ("Standards") of the operation and maintenance of the Resort sets forth the specific responsibilities to be performed by the Concessionaire as required by the Agreement entered into on \_\_\_\_\_ . These Standards are an integral element of the Agreement. These Standards set forth the general, operational and maintenance requirements of the Concessionaire with respect to all services, Government Facilities, Concessionaire Facilities and land assigned for use by the Concessionaire at the Resort, unless specifically provided for elsewhere in the Agreement between the parties. The Standards are subject to annual review and may be amended by mutual written agreement of the parties.

Any material deviation from the Standards set forth herein shall be a breach by the Concessionaire of the Agreement and shall be subject to the applicable terms and conditions set forth in the Agreement.

#### **Section 1. General**

All operations and activities shall be conducted in compliance with local, state and federal laws, regulations and standards applicable within the Resort. Use of the assigned area by the Concessionaire is limited to operation of the Resort set forth in the Agreement or as approved by the Department which are necessary to provide the minimum required and authorized services as outlined in Section 3 of the Agreement. The assigned area is defined by Exhibit A-1 of the Agreement. The Department reserves the right for the public to travel across the land, trails, and roads within the Resort boundaries. The Concessionaire shall not restrict access to public waters along the frontage of the Resort boundaries.

#### **Section 2. OPERATIONS**

##### **(a) Dates of Operation**

Resort facilities and services must be open and available to the public. The minimum season for all locations and services, except beachside food service, that shall be considered is daily operation during May 1 until the Tuesday immediately following Labor Day. Beachside food service shall be open on weekends and all holidays from May 1 until the Tuesday immediately following Labor Day. Concessionaire shall have access to the Resort at all times during the term of the agreement. During those periods when the facilities and services are not open to the public, the Concessionaire's

activities shall be limited to those necessary to accomplish its administrative, maintenance, capital improvement and security obligations and responsibilities under the Agreement. Any exceptions to this must be approved by the Department. If the Resort is open or offering services beyond the minimum required dates as required by this Agreement, the Concessionaire must provide a schedule of the days, hours and services that shall be available to the Park Supervisor in advance of any changes in said schedule.

**(b) Hours of Operation**

- (i) On dates when the minimum required services are open and available to the public, operating hours shall be in accordance to the following schedule. Minimum hours of operation shall be required if this service is provided. Maximum hours of operation shall not be exceeded. Operating hours must be posted on the premises.

<b>Operating Hours</b>			
		Minimum	Maximum
	Convenience Store	8:00 am to 8:00pm	6:00am to 11:00pm
	Food Service (Saturday and Sundays)	11:00 am to 7:00pm	8:00am to 11:00pm

- (ii) Deviations from this standard must be submitted in writing and in advance of any modifications and shall be subject to approval by the Department.
- (iii) An authorized representative of the Concessionaire shall be available to the Department’s on-site representative at all times to respond to and handle emergencies. A listing of authorized Concessionaire representatives and their permanent residence telephone numbers shall be provided to the Department at the commencement of the Agreement and annually thereafter to be included in the annual operating plan. Modifications to the listing shall be communicated to the Department within twenty-four hours of the same.

**(c) Utilities**

Electricity – The Concessionaire shall be responsible for activating electrical service with the electric provider and paying directly to the provider all electrical costs attributable to usage of the Resort. The Concessionaire shall be responsible for maintenance of the electrical services that serve the Resort. All electrical repairs shall be conducted by a qualified individual licensed by the South Dakota Electrical Commission.

- (i) Water – The Concessionaire shall be responsible for activating water service with the water provider and paying directly to the provider all water costs attributable to usage of the Resort. The Concessionaire shall be responsible for maintenance of the water systems that serve the Resort. All water system repairs shall be performed by a qualified individual licensed by the South Dakota Plumbing Commission, unless for emergency temporary repairs required to prevent or minimize property damage or for public safety.
- (ii) Sewer – The Concessionaire shall be responsible for activating wastewater disposal service with the wastewater disposal provider and paying directly to the provider all wastewater disposal costs attributable to usage of the Resort. The Concessionaire shall be responsible for maintenance of the sanitary sewer collection system. All sanitary sewer collection system repairs shall be performed by a qualified individual licensed by the South Dakota Plumbing Commission, unless for emergency temporary repairs required to prevent or minimize property damage or for public safety.

The Concessionaire shall ensure that any septic tank within the Resort is pumped as needed and functions properly to ensure the proper operation of the sewer system.

The Concessionaire shall not discharge or permit to be discharged any chemicals, substances or materials into any sanitary or storm sewer system that are not lawful and labeled or designated as acceptable for such discharge into the sewer systems.

- (iii) Garbage Disposal – The Concessionaire shall be responsible for contracting with a local garbage hauler and paying all costs directly to the hauler. The Concessionaire is responsible for providing dumpsters and receptacles of which the size, locations, colors and construction are acceptable to the Park Supervisor. Dumpsters shall be

emptied and maintained as to not allow or encourage overflowing garbage, offensive odors or other unsightly problems. No disposal of refuse of any type shall be permitted within the Park without approval of the Park Supervisor.

- (iv) Television - The Concessionaire shall provide television services to all nightly rental lodging units within the Resort. Expenses for repairs and maintenance of the television signal delivery systems are the responsibility of the Concessionaire.
- (v) Communications - The Concessionaire shall provide telephone and wireless internet services in the restaurant and to the marina slips. Expenses for repairs and maintenance of the telephone and wireless internet systems are the responsibility of the Concessionaire.

**(d) Department Activities**

The Department shall advise the Concessionaire in advance of activities other than maintenance, law enforcement and inspections to be conducted within the Resort, notwithstanding the Department's rights to access as specified in the Agreement.

**(e) Visitor Information**

- (i) The Department shall provide at no expense to the Concessionaire, and the Concessionaire shall make available and provide without charge to all patrons and Resort visitors, informational literature, safety precautions and notification of potential hazards with respect to Angostura Recreation Area.
- (ii) The Department shall cooperate with the Concessionaire in the distribution and communication of available concession services and customer satisfaction surveys, so long as all materials are provided to the Department free of charge, and Department resources are available to perform the requested distribution and/or communication.
- (iii) In an effort to evaluate and improve public services provided by Concessionaires throughout the state park system, the Department may wish to implement customer satisfaction surveys for Concessionaire patrons. The Concessionaire shall cooperate with the Department for the distribution,

collection, and administration of any customer satisfaction surveys or comment cards.

**(f) Orientation Training for Resort and Park Employees**

- (i) All Resort employees and volunteers shall be able to effectively and courteously respond to the public to inform them of all the Resort's and Park's services, activities, and information.
- (ii) The Concessionaire agrees on an annual basis to arrange for and allow Park employees to attend, or as otherwise agreed to be necessary by the Concessionaire and Park Supervisor, an orientation session scheduled and conducted by the Concessionaire to acquaint Park employees with the resources, features and services of Angostura Recreation Area. Concessionaire employees, and designated representatives that are employed by the Concessionaire at the time that the training is offered, shall participate in training provided by the Department on Park regulations and informational topics
- (iii) The Concessionaire shall ensure that all of its employees are trained in risk management, customer relations and food safety (where applicable-for staff involved in food handling).

**(g) Advertising**

- (i) In addition to the provisions under 41:13:02:08, use of the State seal, Department or other logos affiliated with the Division of Parks and Recreation, is expressly prohibited without prior written approval of the Department.
- (ii) Promotional material distributed within the Park is restricted to services and facilities within the Park and region and is subject to approval by the Park Supervisor.

**(h) Special Events**

- (i) Special events planned or promoted by the Concessionaire must be proposed in writing and receive prior written approval of the Department. Written proposals shall be made at least 15 days in advance of the planned special event.
- (ii) Special events are those activities which materially deviate from the minimum required and authorized Resort services. In addition to the written approval of the Department, special

events permits may be necessary. Conformance to all Department regulations related to special events shall be required.

**(i) Employees**

- (i) Any changes or appointments proposed by the Concessionaire to the management personnel that oversee all of the Resort areas are subject to Department approval.
- (ii) Each on-site resort manager must possess the necessary experience and expertise to ensure a high quality resort operation. The Concessionaire shall employ only competent and orderly employees who shall keep themselves neat and clean and accord courteous and competent treatment and service to all patrons. Whenever the Department notifies the Concessionaire that a Concessionaire employee is disorderly, incompetent or unsatisfactory, the Concessionaire shall investigate the matter thoroughly, and take appropriate action to correct.
- (iii) The Department shall issue to all employees and volunteers of the Concessionaire a park entrance license exemption decal to be placed and properly displayed in employee and volunteer vehicles at all times when the vehicles are parked within the Resort. The exemption shall be valid only for current employees and volunteers of the Resort while actively working at the Resort. The exemption decal is valid for employees or volunteers traveling under the most direct route from the Park entrance to their designated work duty station, during designated working hours.
- (iv) In providing visitor services, the Concessionaire must require its employees to observe a strict impartiality as to rates and services in all circumstances.
- (v) The Concessionaire shall ensure that its employees are hospitable and exercise courtesy and consideration in their relations with the public. The Concessionaire shall have its employees who come in direct contact with the public, so far as practicable, wear a uniform or badge by which they may be identified as the employees of the Concessionaire.
- (vi) The Concessionaire shall provide all personnel necessary to provide the visitor services required and authorized by this Agreement.

- (vii) The Concessionaire shall comply with all applicable laws relating to employment and employment conditions.
- (viii) The Concessionaire shall establish pre-employment screening, hiring, training, employment, termination and other policies and procedures for the purpose of providing visitor services through its employees in an efficient and effective manner and for the purpose of maintaining a healthful, law abiding, and safe working environment for its employees. The Concessionaire shall conduct appropriate background reviews of applicants to whom an offer for employment may be extended to assure that they conform to the hiring policies established by the Concessionaire.
- (ix) The Concessionaire shall review the conduct of any of its employees whose actions or activities are considered by the Concessionaire or as reported to the Concessionaire by the Department to be inconsistent with the proper administration of the Area and enjoyment and protection of visitors and shall take such actions as are necessary to correct the situation.
- (x) The Concessionaire shall maintain, to the greatest extent possible, a drug free environment in the workplace and within the Resort. The Concessionaire shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and in the Resort, and specifying the actions that shall be taken against employees for violating this prohibition.

**(j) Signs**

- (i) The Department is responsible for providing and maintaining all traffic control signs within the Resort. The Concessionaire is responsible for providing and maintaining all other signs within the Resort. All signs must be approved in advance by the Department and be of a design and fabrication that is consistent with the signage program of the overall Park.
- (ii) No signs, permanent or temporary, may be erected or placed outside of the Resort, on Department property without the prior written approval of the Park Supervisor.
- (iii) All signs shall be of a professional quality appearance.

- (iv) Signs or other paraphernalia visible to the general public associated with political candidates or issues is expressly prohibited. There shall be no signs visible from outside the buildings within the Resort that contain any advertisements or insignia that identify with intoxicating beverages without the written permission of the Department.

**(k) Lost and Found**

Items found by or turned in to the Concessionaire shall be returned to the owner if identifiable. All other items shall be tagged, showing the location found, name and address of the finder and turned into the Concessionaire office.

**(l) Complaints**

- (i) It is anticipated that from time to time a minimal number of complaints shall be received from the public who utilize the Resort and its services. The Concessionaire shall document and attempt to resolve any and all such complaints, including forwarding a copy of any written communications regarding the same to the Department and the Park Supervisor.
- (ii) Any complaints regarding the Resort received by the Department shall be documented and forwarded to the Concessionaire for resolution.

**(m) Pets**

Pets maintained by Resort employees or guests must be kept under control in accordance with established state park rules. Pets shall not be allowed in public areas such as the restaurants and stores with the exception of service animals pursuant to SDCL 20-12-23.2 and 23.4 and applicable federal laws.

**(n) Safety**

- (i) The Concessionaire must maintain and test all life and property safety equipment, devices and systems according to established and applicable laws, rules, regulations, and codes. Such equipment, devices, and systems may include but are not limited to smoke detectors, fire extinguishers, fire suppression systems, alarms, escape routes and egress openings. Any malfunctions of safety equipment, devices and systems must be reported to the Park Supervisor immediately.

- (ii) The Concessionaire shall immediately notify the Department of any accident of which it has knowledge involving visitors, patrons or employees. The Department shall immediately notify the Concessionaire of any accident that involves personal injury or property damage in the Resort in addition to any pending or actual litigation.
- (iii) The Concessionaire must provide and promote policies and training to its employees on how to detect, report and minimize any unsafe or hazardous situations.

**(o) Rentals**

- (i) All equipment offered to the public for rental shall be maintained in good operating condition and appearance. Defective or damaged equipment shall not be rented at any time.
- (ii) All watercraft that are available for rent shall be equipped with at least one approved personal flotation device per rated passenger. All vessels shall comply with all state and U.S. Coast Guard regulations and laws.
- (iii) All watercraft that are on the water shall be discreetly identified with the company name and an identification number.
- (iv) The Concessionaire shall reasonably attempt to ascertain the prospective renter's ability and competency to safely operate the item(s) being rented. Where reasonable doubt as to the required ability and competency exist, the Concessionaire may refuse to rent the item(s).
- (v) The Concessionaire shall clearly indicate as part of the rental agreements utilized in its operation, the specific and implied liabilities resulting from a prospective customer's use of the rental equipment.

**(p) Food and Beverage Service**

- (i) The Concessionaire shall comply with all applicable health codes, laws and regulations in order to maintain the required South Dakota Department of Health food service establishment license. Copies of all inspection reports must be provided to the Department. The Concessionaire must immediately notify the Department of any deficiency or failure to comply as a result of Department of Health inspections.

- (ii) Food Safety Certification. The Concessioner shall have at least one full-time certified food safety manager. The manager shall be certified as a ServSafe Food Protection Manager by the National Restaurant Association. The Concessioner is required to train all employees involved in food preparation in compliance with all applicable laws.
- (iii) Liquor Laws. The Concessioner shall have at least one full-time manager that has attended a liquor law training program and is required to train all employees involved in alcoholic beverage service in compliance with all applicable laws.
- (iv) On and off-sale alcoholic beverages shall be permitted to the extent that those services authorized under the Concession Agreement and subject to the Concessionaire's securing of all applicable licenses and permits and complying with all applicable state laws.
- (v) All foods, drinks, beverages, confections, refreshments and the like sold or kept on the premises for sale shall be of first quality, wholesome and pure and shall conform in all respects to the applicable federal, state and municipal laws and regulations. No imitation, adulterated or misbranded article shall be sold or kept for sale, and all material on hand shall be sorted and handled with due regard for sanitation.

**(q) Merchandise, Convenience Items and Accessories Sales**

- (i) All merchandise, convenience items and accessories and the like sold or kept on the premises for sale shall be of the first quality, wholesome and pure and shall conform in all respects to the applicable federal, state and municipal laws and regulations. No imitation, adulterated or misbranded article shall be sold or kept for sale. Concessionaire shall be responsible for collecting and remitting all sales taxes as required by law.

At minimum, store locations must provide the following:

1. First aid items such as bandages, antiseptics, pain relievers, skin ointments, sunscreen, and bug repellent.
2. Basic grocery, toiletry and personal items.
3. Ice
4. Fishing tackle and supplies.
5. Basic boating supplies

- (ii) Display areas and shelving are to be clean and attractive and the merchandise well presented and uncluttered.
- (iii) No merchandise shall be sold which persons of normal sensitivity might consider to be obscene, sexually oriented, profane, vulgar or demeaning.
- (iv) Fireworks shall not be sold, stored or used at the Resort.

**(r) Rental Lodging**

- (i) At a minimum, all cabins, including time shares and lodge rooms shall provide the following amenities:
  1. Beverage containers (plastic or glass)
  2. Clock radio or clock
  3. Towel service that correlates to the number of pillows
  4. Iron and ironing board available upon request (irons must be equipped with automatic shut-offs)
- (ii) All cabins and lodge rooms shall be given daily maid service if desired by guests.
- (iii) Posted check in time must be no later than 4:00 p.m. and check out time must be no earlier than 11:00 a.m.
- (iv) Each cabin and lodge room shall contain adequate furnishings jointly acceptable to the Department and Concessionaire.
- (v) Carpets, sheets, bedspreads, pillowcases, blankets, terry and window coverings must not be frayed, faded, worn, stained, odiferous, or contain holes.
- (vi) All rugs must be kept clean and free of stains and offensive odors. Carpets and rugs must be vacuumed daily if desired by the guest.
- (vii) Non-smoking rooms shall be provided in accordance with hospitality industry and guest trends.
- (viii) The front desk shall be available for guest services during the minimum hours of the convenience store during the minimum operating season.
- (ix) Each cabin and room must be equipped with an operational fire extinguisher. Appropriate fire exit information shall be posted in each cabin and room in accordance with South Dakota law.
- (x) Each cabin and room must be equipped with a carbon monoxide and explosive gas detection device, unless room is heated by a non-combustive heating system.
- (xi) Reservations shall be accepted via the phone, email, internet, and regular mail.
- (xii) Rates, charges, check in/check out and appropriate hotel regulations should be posted in each cabin and room.

- (xiii) The Concessionaire shall comply with all applicable laws in order to maintain the required South Dakota State Department of Health lodging establishment license.

**(s) Timeshare Occupation and Rental**

- (i) The Timeshare units shall be occupied by the owner thereof and available for rental by the Concessionaire at least during the minimum season as indicated in Section 2(a) of this Exhibit B.
- (ii) Each timeshare unit shall be available for rental to the public by the Concessionaire a number of days equal to 50% of calendar days during each calendar month which shall include at least two extended weekends (defined as Wednesday check-in time through Sunday check-out time) in each calendar month.
- (iii) All rentals of the units must be through the services of Concessionaire
- (iv) The owner of each unit shall submit its desired dates of occupation for the season to Concessionaire and the Department by February 1 of each year of this agreement. The owner may not occupy the unit for more than a number of days equal to 50% of calendar days during each calendar month and must provide the unit for public rental through the Concessionaire for at least two extended weekends during each calendar month of the operating season. Of these occupied days, at least 50% of those must be part of a multiple day (two or more nights) stays. All days not reserved by the owner shall be designated as available for public rental.
- (v) The Concessionaire or unit owners, any of their subsidiaries, including their respective corporate officers and directors or their respective family members, may not rent, lease or otherwise occupy any of the units owned by such persons during any period of time that said unit has been designated as available for public rental.
- (vi) The Concessionaire shall charge a permit fee of \$\_\_\_\_\_ to the owners each unit and such fee shall be adjusted yearly in accordance with the annual year end adjustment in the Consumer Price Index. The permit fee is considered Gross Receipts and is subject to the Franchise Fee owing to the Department by Concessionaire.
- (vii) The units will be closed and winterized by October 31 of each year and shall not be occupied from November 1 through March 31 unless approved by the Department.
- (viii) Monthly occupancy reports must be submitted to the Department that details both owner and public use for that month.

**(t) Seasonal Private Exclusive Use Trailers**

- (i) The Concessionaire shall issue trailer leases to each individual owner for a maximum of 5 years with a 5-year renewal option. The lease will be reviewed at the end of each five year period and will be subject to approval by the Department.
- (ii) The Concessionaire will assess an annual lease fee to each trailer lease holder which may be adjusted annually by Concessionaire in accordance with Section 4(a) of the Concession Agreement and shall include the annual wastewater assessment fee. Failure on the part of a trailer lease holder to pay the assessment fee will require Concessionaire to pursue action to terminate the trailer lease.
- (iii) The trailer leases must be issued to and the trailers must be occupied by their respective owners. Subleasing is prohibited.
- (iv) The Concessionaire shall establish and continuously maintain a waiting list for interested trailer site renters. The waiting list shall be submitted to the Department by May 1 of each year.
- (v) Upon expiration, non-renewal or termination of an individual lease, the Concessionaire shall offer the site to the first interested renter on the waiting list. If said renter is not able to provide a trailer and occupy the site by the start of the next season, the Concessionaire shall then offer the rental of the site to interested buyers in the order they appear on the waiting list. The offer by the concessionaire and the denial or acceptance of the site by the renter must be in writing and maintained in Concessionaire's records at all times during the term of this agreement and shall be submitted to the Department upon request.
- (vi) Upon expiration, non-renewal or termination of an individual lease, the outgoing renter will be required to remove the renter's property at the renter's expense. Any property not removed within thirty (30) days of permit termination or expiration shall be removed by the Department and the owner of the trailer will reimburse the Department for the expenses of removal.
- (vii) In the event that site rental is granted to an incoming renter in accordance with the above subsection (iv), said renter shall provide its trailer and the moving and installation thereof at its expense.
- (viii) Trailers may not under any circumstances be sold on site or within the Resort or Recreation Area without prior written

- approval from the Concessionaire and Department. In the event of lease non-renewal, expiration or termination whether by cause or voluntary, the trailer must be removed from the site unless otherwise approved by the Concessionaire, which costs will be borne by its owner.
- (ix) Trailer lessees may at any time replace their trailer home upon approval of the structure by the Concessionaire.
  - (x) The Concessionaire reserves the right, in its sole discretion, to determine the acceptability of any trailer proposed to be moved in to the Resort's private exclusive use areas. All trailers proposed to be moved on to the site shall be:
    - a. No older than 25 years at time of proposal
    - b. In safe, sound structural condition as determined by the Concessionaire
    - c. Of acceptable physical appearance as determined by the Concessionaire the criteria for which shall include but not be limited to the condition and color of roofing and siding materials, color of proposed skirting materials as well as condition and color of windows and doors.
    - d. Of modular or manufactured construction.
    - e. Class A, B and C motor homes and pull type campers are allowable for seasonal site rental and occupancy provided they are no more than 10 years old at time of lease issuance, are in road ready condition at all times and are adequately connected to sewer facilities. Any and all units allowed pursuant to this paragraph must be removed over the winter annually.
  - (xi) The Concessionaire, at its discretion, reserves the right to require a replacement, repair, or adjustment of any trailer if deemed necessary.
  - (xii) Trailer size shall not exceed 16 feet in width or 80 feet in length.
  - (xiii) All automobiles, boats, boat trailers on site must be licensed to the lessee of the site, in good working order, in a road-ready condition at all times. Owners may not store such vehicles or boats on the permitted site that are not licensed to them.
  - (xiv) Unoccupied motor homes, campers, or other recreation vehicles (RVs) may not be parked on the site. Guests of Permittee will be allowed to camp on the permitted site but are subject to the non-electric campsite fees set for Angostura Recreation Area and only one (1) camping unit is allowed at any one time for no more than 14 consecutive days.
  - (xv) No vehicles may be present on the permit site unless it is being occupied.

- (xvi) During the period of November 1 through March 31, no vehicles, boats, possessions or personal property including may be visible on the site.
- (xvii) No refuse, junk, scrap materials, furniture, tires or any other discarded items will be visible on the site at any time.
- (xviii) The Department may impose restrictions as to burning or open flame on the permitted site in response to wildfire danger conditions. All outdoor fireplaces must be approved by the Department prior to installation and maintained in accordance with "Guidelines for Minimum Acceptable Safety Requirements for Outdoor Fireplaces" developed by the South Dakota Department of Agriculture, Division of Forestry document no. AG-DOF-216-89.
- (xix) Disorderly or otherwise objectionable conduct by the owner or those occupying the site with his consent shall be cause for the termination of its lease.
- (xx) No livestock or fowl shall be kept on the site.
- (xxi) All pets must be contained or on a leash. Concessionaire may require pets to be removed from the permitted site if they annoy or endanger other users of the area.
- (xxii) No fences or signs shall be erected upon the permitted site unless written approval has been received from the Concessionaire.
- (xxiii) Occupancy of the cabin site or buildings between the 1<sup>st</sup> of November and the 30<sup>th</sup> of April is limited to no more than ten occupied days per month
- (xxiv) Private business or commercial activities shall not be conducted on the site.
- (xxv) The Department reserves the right to enforce at any time the requirements and standards contained in this Section (t).

**(u) Fuel Sales**

- (i) Concessionaire shall be responsible for the proper fueling of all vehicles and boats, instructing the public who wish to fuel their own vehicles on the appropriate safety measures that must be undertaken prior to fueling the vehicle.
- (ii) The fuel storage tanks and dispensing systems shall be operated in accordance with applicable laws

**(v) Guide Service**

- (i) Fishing Guide Service
  1. Guides must possess sufficient knowledge of park resources and safety procedures.

**(w) Boat Slip Allocation Process**

- (i) Near the first of each calendar year slip lease contracts will be sent out to all slip holders of record from the previous season. The concessionaire may refuse issuance of a new slip contract only if the slip holder has materially breached its Department-approved slip rental contract with the Concessionaire. It is required that the previous slip holder return the slip lease with full payment by February 15 to reserve the same slip for the new season. Immediately after that date, changes to slip type or location (requested by returning slip holders) are made if available.
- (ii) Once this process is complete with last year's slipholders, the assignment of vacant slips begins. New slip lease contracts are sent out to any person requesting a slip in writing for the new season on a first come, first served basis. In the case of an over demand for a particular size or location of slips the oldest written request will be honored first.
- (iii) The Department shall have access to all slip rental documentation and correspondence upon request.

**SECTION 3. MAINTENANCE AND FACILITY IMPROVEMENTS**

**(a) General**

All maintenance and facility improvements shall meet all federal, state or local legal and regulatory requirements, including the Americans with Disabilities Act.

**(b) Plans and Materials**

- (i) Proposals by the Concessionaire to change physical facilities, both Government Facilities and Concessionaire Facilities, shall follow procedures outlined in ARSD 41:13.
- (ii) All plans and materials are subject to Department approval.

**(c) Maintenance Responsibilities-Concessionaire**

Maintenance, for the purpose of this Agreement shall include, but not be limited, to all routine, preventative and cyclical maintenance of facilities, equipment, utilities, and grounds necessary for the quality operation and appearance of the Resort.

- (i) Buildings and Structures – The Concessionaire shall maintain all buildings and structures, including Government Facilities, assigned to or owned by the Concessionaire. Maintenance includes, but is not limited to painting, electrical and plumbing maintenance and cleaning. Maintenance and cleaning should be equivalent to that generally provided by skilled workers using commercial quality building maintenance equipment and materials. Exterior and interior paint and roof colors must be approved in advance by the Department.
- (ii) Personal Property – The Concessionaire shall maintain all Personal Property assigned to or owned by the Concessionaire including, but not limited to painting, re-finishing, cleaning, and repairing. Maintenance and cleaning should be equivalent to that generally provided by skilled workers using commercial quality maintenance equipment and materials.
- (iii) Boat Docks and Slips – The Concessionaire shall maintain, replace, install and remove boat docks, slips and marina accesses as authorized and necessary, including the Department-owned breakwater. Off-season storage of boat docks and slips shall be allowed in the locations approved by the Department. The dock surface, floatation and ramps must be in good condition, properly positioned and secured. They must be sturdy, free from cracks, protruding nails or boards or uneven or broken surfacing. The Concessionaire shall be responsible for maintaining proper adjustment of all marina system winches in the main marina as well as proper anchoring for boat slips in the south marina.
- (iv) Reflective Breakwater – Concessionaire shall be responsible for repairs and maintenance to the Department owned reflective breakwater for damages resulting from activities of Concessionaire or its customers.
- (v) Sanitary Boat Pump Out – Concessionaire shall be responsible for maintaining the sanitary boat pump out and lines connecting to the on shore lift station.
- (vi) Sidewalks, Steps, Decks and Landings – The Concessionaire shall maintain all concrete, wood and gravel sidewalks, steps, decks and landings within the Resort. All walking surfaces shall be in good condition, level, smooth, and properly positioned and secured. They must be sturdy, free from cracks, protruding nails or boards or uneven or broken surfacing.

- (vii) Grounds – Mowing, weed/pest control, and maintenance of landscaping within the Resort shall be the responsibility of the Concessionaire. The grounds shall be maintained at a level that will provide an attractive, safe, functional and nuisance-free environment. All trees shall be maintained according to generally accepted arboricultural techniques appropriate for this geographic area. Hazard trees may be removed from the Resort with the approval of the Department. All turf areas shall be established and maintained according to generally accepted turf culture appropriate to this geographic area.
- (viii) Garbage and Trash – The Concessionaire shall be responsible for all litter pickup and removal of trash in the Concession Area. Garbage and trash from the Resort shall be disposed of on a regular basis through a Concessionaire maintained contract with a local garbage hauler. The Concessionaire shall provide outdoor receptacles in high traffic areas. All receptacles are to be provided by the Concessionaire and shall be kept clean, well maintained, serviceable and contained where necessary.
- (ix) Flagpoles, Television and Radio Antennas, Satellite Dishes – The Concessionaire shall provide maintenance for all masts and electronic systems for entertainment/communication devices. As with other structures, construction, modification or relocation of these devices require prior written approval of the Park Supervisor.
- (x) Health and Safety – Facilities assigned to the Concessionaire are subject to periodic inspections for health and safety requirements. Repairs, corrections, improvements or operational changes determined necessary by the Department as a result of these inspections shall be at the sole cost and responsibility of the Concessionaire.
- (xi) Fire Protection Equipment – The Concessionaire shall provide and maintain in good working order, fire detection and protection systems that conform to and comply with applicable laws. The Concessionaire shall comply with all directives or recommendations of the Fire Marshall's office.
- (xii) Locks – The Concessionaire shall provide the Park Supervisor with Resort facility keys necessary for security, emergency or other lawful purposes.

- (xiii) Winterizing Facilities – The Concessionaire is responsible for taking appropriate measures to protect all facilities for which the Concessionaire has maintenance responsibility. Protective measures may include (but not limited to), draining and flushing of water lines, window bracing, and utility shut-offs. The Concessionaire is responsible for spring re-opening while it is the concessionaire.

Snow Removal. The Concessionaire shall be responsible for snow removal within the Resort including parking lots and sidewalks that serve Concessionaire facilities. The Concessionaire is responsible for marking fire hydrants, propane tanks, and other fuel storage/dispensing facilities with snow stakes/flags and for keeping snow clear around hydrants.

- (xiv) Grease Traps (if applicable). The Concessionaire shall be responsible for maintaining grease traps. Grease traps must be pumped on a regular basis, with documentation available to the Department, and the grease disposed of outside the Park and in accordance with applicable laws. The Concessionaire shall notify the Department within 24 hours in the event of a grease trap failure.
- (xv) Restrooms. All restrooms within Resort shall be well maintained by the Concessionaire, cleaned and restocked with paper products a minimum of two times per day, and with greater frequency during peak periods. Fixtures and equipment shall be fixed immediately upon notification of a problem. No bathroom fixture shall be left out of order for more than 24 hours.
- (xvi) Fire Grates. All fire grates and fire places must be properly maintained. Outdoor fireplaces must be maintained in accordance with “Guidelines for Minimum Acceptable Safety Requirements for Outdoor Fireplaces” developed by the South Dakota Department of Agriculture, Division of Forestry document no. AG-DOF-216/89. The Park Supervisor may impose fire restrictions at any and all resort locations at any time as the result of wildfire risk assessments.
- (xvii) Rental Lodging: Case goods shall be well maintained and repaired to ensure a pleasant and safe guest experience. Any scratches and/or defacement of case goods shall be fixed or the piece of furniture shall be replaced prior to the room being rented. All case goods (unless historic) shall be replaced or refurbished at least once every 15 years, based on current estimated age and expected life cycle, or sooner

if a furnishing does not meet facility standards. Mattresses shall be replaced every 10 years or sooner, based on estimated age if their condition warrants it. Soft goods shall be clean and free from any stains, holes or tears. An adequate inventory of replacement soft goods shall be kept on hand in order to replace damaged soft goods prior to renting a rental unit. Soft goods shall be replaced every seven years or sooner if the condition warrants it.

(xviii) Swimming Pool – the Concessionaire shall be responsible for maintaining the swimming pool and ensuring that the pool and water quality meets all applicable codes and standards.

(xix) Restaurants. Restaurant tables and chairs shall be well maintained and repaired to ensure a pleasant and safe guest experience. Any scratches and/or defacement of items shall be fixed or the piece of furniture shall be replaced prior use. All tables and chairs (unless historic) shall be replaced or refurbished at least once every 10 years, based on current estimated age and expected life cycle, or sooner if a furnishing does not meet facility standards. Soft goods, including linen, shall be clean and free from any stains, holes or tears. An adequate inventory of replacement soft goods shall be kept on hand in order to replace damaged soft goods.

The Concessionaire is responsible for annually cleaning and inspecting active chimneys and exhaust ducts, Inspecting range/grill hoods monthly and cleaning as required.

(xx) Retail Operations. All shelving and merchandise display areas shall be sound, secure, clean and presentable..

(xxi) Cold Storage Area – the Concessionaire shall be responsible for maintaining the cold storage area which includes orderly storage of concession owned items, keeping the area restricted from public access and removing any damaged, broken or unusable materials or supplies.

(xxii) Removable equipment. All Concessionaire operated appliances, machinery, and equipment; including parts, supplies and related materials will be maintained, serviced, and repaired per manufacturer's recommendations, and replaced as necessary.

(xxiii) Gas tanks, pumps, lines, spill containment system and leak detection. All systems included in the fuel storage, delivery,

dispensing, and leak/spill detection must be maintained by the Concessionaire to ensure its optimum functionality.

- (xxiv) Roads and Parking Lot – The concessionaire shall be responsible for maintenance and grading of all non-paved areas within the Resort Lease Areas.

**(d) Maintenance Responsibilities-Department**

- (i) Roads and Parking Lot – The Department will be responsible for maintenance of roads and parking lots within the Resort. This maintenance will include necessary crack seal, pothole repair and surfacing of paved areas. Snow Removal will be in accordance with Section 3 (d) (ii) of this Exhibit below.
- (ii) Snow Removal – The Department will be responsible for snow removal necessary to maintain access to key public and administrative areas located within the Resort. Snow removal will be performed on weekdays (Monday – Friday) during regular park employee work hours (8:00 a.m. – 5:00 p.m.). During these periods, the Department is not obligated to perform snow removal until snowfall, blowing and drifting have ceased. The Department cannot guarantee snow removal for the access road outside of regular park employee work hours, but agrees to cooperate if staff is reasonably available to perform such duties.
- (iii) Reflective Breakwater – the Department shall be responsible for repairs and maintenance on the reflective breakwaters necessary as a result of normal wear and tear or at end of useful life. The maintenance responsibilities of the Department are limited to the main structure only. Concessionaire is responsible for the maintenance and repairs on its slips connected to the reflective breakwater.
- (iv) Government facilities – the Department shall be responsible for maintaining the following facilities within the main marina area: Boat ramps, dock and courtesy dock; Grooming Ski Beach weekly during the operating season; Double vault toilet; beach rest room facility; two sanitary lift stations; provide one trash receptacle at boat ramp; provide one trash receptacle at Ski Beach parking lot.
- (v) Groundskeeping – the Department shall be responsible for the following groundskeeping activities within the main marina area: mowing, trimming, landscaping, trees and irrigation to the area between the ski beach and the parking lots and along the main access road and bike trail.

## **SECTION 4. INSPECTIONS AND AGREEMENT COMPLIANCE REVIEWS**

### **(a) Maintenance Inspections**

- (i) Representatives from the Department and the Resort shall conduct preventative maintenance and inspections of the Resort grounds and facilities. At minimum, at least one inspection will be held in the spring prior a week before Memorial Day and in the fall no later than October 31. The purpose of the inspection will be to identify the current conditions and maintenance levels of the facilities and Personal Property therein.
- (ii) Upon analysis of the results of the inspection, the Department will present the Concessionaire with a written list of maintenance objectives for which the Concessionaire is responsible and a list of maintenance objectives the Department is responsible for in the Resort. The Department and the Concessionaire will jointly agree to the prioritization of the projects and the schedule for completing the identified maintenance work. The Department and Concessionaire shall also agree as to what projects are to be included to satisfy the Repair and Maintenance Reserve as required in Section 14 of the Concession Agreement. The Concessionaire shall submit a repair and maintenance program and plan to the Department for approval no later than November 1 of each year.
- (iii) In the event that the Concessionaire refuses or fails to perform any of the projects identified by a date and time specified in the written inspection report, the Department specifically reserves the right to complete the project(s) and charge the resulting expenses to the Concessionaire.

### **(b) Health, Safety, and Fire Inspections**

- (i) There may be other inspections as required by law or insurance policies pertaining to but not limited to health, safety, fire, and environmental rules and regulations that are the responsibility of other agencies or authorities. The Concessionaire must notify the Department in advance of any such inspection and allow Department staff to accompany the inspection.
- (ii) Copies of the inspection or report must be provided to the Department upon request. Any failures, substandard or

otherwise unsatisfactory scores, inspections or individual components of an inspection must be reported to the Department immediately.

**(c) Agreement Compliance Audits**

- (i) The Department reserves the right to conduct Agreement Compliance Audits during the course of each Agreement year. The purpose of the Audit will be to ascertain on a qualitative and quantitative basis, the Concessionaire's compliance with all requirements of the Agreement. The form and content of such an audit may include but not be limited to; inspections, product sampling, customer surveys, blind shopping, interviews and other techniques as required to satisfy the Department that all elements and requirements are being performed at a level consistent with the Standards and other covenants of the Agreement. A written summary of the results of the performance audit will be provided to the Concessionaire. When remedial actions are needed, a specific date will be given for a follow-up audit to ensure the necessary corrective measures have been taken. In the event that corrective measures have not been implemented by the date specified, the Department reserves the right to take the necessary action and then bill the Concessionaire for the direct cost of the corrective action taken.

## EXHIBIT C

### TRANSITION TO A NEW CONCESSIONAIRE

#### **Section 1. In General**

The Department and the Concessionaire hereby agree that, in the event of the expiration or termination of this Agreement for any reason (hereinafter "Termination" for purposes of this Exhibit) and the Concessionaire is not to continue the operations authorized under this Agreement after the Termination Date, the Department and the Concessionaire in good faith will fully cooperate with one another and with the new Concessionaire or Concessionaires selected by the Department to continue such operations ("New Concessionaire" for purposes of this Exhibit), to achieve an orderly transition of operations in order to avoid disruption of services to park area visitors and minimize transition expenses.

#### **Section 2. Cooperation Prior to the Termination Date**

At such time as the Director may notify the Concessionaire that it will not continue its operations upon the Termination of this Agreement, the Concessionaire shall, notwithstanding such notification:

##### **(a) Continue Operations.**

Continue to provide visitor services and otherwise comply with the terms of the Agreement in the ordinary course of business and endeavor to meet the same standards of service and quality that were being provided previously, and with a view to maintaining customer satisfaction.

##### **(b) Continue Bookings.**

Continue to accept all future bookings for any hotel, lodging facilities, or other facilities and services for which advance reservations are taken; not divert any bookings to other facilities managed or owned by the Concessionaire or any affiliate of the Concessionaire; and notify all guests with bookings for any period after the Termination Date that the facilities and services are to be operated by the New Concessionaire. The Concessionaire may quote rates based upon rates approved by the Department. Promptly following notification to the Concessionaire by the Department of the selection of the New Concessionaire, the Concessionaire shall provide the New Concessionaire with a copy of Concessionaire's reservation log for visitor services as of the last day of the month prior to the selection of the New Concessionaire, and thereafter the Concessionaire shall update such log on a periodic basis (but no less frequently than thirty (30) days) until the Termination Date. The reservation log shall include, without limitation, the name of each

guest, and the guest's (1) address, (2) contact information, (3) dates of stay, (4) rate quoted, (5) amount of advance deposit received and (6) confirmation number, if applicable.

**(c) Designating a Point of Contact and Other Actions.**

Cooperate with the Department and the New Concessionaire to ensure the smooth transition of operations by: (1) designating one of the Concessionaire's executives as the point of contact for communications between the Concessionaire and the New Concessionaire; (2) providing the Department and the New Concessionaire with access to any assigned Real Property Improvements, including "back-of-house areas" and including copies of the keys to assigned Real Property Improvements; (3) providing the Department and the New Concessionaire with full access to the books and records, licenses and all other materials pertaining to any assigned Government Facilities and Concessionaire Facilities and the Concessionaire's operations in general; (4) providing the Department and the New Concessionaire with copies of all maintenance agreements, equipment leases (including short-wave radio) service contracts and supply contracts, including contracts for on-order merchandise (collectively, "Contracts"), and copies of all liquor licenses and other licenses and permits (collectively, "Licenses"); (5) allowing the New Concessionaire to solicit and interview for employment all of the Concessionaire's salaried and hourly employees, including seasonal employees through a coordinated process implemented by the Concessionaire; and (6) not entering into any contracts or agreements that would be binding on any assigned Government Facilities or Concessionaire Facilities or operations in general after the Termination Date without the prior written agreement of the New Concessionaire.

**(d) Financial Reports.**

Within 30 days after receipt of the notification of the selection of the New Concessionaire, provide the New Concessionaire with a financial report with respect to the operation of any assigned Real Property Improvements and the Concessionaire's operations in general as of the last day of the month prior to receipt of such notification.

Thereafter, the Concessionaire shall update such financial report on a periodic basis (but no less frequently than thirty (30) days) until the Termination Date. Such financial report shall include, at a minimum:

- (i) A balance sheet for the Concessionaire's assigned Real Property Improvements, if any;
- (ii) a schedule of pending accounts payable; and
- (iii) a schedule of pending accounts receivable.

**(e) Inventory and Personal Property.**

Provide the New Concessionaire with a complete, detailed and well-organized list of physical inventory, supplies, and other Personal Property owned or leased by the Concessionaire in connection with its operations under the Agreement (including a list of such items that are on-order) The list shall be provided to the New Concessionaire within thirty (30) days following receipt of the notification of the selection of the New Concessionaire, shall be updated monthly thereafter, and shall designate those items that the Concessionaire believes are essential to maintaining the continuity of operations or the special character of its operations. The Concessionaire shall assist the New Concessionaire in reviewing and validating the list.

**(f) Other Information and Reports.**

Provide the New Concessionaire with all other information and reports as would be helpful in facilitating the transition, including, without limitation, a list of maintenance records for the Concessionaire's operations for the period of one year prior to notification of the selection of the New Concessionaire, and complete information with respect to: (1) utilities, including gas and electric; (2) telephone service; (3) water service; and, (4) specific opening and closing procedures. Such information shall be provided within thirty (30) days after receipt of notification of the selection of the New Concessionaire, and shall be updated periodically (but no less frequently than thirty (30) days) until the Termination Date.

**(g) Access to Facilities**

Provide the New Concessionaire reasonable access to Concessionaire Facilities and Government Facilities to facilitate the transition and transfer.

**(h) Other Cooperation.**

Provide the Department and the New Concessionaire with such other cooperation as may be reasonably requested.

**Section 3. Cooperation Upon the Termination Date.**

Upon the Termination Date, the Concessionaire shall:

**(a) Transfer of Contracts and Licenses.**

Cooperate with the transfer or assignment of all Contracts and Licenses entered into by the Concessionaire that the New Concessionaire elects to assume.

**(b) Reservation Systems.**

- (a) Provide the New Concessionaire with an update of the reservation log through the Termination Date;
- (b) disconnect its operations from the Concessionaire's centralized reservation system, if any; and
- (c) cooperate with the New Concessionaire in transitioning to the New Concessionaire's reservation system.

**(c) Fees and Payments.**

Within ten (10) days after the Termination Date, the Concessionaire shall provide the Department with an itemized statement of all fees and payments due to the Department under the terms of the Agreement as of the Termination Date, including, without limitation, all deferred, accrued and unpaid fees and charges. The Concessionaire shall, within ten (10) days of its delivery to the Department of this itemized statement, pay such fees and payments to the Department. The Concessionaire and the Department acknowledge that adjustments may be required because of information that was not available at the time of the statement.

**(d) Access to Records.**

Notwithstanding any other provision of this Agreement to the contrary, upon the Termination Date, the Concessionaire shall make available to the Department for the Department's collection, retention and use, copies of all books, records, licenses, permits and other information in the Concessionaire's possession or control that in the opinion of the Department, are related to or necessary for orderly and continued operations of the related facilities and services.

**(e) Removal of Marks.**

Concessionaire shall within thirty (30) days after Termination, remove (with no compensation to Concessionaire) all items of inventory and supplies as may be marked with any trade name or trademark belonging to the Concessionaire.

**(f) Other Cooperation.**

Provide the Department and the New Concessionaire with such other cooperation as may be reasonably requested.



## **DEPARTMENT OF GAME, FISH, AND PARKS**

Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3182

November 7, 2012

*Angostura Trailer Owner*  
*Address*  
*City, State ZIP*

*Dear Trailer Owner,*

HDR Engineering has completed a preliminary design and budget estimate for the proposed wastewater system for the Angostura seasonal trailer areas. This estimate is the basis for the financing package that we will propose to the 2013 Legislature.

It has been determined that a shared centralized system is the best alternative and will reduce the anticipated annual cost for the trailer owners. While a number of the public park facilities are currently on septic treatment systems, it would be practical to consider the park's future utilization of this system when these individual systems require replacement. Therefore, the Department requested that HDR break out the costs of a system that would serve all 86 trailer sites as well as public park facilities that may be added to the system in the future.

The analysis provided by HDR indicates that the portion of the sewer improvement project designed for the trailers is 62.7%. This percentage is attributable to the trailer areas distance from the lagoons and the volume of sewage potentially produced. The Department will fund 37.3% of the construction of the project. The repayment of the trailer owner's share of the sewer project will result in an annual assessment for each trailer owner of approximately \$800 or about \$200 less than HDR estimated in April at the public meeting with the trailer owners.

The interest rate and length of the bond term will be finalized at the time of the bond sale. These variables will determine the final fixed annual assessment for each participant. Our current estimate for the annual assessment is based on 4½ percent interest with a payback of 25 years on the bonds.

In order to finalize our funding request to the Legislature, we are requiring an earnest payment of \$800 by December 7, 2012. The payments will help demonstrate the viability of this project to the legislature. If the bonding legislation is approved, the earnest payment will allow the Department to move forward on a final set of construction plans with construction anticipated to begin in the fall of 2013. As stated in

the past, should the bonding proposal fail, earnest money will be refunded in full soon after the legislative session concludes.

In September the Department requested comments on the draft standards for the trailer areas. We received a number of telephone calls and written comments. The most common comments involved the new requirements regarding trailer sale and lot transfer as well as the age limitation placed on trailers at the time of sale or transfer.

We have discussed these standards and comments with the Game, Fish and Parks Commission. The current process whereby the trailer owner determines the successor permittee through the sale of their trailer must be discontinued. However, all trailers existing at the onset of the new concession lease will be allowed to remain on their lot for as long as the lot permit is held by the existing owner. Upon permit transfer, any outdated trailers would need to be removed and replaced with a compliant trailer. As lots become available they will be offered on a first come, first served basis. In accordance with Commission direction, this requirement will be part of the new concession agreement. In response to comments received, the age limitation for trailers will be lengthened to 25 years provided that the trailer is in good condition.

As stated earlier, your earnest money payment of \$800 is your commitment to help finance the new sewer system and is due by December 7, 2012. Those permit holders choosing not to participate in funding the system will not be offered a site in 2014 when the system becomes operational.

If you have any questions regarding this matter, please contact me at 605.773.3391 or Willy Collignon at 605.745.6996.

Sincerely,



Sean Blanchette  
Concessions Manager, Division of Parks and Recreation

CC: Douglas Hofer, Director, Division of Parks and Recreation  
Willy Collignon, District Park Supervisor, Angostura Recreation Area  
Joe Hall, US Bureau of Reclamation  
Angostura Resort Management, Inc.



**DEPARTMENT OF GAME, FISH, AND PARKS**

Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3182

November 29, 2012

*Angostura Trailer Owner  
Address  
City, State ZIP*

Dear Trailer Owner,

This letter is a reminder that the earnest money payment of \$800 is due by December 7, 2012. This payment is your commitment to help finance the new sewer system for the concession managed trailer areas at Angostura Recreation Area. As stated in the November 7, 2012 certified letter sent to you, those permit holders choosing not to participate in funding the system will not be offered a site when the new system becomes operational.

You may send payment to:

South Dakota Department of Game, Fish and Parks  
Attn: Sean Blanchette  
523 East Capitol  
Pierre, SD 57501-3182

If you have any questions, please contact me at 605.773.3391 or Willy Collignon at 605.745.6996.

Sincerely,

Sean Blanchette  
Concessions Manager, Division of Parks and Recreation

CC: Douglas Hofer, Director, Division of Parks and Recreation  
Willy Collignon, District Park Supervisor, Angostura Recreation Area  
Joe Hall, US Bureau of Reclamation  
Angostura Resort Management, Inc.

**47th Annual Custer State Park Fall Classic  
Bison Auction  
November 17, 2012**

<b>CLASS</b>	<b># SOLD</b>	<b>TOTAL \$</b>	<b>2012 AVERAGE</b>	<b>2012 AVERAGE WEIGHT</b>	<b>2011 AVERAGE</b>	<b>2010 AVERAGE</b>
MATURE BRED COWS	26	\$44,300.00	\$1,703.85	1013	\$2,000.00	\$ 1,800.00
MATURE OPEN COWS	16	\$25,800.00	\$1,612.50	1056	\$1,487.50	N/A
2 YEAR OLD BRED HEIFER	41	\$104,525.00	\$2,549.39	885	\$2,740.00	\$ 2,088.89
2 YEAR OLD OPEN HEIFER	3	\$6,500.00	\$2,166.67	857	N/A	N/A
YEARLING HEIFERS	9	\$11,950.00	\$1,327.78	632	\$1,529.17	\$ 1,640.00
HEIFER CALF - light	24	\$19,250.00	\$802.08	302	N/A	N/A
HEIFER CALF - heavy	35	\$48,775.00	\$1,393.57	248	\$904.25	\$ 1,381.37
BULL CALF - light	32	\$34,625.00	\$1,082.03	313	N/A	N/A
BULL CALF -heavy	34	\$38,325.00	\$1,127.21	356	\$1,283.33	\$ 1,238.33
YEARLING BULLS	19	\$28,400.00	\$1,494.74	677	\$1,727.17	\$ 1,465.22
2 YR OLD BREEDING BULL	11	\$29,200.00	\$2,654.55	994	\$2,645.00	\$ 2,021.43
2 YR OLD GRADE BULL	5	\$10,100.00	\$2,020.00	908	\$2,073.08	\$ 1,825.00
<b>TOTAL NUMBER</b>	<b>255</b>				<b>214</b>	<b>177</b>
<b>TOTAL BUFFALO</b>		<b>\$401,750.00</b>			<b>\$317,200.00</b>	<b>\$ 258,500.00</b>
5% Breeding Bull Discount		-\$1,035.00				
<b>BURROS</b>	<b>15</b>	<b>\$1,450.00</b>			<b>18@\$48.61</b>	<b>15@\$74.33</b>
<b>HORSES</b>	<b>0</b>	<b>\$0.00</b>			<b>1@\$1,500</b>	<b>0</b>
<b>TOTALS</b>		<b>\$402,165.00</b>			<b>\$319,575.00</b>	<b>\$259,615.00</b>

# GAME, FISH AND PARKS COMMISSION ACTION PROPOSAL

## Black Hills Bighorn Sheep Hunting Season

Chapter 41:06:56

<b>Commission Meeting Dates:</b>	<b>Proposal</b>	<b>December 6-7, 2012</b>	<b>Pierre</b>
	<b>Public Hearing</b>	<b>January 10, 2013</b>	<b>Ft. Pierre</b>
	<b>Finalization</b>	<b>January 10-11, 2013</b>	<b>Ft. Pierre</b>

### DEPARTMENT RECOMMENDATION

**Season Dates:** September 1 – December 31, 2013

**Open Area:**

Unit 1: Pennington County west of Highway 79, except Mount Rushmore National Memorial

Unit 2: Custer County west of Highway 79, except Custer State Park, Wind Cave National Park, and Jewel Cave National Park

**Licenses:**

Unit 1: 1 “any bighorn sheep” license

Unit 2: 2 “any bighorn sheep” licenses



#### **Requirements and Restrictions:**

1. All licensees are required to attend an orientation meeting prior to the opening day of the season at the regional office in Rapid City.
2. Application for a license may be made by any resident hunter who has not been previously issued a bighorn sheep license in South Dakota.
3. Hunters can only apply for one of the two Black Hills Bighorn Sheep units.
4. Land operator preference is not applicable to these licenses.
5. All successful hunters must submit their bighorn sheep to a conservation officer or Department representative for inspection and permanent marking within 24 hours after the kill.

#### **Recommended changes from last year:**

1. Increase the number of licenses available in Unit 2 from 1 "any bighorn sheep" to 2 "any bighorn sheep".
2. One of the two available licenses in Unit 2 would be sold by auction pending: 1) approval of auction license rules by Interim Rules Review Committee, and 2) approval by Commission resolution selecting the single application received requesting the opportunity to auction the license.

### SUPPORTIVE INFORMATION

Bighorn sheep sub herds in Unit 1 continue to experience poor lamb recruitment. Preliminary data from ongoing research through SDSU suggests that the majority of lamb recruitment is being lost primarily due to pneumonia (37% of total mortality) and predation (25% of total mortality). This has significantly reduced the recruitment of rams into the population, resulting in fewer Class I, II and III rams. This means less rams overall and less rams reaching maturity which will mean fewer rams available for harvest in the future. Unit 2 has a sufficient amount of rams from all classes to support an increase in licenses. Two licenses are recommended for this harvest opportunity.

Year	Licensed Hunters	Rams Harvested	Ewes Harvested
2008	5	5	0
2009	5	5	0
2010	5	5	0
2011	3	3	0
2012	2	2	0

<b>APPROVE</b> _____	<b>MODIFY</b> _____	<b>REJECT</b> _____	<b>NO ACTION</b> _____
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# GFP Wildlife Damage Management Program – Working Group

## Member List

### Region 1:

Jeff Sleep  
20017 Mill Creek Rd  
Spearfish, SD 57783  
Phone: 642-3773

### Region 2:

Lyle Perman  
30872 143 Street  
Lowry, SD 57472  
Phone: 649-7629  
Email: [lyle@rockhillsranch.com](mailto:lyle@rockhillsranch.com)

### Region 3:

Bob Vosburg  
47339 256<sup>th</sup> St.  
Renner, SD 57055  
Phone: 366-8117, 543-5856  
Email: [elkman@alliancecom.net](mailto:elkman@alliancecom.net)

### Region 4:

Bob Tiff  
513 Main Street  
PO Box 596  
Redfield, SD 57469  
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Email: [rtiff@amfam.com](mailto:rtiff@amfam.com)

### Other Members:

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SD Wildlife Federation  
PO Box 7075  
Pierre, SD 57501  
Phone: 224-7524, 222-1002 (C)  
Email: [sdwf@mncomm.com](mailto:sdwf@mncomm.com)

### Other Members:

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### GFP Staff:

Emmett Keyser  
Tom Kirschenmann  
Keith Fisk  
Mike Kintigh  
Cliff Stone  
Arden Petersen  
Scott Lindgren

## 2013 SCHEDULE FOR SETTING SEASONS/REGULATIONS

<b>DATE</b>	<b>LOCATION</b>	<b>SEASON</b>	<b>PROPOSE</b>	<b>FINALIZE</b>
January 10-11	Ft. Pierre <i>AmericInn</i>	Special Buck Public Lands Public Waters Refuges	January	March
February		NO MEETING		
March 7-8	Ft. Pierre <i>AmericInn</i>	CSP Bison CSP Elk (multiple seasons) Archery Elk Black Hills Elk Prairie Elk Mountain Goat Grouse Pheasant (three seasons) Partridge Quail Cottontail Squirrel Crow & Crane Snipe & Dove Dog Training Season Dates	March	April
April 4-5	Winner <i>Holiday Inn Express</i>	Nonresident Waterfowl Special Canada Goose Tundra Swan	April	May
May 2-3	CSP <i>Creekside Lodge</i>	*CSP Deer *East River Deer West River Deer Black Hills Deer *Refuge Deer Archery Deer Muzzleloader Deer Youth Deer Archery Antelope Fall Turkey Furbearers/Trapping August Management Take Rules for New State Laws	May	June
June 6-7	Pierre <i>Visitor's Center</i>	Antelope CSP Antelope Early Fall Canada Goose Youth Waterfowl Sage Grouse	June	July
July 8-9	Pierre <i>Ramkota</i>	Waterfowl Depredation Hunts	July	August
August 1-2	Watertown <i>Event Center</i>	Mountain Lion	August	October
September		NO MEETING		
October 3-4	Spearfish <i>Holiday Inn Express</i>	Fishing Regulations Bait Fish Private Fish Hatcheries Fish Importation	October	November
November 7-8	Pierre <i>Ramkota</i>	Spring Turkey (archery turkey) CSP Spring Turkey Spring Light Goose	November	December
December 5-6	Pierre <i>Ramkota</i>	*Bighorn Sheep	December	January

\*Denotes a change in schedule from last year.

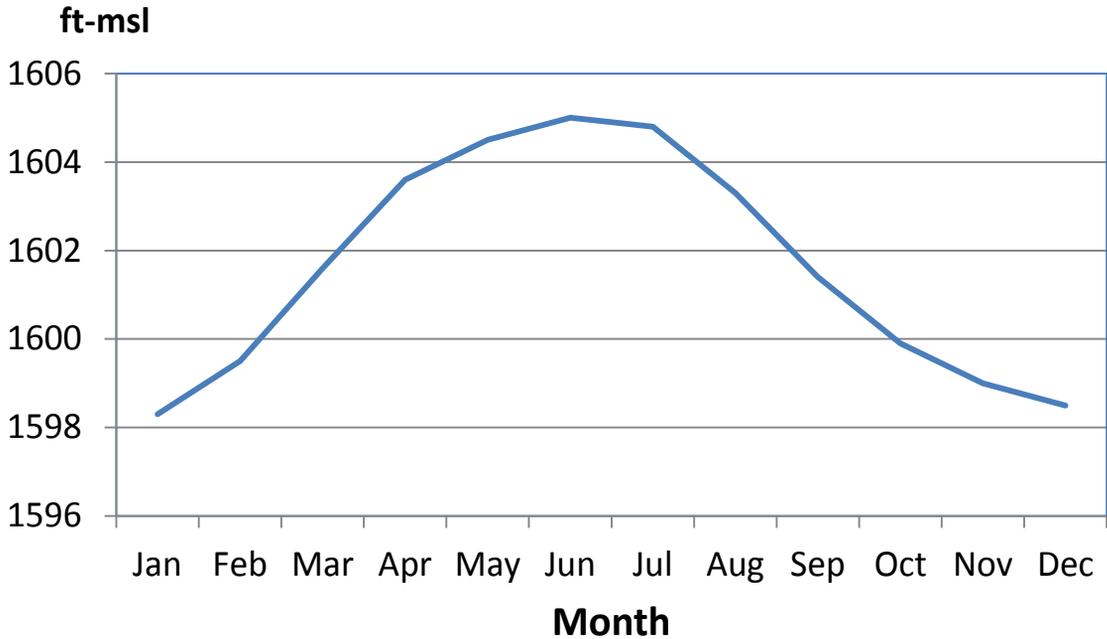
**Deer Hunting License Returns - 2012**

<b>Season</b>	<b>License</b>		
	<b>Licenses Returned</b>	<b>Tags Returned</b>	<b>Reimbursements</b>
Archery	143	163	\$13,885
Black Hills	61	61	\$8,035
East River	1,130	1,547	\$36,975
Special Buck - ER	20	20	\$3,100
Landowner ER & WR	9	13	\$185
Refuge	11	12	\$890
Muzzleloader	70	85	\$1,540
West River	1,126	2,399	\$98,470
Special Buck - WR	35	35	\$13,475
Youth	12	12	\$80
Mentored Youth	7	7	\$35
<b>Total</b>	<b>2,624</b>	<b>4,354</b>	<b>\$176,670</b>

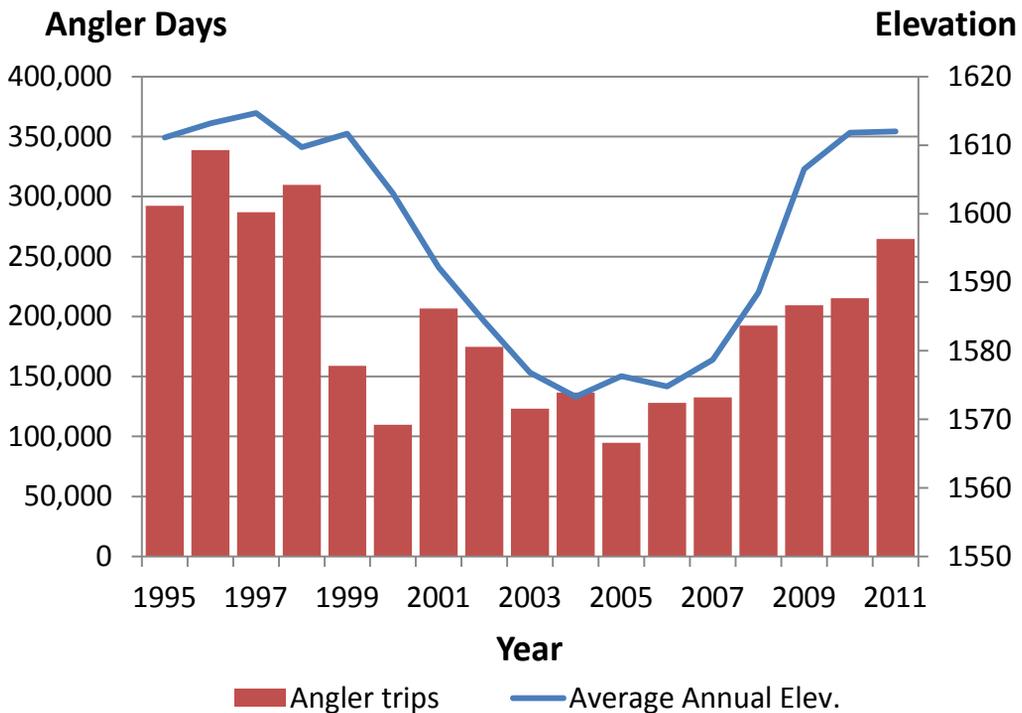
<b>County</b>	<b>Hunter</b>	<b>Department</b>	<b>Total</b>	<b>Total</b>
	<b>Licenses (tags)</b>	<b>Licenses (tags)</b>	<b>Licenses (tags)</b>	<b>License (tags)</b>
	<b>Returned</b>	<b>Removed</b>	<b>Reduced</b>	<b>Allocated</b>
Bon Homme	165 (194)	114 (114)	279 (308)	700 (800)
Charles Mix	203 (406)	212 (424)	415 (830)	1050 (2100)
Clay	29 (29)	276 (276)	305 (305)	700 (700)
Hutchinson	204 (204)	279 (279)	483 (483)	800 (800)
Union	50 (50)	65 (65)	115 (115)	750 (750)
Yankton	151 (151)	115 (115)	266 (266)	800 (800)



# Average Monthly Lake Elevation



# Angler Days vs. Lake Elevation



Based on average midnight elevations from Corps records

# Lake Oahe Boat Ramps

December 2012

## Primary Ramp

## Secondary Ramp

Okobojo	
Garrigans Landing	Garrigans Landing
Point of View	
Grand River	
Jeds Landing	
Bushs Landing	Bushs Landing
East Whitlock	East Whitlock
Little Bend	Little Bend
Sutton Bay	Sutton Bay
Foster Bay	
Shaw Creek	Shaw Creek
Peoria Flats	
Forest City	
Dodge Draw	
Chantier Creek	Chantier Creek
South Whitlock	
West Pollock	West Pollock
Minneconjou	Minneconjou
Thomas Bay	
West Whitlock	West Whitlock
Indian Memorial	
Bobs Landing	Bobs Landing
Cow Creek	Cow Creek
West Shore	West Shore
Indian Creek	Indian Creek
Lighthouse Pointe	
Spring Creek	Spring Creek
Swan Creek	Swan Creek
Pike Haven	
East Shore	
Walth Bay	

**Out of service at elevation 1593 (Dec 1, 2012)**

**Out of service at elevation 1577.5**

**(mid-March 2013 if economic emergency is declared)**

**Out of service at 1570**

**Deep water ramps (all deep water ramps go out of service at 1565)**

# LAKE OAHE WATER LEVEL JANUARY 2001 - JANUARY 2008 AND BOAT RAMP STATUS

