

SOUTH DAKOTA GAME, FISH AND PARKS  
NOVEMBER 2022 COMMISSION BOOK  
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# COMMISSION AGENDA

## South Dakota Game, Fish and Parks Commission

November 3, 2022

Heartland Energy

432 SE 12<sup>th</sup> St, Madison, SD 57042

### General Meeting Information

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This meeting will be held in person, via zoom/conference call, and Livestream. Listen to the meeting beginning at 1:00 p.m. CST via Livestream at <https://www.sd.net/remoted1/> or join via zoom by clicking on the link below. Depending on your application, you may be required to enter the meeting ID and password. Remember to **enter your display name and mute your microphone**. To help keep background noise and distractions to a minimum, make sure you **mute your microphone and turn off your video** when you are not speaking.

#### THURSDAY – November 3, 2022, at 1 pm CST / 12 pm MT

Zoom Meeting Link <https://state-sd.zoom.us/j/93912915359?pwd=RDVwK3B2eEk1b2w1dWxzNEhaNzNBUT09>  
or join via conference call Dial 1 669 444 9171 Meeting ID: 939 1291 5359 Passcode: 9502333

**Public Input:** To provide comments, join the meeting in person, via zoom, or via conference call per the info above. To conduct the public hearing and/or open forum as efficiently as possible, we ask those wishing to testify to **register by 1:00 pm CST the day of the meeting by email to [Liz.Kierl@state.sd.us](mailto:Liz.Kierl@state.sd.us)**. Testifiers should provide their full names, whom they represent, their city of residence, and which proposed topic they will address.

**Written comments** can be submitted at <https://gfp.sd.gov/forms/positions/>. To be included in the public record, comments must include complete name and city of residence and meet the **submission deadline of seventy-two hours before the meeting (not including the day of the meeting)**.

### Call meeting to order at 1:00 pm CST / 12:00 pm MT

### Division of Administration

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#### Action Items

1. Conflict of Interest Disclosure
2. Approve Minutes of the October 2022 Meeting available at <https://gfp.sd.gov/commission/archives/>
3. Additional Commissioner Salary Days
4. 2023 Commission Meeting Schedule Finalization

#### Information Items

5. South Dakota Go Outdoors Update
6. New Staff Introductions

### Open Forum – 2:00 pm CST / 1:00 pm MT

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*The portion of the meeting is designated for public comment on other items of interest. (Typically limited to three (3) minutes per person.) Please register to speak with Liz Kierl by 1 pm CST (see notes above).*

### Petitions

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7. Black Hills Mountain Lion Season

### Proposals

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8. Pet Allowance in Park Facilities
9. Pet Allowance Fee

## Division of Parks & Recreation

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### **Action Items**

10. Angostura Concession Contract
11. Shadehill and Angostura Cabin Rate Adjustment

### **Information Items**

12. Lake Oahe Water Levels
13. Archery Range Opportunities in Parks
14. LWCF & RTP Grants and Funding
15. October Camping, Visitation, and Revenue Report

## Division of Wildlife

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### **Information Items**

16. Public Hunting on Private Lands
17. Archery Antelope and Archery Deer Update
18. Eastern South Dakota Urban Fisheries Development
19. License Sales Updates and Reports from the Field

## Solicitation of Agenda Items for Commissioners

## Adjourn

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Next meeting information: December 8-9, 2022, at RedRossa Convention Center, Pierre, South Dakota.



## COMMISSION MINUTES

### South Dakota Game, Fish and Parks Commission

October 6-7, 2022

Outdoor Campus - Rapid City

#### CALL MEETING TO ORDER AT 1:00 PM MT / 2:00 PM CST – DAY 1, 11:56 MARK

Vice chairman Robert Whitmyre called the meeting to order at 1:00 pm MT at the Outdoor Campus in Rapid City, South Dakota. Commissioners Travis Bies, Jon Locken, Julie Bartling, Robert Whitmyre, and Chuck Spring were present. The public and staff could listen via SDPB Livestream, participate via video conference, or in person, with approximately 57 total participants via Zoom or in person.

#### DIVISION OF ADMINISTRATION

##### 1. CONFLICT OF INTEREST DISCLOSURE – DAY 1, 00:00:13 MARK

Vice chairman Whitmyre called for a conflict of interest to be disclosed. *None were present.*

##### 2. APPROVE MINUTES OF THE JULY 2022 MEETING – DAY 1, 00:00:30 MARK

Vice chairman Whitmyre called for any additions or corrections to the regular meeting minutes of August 31-September 1, 2022. Minutes are available at <https://gfp.sd.gov/commission/archives/>. *Motion by Bartling with second by Locken to APPROVE THE MINUTES OF THE AUGUST 31-SEPTEMBER 1, 2022, REGULAR MEETING MINUTES. Motion carried unanimously.*

##### 3. ADDITIONAL COMMISSIONER SALARY DAYS – DAY 1, 00:01:38 MARK

Vice chairman Whitmyre called for additional salary days. No additional commission salary days were submitted for approval.

##### 4. GO OUTDOORS SOUTH DAKOTA UPDATE - DAY 1, 00:02:21

Scott Simpson, Parks & Recreation Director, updated the commission on Go Outdoors South Dakota. Since launching, Go Outdoors South Dakota has recorded over 1.3 million users to the new website, resulting in over 20 million total page views and generating over \$25 million in system revenue by processing over two million items sold for parks, hunting, and fishing-related items. Most limited draws are complete for 2022. Staff processed, printed, and mailed over 15,000 landowner licenses for this fall's deer seasons. In addition, the department completed the Black Hills Elk Contingency licenses where over 2,000 applicants applied for 22 antlerless elk licenses. Preference points became available for all customers from October 4 to January 4. This open period is delayed from the historic September 15 to December 15 dates but was necessary to ensure that everything is accurate and correct for customers to purchase all applicable preference points for use in future hunting seasons in the new licensing system.

##### 5. MARKETING UPDATE FOR PHEASANT HUNTING – DAY 1, 00:12:51 MARK

Nick Harrington, Communications Manager, provided an update on the pheasant marketing efforts. GFP is in its third year of a pheasant marketing campaign with the South Dakota Department of Tourism that works to recruit, retain, and reactivate resident and nonresident pheasant hunters.

##### 6. NEW STAFF INTRODUCTIONS – DAY 1, 00:48:35 MARK

Commissioners were introduced to new staff.

#### PUBLIC HEARING – 2:00 PM MT / 1:00 PM CST – DAY 1, 00:59:58 MARK

Jon Kotilnek, senior staff attorney, opened the floor to testimony from those in attendance on matters of importance to them that may not be on the agenda. The public hearing started at 2:01 pm MT, with no persons testifying. The public hearing concluded at 2:02 pm CT. Public hearing minutes following these commission meeting minutes.

## OPEN FORUM – FOLLOWING PUBLIC HEARING – DAY 1, 01:01:09 MARK

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Jon Kotilnek, senior staff attorney, opened the floor for discussion from those in attendance on matters of importance to them that may not be on the agenda. The open forum started at 2:07 pm MT.

- Matthew Kammerer of Rapid City provided comment on the Rapid City Shooting Range.
- Nancy Hilding of Black Hawk representing the Prairie Hills Audubon Society provided comment on the beaver depredation program, the nest predator bounty program, mountain lions, and lead bullets at the Rapid City Shooting Range.
- Jamie Al-Haj of Rapid City provided comment on the nest predator bounty program.

The open forum concluded at 2:16 pm MT.

## PROPOSALS

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### 7. PET ALLOWANCE IN PARK FACILITIES – CHAPTERS 41:03:01 – DAY 1, 01:14:09 MARK, DAY 2- 02:00:15 MARK

Department proposed changes:

1. Current administrative rule does not allow for pets in department camping facilities except under certain circumstances.
2. The proposed rule change would allow for customers to pay a pet fee and have their pet stay in the cabin or suite.

*Day 1: Motioned by Locken, seconded by Bartling to APPROVE THE PROPOSAL. Voting Yes: Spring, Bartling, Locken, Whitmyre. Voting No: Bies. Motion failed due to the lack of a full commission majority.*

*Day 2: Motioned by Bies, seconded by Locken to RECONSIDER THE PET ALLOWANCE IN PARK FACILITIES PROPOSAL. Motion carried unanimously.*

*Motioned by Bartling, seconded to Spring to APPROVE THE AMENDED PROPOSAL WHICH UTILIZES THE WORDING 'CATS & DOGS' IN LIEU OF 'PETS'. Motion carried unanimously.*

### 8. PET ALLOWANCE FEE – CHAPTERS 41:03:01 - DAY 2, 00:04:13 MARK

Department proposed changes:

1. Current administrative rule does not allow for pets in department camping facilities except under certain circumstances.
2. the proposed rule change would establish a pet accommodation fee for pets that stay at cabins, lodges, or suites.

*Motioned by Bies, seconded by Bartling to APPROVE THE PROPOSAL. Motion carried unanimously.*

## FINALIZATIONS

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### 9. SPRING TURKEY – DAY 1, 01:28:22 MARK

#### 9A. CUSTER STATE PARK SPRING WILD TURKEY HUNTING SEASON – CHAPTER 41:06:15

Proposed changes from last year:

1. Change the season state date from the 2<sup>nd</sup> Saturday in April to the 4<sup>th</sup> Saturday in April.
2. Format and style changes for maximum number of licenses and preference point unit.

Department recommended changes to proposal: None

*Motioned by Bies and seconded by Locken to APPROVE THE FINALIZATION. Motion carried unanimously.*

#### 9B. SPRING WILD TURKEY HUNTING SEASON – CHAPTERS 41:06:13 & 41:03:01

Proposed changes from last year:

1. Adjust the maximum number of licenses available in administrative rule from no more than 5,807 to 10,000 one-tag “male turkey” licenses and from no more than 600 to 2,500 two-tag “male turkey” licenses.
2. Change the proposed season start date from the 3rd Saturday in April to the 4th Saturday in April for the Black Hills spring turkey season.
  - a. April 22 – May 31, 2023
  - b. April 27 – May 31, 2024
3. Eliminate Unit BST-BH2, which provides for a second Black Hills spring turkey licenses for resident hunters.
4. For Archery and mentored spring turkey licenses, season start dates would align with the prairie and Black Hills seasons, respectively.
5. For The Fall River prairie hunting unit, remove the allowance to hunt within one mile of the Cheyenne River in the Black Hills hunting unit.

Department recommended changes to proposal: None

*Motioned by Bies and seconded by Bartling to APPROVE THE FINALIZATION. Motion carried unanimously.*

#### FORMAL ADOPTION OF HUNTING UNIT LICENSE ALLOCATIONS – DAY 1, 01:34:14 MARK

*Motioned by Bartling, seconded by Locken to ADOPT THE PROPOSED SPRING TURKEY HUNTING SEASONS – HUNTING UNIT LICENSE ALLOCATIONS. Motion carried unanimously.*

## DIVISION OF PARKS & RECREATION

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### 10. ANGOSTURA CONCESSION LEASE - DAY 1, 01:35:41 MARK

Sean Blanchette, Environment and Cultural Resource Specialist, provided an update on the Angostura concession prospectus which expired on Tuesday, October 4<sup>th</sup>. The Department received one proposal, which was from the existing concessionaire and does meet the requirements in the prospectus and accepted the terms of the advertised draft lease. Blanchette stated that it is an acceptable proposal, and they intend to return at the November Commission meeting with a formal request to approve their selection as a concessionaire and to award a new ten-year concession lease.

### 11. MICKELSON TRAIL TREK AND GOVERNOR’S BUFFALO ROUNDUP UPDATE - DAY 1, 00:52:46 MARK

Matt Snyder, Parks Supervisor in Region 4, reported that the 24<sup>th</sup> Annual Mickelson Trail Trek was held on September 16-18. The ride hosted participants from 24 states and Canada with a total of 600 riders. The 25<sup>th</sup> Annual Mickelson Trail Trek registration will open on December 14, 2022. This event has typically filled up within the first few hours of registration opening and we expect the same again this year.

The 57<sup>th</sup> Annual Governors Buffalo Round Up and Art Festival was held on September 29-October 1. The Buffalo Round Up hosted 20,905 spectators. South Dakota Public Broadcasting once again streamed the event live with 22,885 watches on YouTube and 43,500 watches on Facebook. The Art Festival had 151 vendors with over 15,000 people attending the three-day event. The beautiful fall weather was welcomed by all participants and made for an enjoyable event.

### 12. 2023 CAPITAL DEVELOPMENT PROJECTS - DAY 1, 01:37:52 MARK

Adam Kulesa, Planning & Development Director, gave a brief PowerPoint presentation providing a summary of the major capital development projects that were completed in 2022, and an outlook on major projects looking to be completed in 2022 and into 2023.

### 13. HABITAT MANAGEMENT IN PARKS - DAY 1, 01:53:52 MARK

Ryan Persoon, District Supervisor at West Whitlock, provided a presentation based on grazing cattle around campgrounds and park wildlands in the spring, food plot management, and wildland restorations in Parks. The goal is to convert current smooth brome areas into sustainable habitats for wildlife viewing and hunting in our State Recreation Areas in Parks.

#### 14. **CAMPING, VISITATION, AND REVENUE REPORT - DAY 1, 02:13:24 MARK**

Al Nedved, Parks Deputy Director, provided documentation and reported verbally on the September 2022 camping, visitation, and revenue report.

### **DIVISION OF WILDLIFE**

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#### 15. **HUNTSAFE PROGRAM OVERVIEW - DAY 1, 02:30:24 MARK**

Brandon Maahs, HuntSAFE Coordinator, gave a presentation showing that close to 3,000 students have been certified in HuntSAFE as classes were back to full capacity in 2022. While we are grateful for the 30 new volunteer instructors this year, we are still looking to expand our volunteer numbers to further increase our HuntSAFE class opportunities. Additionally, further expansion of the HuntSAFE in the Schools program, the creation of an instructor map, and adding a South Dakota Law section in the online HuntSAFE course will continue to provide more opportunities for students and more consistency across the state.

#### 16. **WILDLIFE DISEASE UPDATE - DAY 1, 02:44:03 MARK**

Andy Lindbloom, Senior Wildlife Biologist, Hemorrhagic disease losses in white-tailed deer populations across South Dakota have been mostly minor in comparison to last year. In 2021 GFP received reports of approximately 1640 dead deer in 42 counties whereas in 2022 GFP has thus far received reports of 124 dead deer in 14 counties. Some localized areas have experienced losses and as a result, GFP pull 256 deer tags in Unit 49B. Chronic Wasting disease was detected in 3 new Counties last year- Perkins, Stanley, and Buffalo. GFP will conduct surveillance efforts in 11 Counties in central and eastern South Dakota to learn more about the distribution of the disease. In addition, GFP is sampling harvested elk in the Black Hills for CWD in conjunction with a research project that began this year.

#### 17. **ARCHERY ANTELOPE AND ARCHERY DEER PUBLIC SURVEY RESULTS - DAY 2, 00:07:10 MARK**

Andrew Norton, Senior Wildlife Biologist, provided an input opportunity to deer and antelope hunters to determine their opinions and preferences regarding archery hunting in South Dakota. Ten thousand and fifty-two responses were received from 106,041 surveys. Most hunter groups chose to maintain current archery hunting regulations, but there were some concerns about too many archery hunters on public land and residents felt there were too many nonresident archery hunters.

#### 18. **WESTERN SOUTH DAKOTA TROUT STOCKING UPDATE - DAY 2, 00:43:32 MARK**

Jeremy Kientz, Area Fisheries Supervisor, gave a report on the trout stocking in western South Dakota.

#### 19. **TRACK CHAIR UPDATE - DAY 2, 01:08:29 MARK**

Emmett Keyser, Region 3 Supervisor, provided the Commission with an update on department efforts being made in collaboration with Michael Samp and his family, as well as the SD Parks and Wildlife Foundation, to help raise funds to purchase additional trackchairs. These trackchairs are available on loan for use by hunters, anglers, hikers, and other persons with disabilities to enable them to enjoy outdoor recreational opportunities more effectively. The long-term goal of the trackchair fundraising effort, termed "Operation Mobility," is to help raise funds to purchase up to 25 or more trackchairs and the associated enclosed trailers used to transport them. The concept is to place the fleet of trackchairs around the state at Wildlife Division Offices and State Park locations, where they would be made available on a short-term loan through the GFP website. Disabled individuals and their families would be able to use the chairs to enable them to participate as a family more effectively in various outdoor pursuits.

As part of the update, Kristina Coby, Development Director of the SD Parks and Wildlife Foundation, reported that she has a donor who recently came forward and indicated a desire to help fund the first trackchair for Operation Mobility. This new trackchair trailer will be stationed in Sioux Falls at the Outdoor Campus and will join an existing trackchair previously made available to the Department through donors in western South Dakota. That trackchair is also stationed at the Outdoor Campus in Rapid City. These two trackchairs will be used by Michael Samp and his family, the SD Parks and Wildlife Foundation, and indeed the Department as a means

to help create increased public awareness of the availability of the trackchairs and help market and promote the Operation Mobility fundraising effort.

#### 20. RESIDENTIAL FISHING LICENSE RETENTION/REACTIVATION PLAN - DAY 2, 01:31:14 MARK

Shala Larson, R3 and Relevancy Manager, presented on an action plan to reactivate resident anglers. She shared that an internal work group has been organized where the group will draft research questions to answer the “why” of these individuals who have lapsed. Once the research questions are drafted, Larson will take them to either the new human dimensions specialist if hired or go out for bid on an outside surveying company. Larson hopes that the information can be fully collected by the beginning of February in time to make changes needed before the spring fishing season.”

#### 21. LICENSE SALES UPDATE - DAY 2, 01:38:57 MARK

Tom Kirschenmann, Wildlife Director, provided documentation and verbally updated the commission on the current license sales.

## ADJOURN

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*Meeting ADJOURNED ON OCTOBER 7, 2022 AT 11:49 AM MT.*

Respectfully submitted,



Kevin Robling, Department Secretary





# SOUTH DAKOTA GAME, FISH AND PARKS COMMISSION MEETINGS 2023

**JAN**    **PIERRE**  
**12 - 13**    MATTHEWS TRAINING CENTER

**JUL**    **CHAMBERLAIN**  
**20 - 21**    ARROWWOOD RESORT

**FEB**    **NO MEETING**

**AUG**    **NO MEETING**

**MAR**    **PIERRE**  
**9 - 10**    MATTHEWS TRAINING CENTER

**SEPT**    **WATERTOWN**  
**14 - 15**    RAMKOTA EVENT CENTER

**APR**    **BROOKINGS**  
**13 - 14**    MCCRORY GARDENS

**OCT**    **DEADWOOD**  
**19 - 20**    CADILLAC JACK'S SPRINGHILL STES

**MAY**    **CUSTER STATE PARK**  
**11 - 12**    EVENT BARN

**NOV**    **RAPID CITY**  
**16 - 17**    OUTDOOR CAMPUS

**JUN**    **SIoux FALLS**  
**8 - 9**    GOOD EARTH STATE PARK

**DEC**    **FORT PIERRE**  
**14 - 15**    AMERICINN

For more details or previous meeting archives,  
visit <https://gfp.sd.gov/commission/>

*\*All dates and locations subject to change with 30 days prior notice.*

**Kierl, Liz**

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**From:** info@gfp.sd.us  
**Sent:** Friday, October 21, 2022 10:58 AM  
**To:** sacherkas@msn.com  
**Cc:** Kierl, Liz; Harrington, Nick  
**Subject:** Petition for Rule Change Form

**South Dakota - Game, Fish, and Parks**

## **Petition for Rule Change**

A new form was just submitted from the <http://gfp.sd.gov/> website with the following information:

**ID:** 143  
**Petitioner Name:** STEVE CHERKAS  
**Address:** 11635 ROCKY FORD RD  
EDGEMONT, SD 57735  
**Email:** sacherkas@msn.com  
**Phone:** 515-306-2592  
**Rule Identification:** Mountain Lion Season  
**Describe Change:** Allow take of lions year round in black hills on private land. It is allowed anywhere outside black hills already.  
**Reason for Change:** Lion numbers way up on my land last 4-5 years in southern hills. Was cool at first but they are now coming close to our cabins and concerned for grandkids visiting. Would like to lower their numbers here.

## Agenda Item #8

### GAME, FISH AND PARKS COMMISSION ACTION PROPOSAL

#### Pet Prohibitions Chapter 41:03:01

Commission Meeting Dates:	Proposal	November 3, 2022	Madison
	Public Hearing	December 8, 2022	Pierre
	Finalization	December 8, 2022	Pierre

#### COMMISSION PROPOSAL

##### Proposed changes:

- 1) Current administrative rule does not allow for pets in department camping facilities except under certain circumstances.
- 2) The proposed rule change would allow for customers to pay a pet fee and have their pet stay in the cabin or suite.
- 3) Pet would be defined as a domesticated dog or cat.

#### SUPPORTIVE INFORMATION

Pet ownership continues to increase. Accommodations for pets in the travel industry have become a standard practice. This rule change would allow those people staying in a cabin, lodge, or suite within a state park to have their pet inside that facility during their stay. A pet accommodation fee of \$10 per reservation per facility is provided for in a separate proposal.

#### DRAFT ADMINISTRATIVE RULE CHANGES

The following are proposed draft changes that are intended to incorporate the recommended changes adopted by the Commission.

**41:03:01:13. Pet prohibitions.** A person may not allow or possess any pet in the state park system except as provided in this section:

- 1) From April 1 through September 30, the pet must be under immediate control on a leash not more than 10 feet long or under immediate control and more than 200 feet from other park users or designated camping areas;
- 2) From October 1 through March 31, leashes are not mandatory; however, the person shall keep the pet under immediate control;
- 3) The person may not allow or possess any pet on the Summit Trail at Bear Butte State Park;
- 4) The person may not allow or possess any pet on the George S. Mickelson Trail unless the pet is under immediate control on a leash not more than 10 feet long;

- 5) The person may not allow any pet in an area within 200 feet inland and 200 feet outward from the water's edge in an area owned, leased, managed, or controlled by the department and designated as a public swimming zone or in an area posted for no pets;
- 6) The person may not allow or possess any pet inside enclosed public buildings managed by the department in any state park, recreation area, nature area, or lakeside use area except:
  - a. a A person who requires the aid of a service animal;
  - b. ~~or a~~ A person who has received prior approval of the park manager; or
  - c. a dog or cat owned by person who has paid the pet accommodation fee pursuant to 41:03:04:03.02.
- 7) The person shall properly dispose of any pet waste left within the state park system; or
- 8) If the person maintains reasonable control of the dog, the person may allow or possess a dog that is not on a leash within a designated dog training area.

#### FISCAL IMPACT

This allowance and associated fee are intended to be in line with industry standards and to offset some of the additional cleaning fees expected with allowing pets in lodging facilities. The percentage of users that will utilize this service is unknown. The revenue generated nor additional expense is expected to have any significant impact on the Department's budget.

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

## Agenda Item #9

### GAME, FISH AND PARKS COMMISSION ACTION PROPOSAL

#### Pet Prohibitions Chapter 41:03:01

Commission Meeting Dates:	Proposal	November 3, 2022	Madison
	Public Hearing	December 8, 2022	Pierre
	Finalization	December 8, 2022	Pierre

#### COMMISSION PROPOSAL

##### Proposed changes:

- 1) Current administrative rule does not allow for pets in department camping facilities except under certain circumstances.
- 2) The proposed rule change would establish a pet accommodation fee for pets that stay at cabins, lodges, or suites.
- 3) Proposed pet fee only allows for a domesticated dog or cat.

#### SUPPORTIVE INFORMATION

Pet ownership continues to increase. Accommodations for pets in the travel industry has become a standard practice. This rule change would allow those people staying in a cabin, lodge, or suite within a state park to have their pet inside that facility during their stay and establish a fee. A pet accommodation exemption is provided for in a separate proposal.

#### DRAFT ADMINISTRATIVE RULE CHANGES

The following are proposed draft changes that are intended to incorporate the recommended changes adopted by the Commission.

**41:03:04:03.02. Camping permit fees -- Cabins -- Lodges -- Suites.** Fees for the following are:

- 1) Camping cabin fee, \$55;
- 2) Modern cabin and suite fees, \$85 to \$205 subject to size, amenities, and occupancy rates provided:
  - a. The commission shall annually approve the schedule of fees; and
  - b. Discounts to increase occupancy during periods of lower demand, may not exceed 25 percent of the approved fee;
- 3) The group lodging fee at Lake Thompson State Recreation Area, Palisades State Park, Sheps Canyon State Recreation Area, Newton Hills State Park, and Shadehill State Recreation Area is \$280 per night for the first 12 persons plus \$10 for each additional person with a maximum occupancy of 15 persons; and

- 4) Oahe Downstream Group Lodge use fee is \$40 per night for nonprofit youth groups year-round and for nonprofit groups and government agencies from November 1 through March 31 and \$125 per night for all other groups year-round. The use fee for all groups except nonprofit youth groups is \$125 from April 1 through October 31.
- 5) Pet accommodation fee for pets kept inside cabins, lodges, or suits, \$10 per reservation, per facility.

#### **FISCAL IMPACT**

This fee is intended to be in line with industry standards and to offset some of the additional cleaning fees expected with allowing pets in lodging facilities. The percentage of users that will utilize this service is unknown. The revenue generated nor additional expense is expected to have any significant impact on the Department's budget.

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

## Agenda Item #10

### 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 ("Concessionaire") P.O. Box 2860, Rapid City, SD 57501. 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 Contract 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, 2032.

## **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. All slips longer than 30' shall be provided with electrical service
  2. 6 Housekeeping cabins for daily rental.
  3. Convenience store, to include fishing and park entrance licenses
  4. Food service
  5. On the water fuel sales at the main marina
  6. Oil and grease sales
  7. Operation of a marina sanitary pump station at no cost to users
  8. 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 alcohol sales between 7:00 a.m. and 11:00 pm.
5. Fishing guide service
6. Rental boats and motors
7. Firewood sales.
8. Dry-dock boat and trailer storage in Department-approved locations

- (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.
- (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, with prior written approval of the Commission and Department, 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 Department. 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 Department for approval. No construction, modification, or installation of fixtures, structures and improvements shall commence without receipt of written approval from the Department. Once approved, Concessionaire shall make no changes or alterations to the construction plans except upon the Department's written approval. Concessionaire agrees that any review or approval by the Department 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 Department 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 and subject to prior approval by the Commission, Exhibit A shall be amended to include the additions and value of Possessory Interest associated with the fixtures, structures and improvements.

- (b) 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 may self-insure 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 \$50,000 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 \$50,000 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., (v) 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 quarter of the preceding calendar year; July 30<sup>th</sup>, for the first two quarters of the current calendar year; and October 30<sup>th</sup> for the third quarter of the current calendar 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 of \$880.00 must be assessed to each lot renter in Summersun and Horsehead trailer areas for the amortization of the central sewer system and maintenance. The annual assessment payment 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, provided, however, that Concessionaire shall not be liable to compensate the Department for unpaid wastewater assessment fees when 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%) 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 within 30 days of the commencement date of this Agreement 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 the 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) 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.
- (j) Concessionaire agrees that in performance of this Agreement it is acting as an "independent contractor" and not as an employee of the Department.

- (k) 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 the Resort Manager on behalf of Concessionaire, or such authorized designees as either party may from time to time designate in writing.

Department

Director

Division of Parks & Recreation

523 East Capitol

Pierre, SD 57501

Concessionaire

Resort Manager

Angostura Resort Management

28075 Recreation Road

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) 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.

- (b) 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.
- (c) 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**

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. 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) 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.
- (c) 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 20 or failure to comply with the standards in Exhibit B.

- (d) In the event either or both trailer areas are eliminated, the Leased Areas as identified in Exhibit A-1 shall remain 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 \_\_\_\_\_, 20\_\_.

SOUTH DAKOTA DEPARTMENT OF GAME, FISH AND PARKS

BY: \_\_\_\_\_  
Scott Simpson, Director  
Division of Parks and Recreation

CONCESSIONAIRE

BY: \_\_\_\_\_  
Gilbert D. Moyle, President  
Angostura Resort Management

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

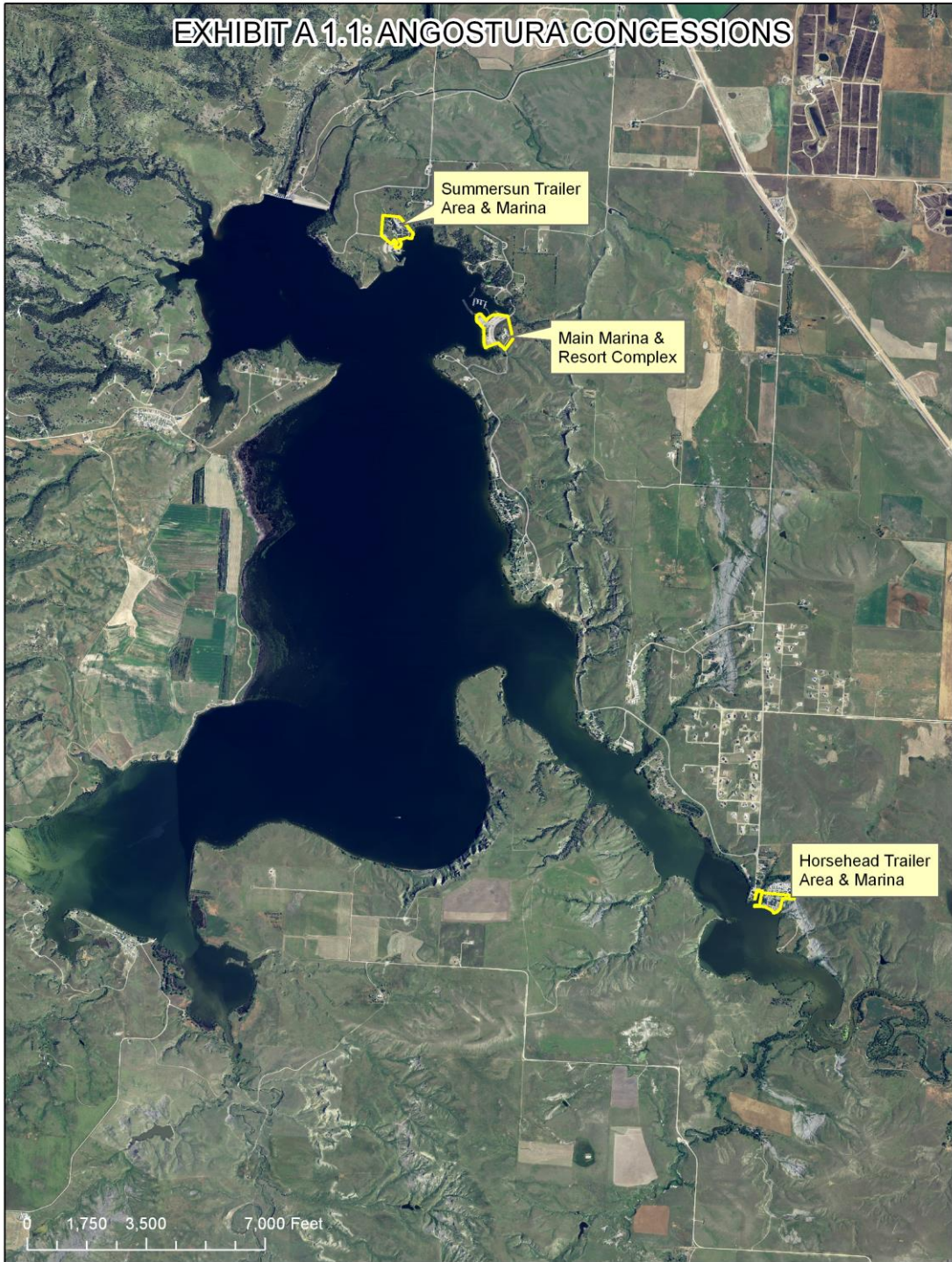
### **Exhibit C**

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**  
**Summersun Trailer 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 POSESSORY 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>Angostura Resort Management</b>		<b>01/01/2023</b>	
<b>Concessionaire Facilities and Associated Possessory Interest</b>			
Fac. NO	Description		Possessory Interest at Agreement Effective Date
1	Cabin #1 (2 Bedroom)		100%
2	Cabin #2 (2 Bedroom)		100%
3	Cabin #3 (2 Bedroom)		100%
4	Cabin #4 (2 Bedroom)		100%
5	Cabin #5 (3 Bedroom)		100%
6	Cabin #6 (3 Bedroom)		100%
7	Managers Office/Living Quarters		100%
8	Shed		100%
9	Pool and Heater		100%
10	Main Marina docks (including lifts)		100%
11	Summersun docks		100%
12	Horsehead docks		100%
13	Inferno building		100%
14	Floating Convenience Store building		100%
15	Sanitary pump out		100%
16	Fuel tanks and pumps		100%
17	Trailer area water systems		<b>100%</b>



## **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 effective on January 1, 2023. 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 (Fridays, Saturdays 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) 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.

**(l) 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.

**(m) 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.

**(n) 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.

**(o) 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.

**(p) 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.
- (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.

**(q) Rental Lodging**

- (i) At a minimum all cabins 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.

**(r) 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, subject to approval by the Department.

- (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) 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.
- (vii) 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.
- (viii) Trailer lessees may at any time replace their trailer home upon approval of the structure by the Concessionaire.
- (ix) The Concessionaire reserves the right, in its sole discretion, to determine the acceptability of any trailer proposed to be moved into the Resort's private exclusive use areas. All trailers proposed to be moved on to the site shall be:
  - a. No older than 10 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.

- (x) The Concessionaire, at its discretion, reserves the right to require a replacement, repair, or adjustment of any trailer if deemed necessary.
- (xi) Trailer size shall not exceed 16 feet in width or 80 feet in length.
- (xii) 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.
- (xiii) 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.
- (xiv) No vehicles may be present on the permit site unless it is being occupied.
- (xv) During the period of November 1 through March 31, no vehicles, boats, possessions or personal property including may be visible on the site.
- (xvi) No refuse, junk, scrap materials, furniture, tires or any other discarded items will be visible on the site at any time.
- (xvii) 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.
- (xviii) 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.
- (xix) No livestock or fowl shall be kept on the site.
- (xx) 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.
- (xxi) No fences or signs shall be erected upon the permitted site unless written approval has been received from the Concessionaire.

- (xxii) 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
- (xxiii) Private business or commercial activities shall not be conducted on the site.
- (xxiv) The Department reserves the right to enforce at any time the requirements and standards contained in this Section (t).

**(s) 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

**(t) 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.

**Agenda Item #11**

## 2023 Rates for Angostura and Shadehill Cabins and Trailers

**Adjusted in accordance with the Bureau of Reclamation  
Construction Cost Trends - South Dakota Land Index**

	Angostura	Shadehill		
Number of Units	32	47		
<b>Proposed 2023 Rate (Land Index - 11.3%)</b>	<b>\$ 2,670.00</b>	<b>\$ 2,335.00</b>		
<b>Total Revenue</b>	<b>\$ 85,440.00</b>	<b>\$ 109,745.00</b>	<b>\$ 195,185.00</b>	
2022 Rate	\$ 2,400.00	\$ 2,100.00		
Total Revenue	\$ 76,800.00	\$ 98,700.00	\$ 175,500.00	
2021 Rate*	\$ 2,400.00	\$ 2,100.00		
Total Revenue	\$ 76,800.00	\$ 98,700.00	\$ 175,500.00	
2020 Rate*	\$ 2,400.00	\$ 2,100.00		
Total Revenue	\$ 76,800.00	\$ 98,700.00	\$ 175,500.00	
2019 Rate*	\$ 2,400.00	\$ 2,100.00		
Total Revenue	\$ 76,800.00	\$ 98,700.00	\$ 175,500.00	
2018 Rate*	\$ 1,855.00	\$ 1,545.00		
Total Revenue	\$ 59,360.00	\$ 72,615.00	\$ 131,975.00	
2017 Rate*	\$ 1,360.00	\$ 990.00		
Total Revenue	\$ 43,520.00	\$ 46,530.00	\$ 90,050.00	

*\* Rates for 2017 through 2021 were established in 2016 by the Market Rent Survey conducted by the U.S. Department of the Interior*

# Bureau of Reclamation Construction Cost Trends

(Base: 1977 = 100 for Indexing Field Costs Only)

Item	2020				2021				2022				2023			
	Jan	Apr	Jul	Oct	Jan	Apr	Jul	Oct	Jan	Apr	Jul	Oct	Jan	Apr	Jul	Oct
<b>Construction Indexes</b>																
Earth dams	375	371	375	376	380	393	406	420	430	449	462					
Dam structure	347	344	349	351	355	364	375	388	396	417	431					
Spillway	397	392	395	395	401	417	432	448	458	479	492					
Outlet works	418	414	416	417	423	440	454	469	483	498	508					
Concrete dams	403	400	403	404	408	419	429	440	452	465	476					
Diversion dams	400	399	401	402	405	416	426	439	455	463	471					
Pumping plants	405	404	405	407	409	421	431	443	462	470	479					
Structures and improvements	407	406	408	410	413	428	439	453	470	477	484					
Equipment	411	410	411	412	413	422	429	440	459	468	478					
Pumps and prime movers	427	426	427	427	429	439	446	460	485	495	510					
Accessory elect. & misc. equip.	385	385	386	387	389	395	401	409	418	422	426					
Powerplants	396	396	397	399	402	413	418	427	437	443	451					
Structures and improvements	407	406	407	409	413	427	438	452	469	476	483					
Equipment	395	394	396	397	400	409	412	417	425	430	439					
Turbines and accessories	399	399	400	401	404	411	414	419	423	429	438					
Accessory elect. & misc. equip.	387	387	388	390	392	404	411	421	436	444	452					
Steel pipelines	430	428	430	429	434	443	460	477	496	502	511					
Concrete pipelines	393	393	396	400	401	408	413	423	437	449	458					
Canals	420	418	422	423	427	437	448	461	472	488	498					
Canal earthwork	402	398	405	407	411	423	437	451	460	487	502					
Canal structures	422	421	423	425	428	438	447	459	474	480	486					
Tunnels	438	437	439	440	442	451	462	479	494	502	511					
Laterals and drains	506	503	506	508	512	531	548	580	612	629	643					
Lateral earthwork	386	382	388	390	394	403	415	428	435	457	470					
Lateral structures	577	574	575	578	581	607	628	672	718	733	747					
Distribution pipelines	396	396	399	403	405	412	417	427	440	451	459					
Switchyards and substations	380	380	382	386	390	409	420	436	460	468	480					
Wood pole transmission lines	313	311	316	332	348	407	395	398	435	437	437					
Poles and fixtures	294	294	303	331	356	452	418	408	459	455	455					
Overhead conductors and devices	341	338	337	338	343	356	372	390	407	418	418					
Steel tower transmission lines	364	363	362	363	366	379	399	426	447	454	461					
Primary roads	396	394	398	404	409	438	445	456	486	493	503					
Secondary roads	495	488	491	494	502	532	550	564	587	613	630					
Bridges	456	454	456	458	462	471	481	495	505	515	523					
General property	391	391	392	398	404	437	447	456	478	481	484					
Composite trend	425	423	426	429	433	451	460	478	500	511	521					
<b>Land Indexes</b>																
Arizona	1316	1301	1286	1288	1290	1292	1294	1295	1296	1297	1298					
California	1224	1254	1284	1294	1304	1314	1324	1369	1414	1459	1504					
Colorado	574	584	594	599	604	609	614	618	622	626	630					
Idaho	606	618	630	638	646	654	662	685	708	731	754					
Kansas	475	478	481	480	479	478	477	496	515	534	553					
Montana	580	580	580	580	580	580	580	605	610	615	620					
Nebraska	680	680	680	679	678	677	676	681	706	731	756					
Nevada	942	932	922	917	912	907	902	903	904	905	906					
New Mexico	703	709	715	719	723	727	731	746	761	776	791					
North Dakota	661	658	655	652	649	646	643	655	667	679	691					
Oklahoma	498	498	498	498	498	498	498	508	518	528	538					
Oregon	714	726	738	741	744	747	750	778	806	834	862					
South Dakota	1068	1068	1068	1065	1062	1059	1056	1086	1116	1146	1176					
Texas	750	750	750	751	752	753	754	777	800	823	846					
Utah	770	785	800	804	808	812	816	846	876	906	936					
Washington	579	579	579	577	575	573	571	574	577	580	583					
Wyoming	599	611	623	628	633	638	643	661	679	697	715					
<b>Other Indicators</b>																
Machinery and equipment (BLS)	377	377	380	381	381	387	391	401	422	424	433					
Federal salary	379	379	379	379	383	383	383	383	394	394	394					

**Inquiries to: 86-68170**

# Agenda Item #19

# License Sales Totals

(as of Oct 30)

date updated: 31 Oct 2022

Resident	2019	2020	2021	3-yr Avg	2022	2022			% Change		
						Revenue	+/- Licenses	+/- Revenue	2021 vs 2022	3-yr Avg vs 2022	2021 vs 2022
Combination	42,807	47,019	48,366	46,064	47,124	\$ 2,591,820	-1,242	1,060	\$ (68,310)	\$ 58,300	2%
Junior Combination	6,419	8,523	5,649	6,864	0	\$ -	-5,649	-6,864	\$ (152,523)	\$ (185,319)	-100%
Senior Combination	9,529	10,504	11,331	10,455	11,336	\$ 453,440	5	881	\$ 200	\$ 35,253	8%
Small Game	11,815	12,786	12,195	12,265	15,359	\$ 506,847	3,164	3,094	\$ 104,412	\$ 102,091	25%
Youth Small Game	3,276	3,465	4,248	3,663	5,499	\$ 27,495	1,251	1,836	\$ 6,255	\$ 9,180	50%
1-Day Small Game	637	681	859	726	568	\$ 6,816	-291	-158	\$ (3,492)	\$ (1,892)	-22%
Migratory Bird Certificate*	23,802	24,902	24,013	24,239	22,834	\$ 114,170	-1,179	-1,405	\$ (5,895)	\$ (7,025)	-6%
Predator/Varmint	1,350	1,475	1,246	1,357	1,884	\$ 9,420	638	527	\$ 3,190	\$ 2,635	39%
Furbearer	3,215	3,283	3,797	3,432	3,477	\$ 104,310	-320	45	\$ (9,600)	\$ 1,360	1%
Annual Fishing	51,950	67,190	55,372	58,171	53,053	\$ 1,485,484	-2,319	-5,118	\$ (64,932)	\$ (143,295)	-9%
Senior Fishing	12,588	14,530	13,878	13,665	13,544	\$ 162,528	-334	-121	\$ (4,008)	\$ (1,456)	-1%
1-Day Fishing	5,457	6,961	6,349	6,256	6,456	\$ 51,648	107	200	\$ 856	\$ 1,603	3%
<b>RESIDENT TOTALS =</b>	<b>172,845</b>	<b>201,319</b>	<b>187,303</b>	<b>187,156</b>	<b>181,134</b>	<b>\$ 5,513,978</b>	<b>-6,169</b>	<b>-6,022</b>	<b>\$ (193,847)</b>	<b>\$ (128,565)</b>	<b>-3.2%</b>

Nonresident	2019	2020	2021	3-yr Avg	2022	2022			% Change		
						Revenue	+/- Licenses	+/- Revenue	2021 vs 2022	3-yr Avg vs 2022	2021 vs 2022
Small Game	38,721	40,140	48,800	42,554	48,240	\$ 5,837,040	-560	5,686	\$ (67,760)	\$ 688,046	13%
Youth Small Game	929	1,143	1,938	1,337	1,933	\$ 19,330	-5	596	\$ (50)	\$ 5,963	45%
Annual Shooting Preserve	240	257	332	276	336	\$ 40,656	4	60	\$ 484	\$ 7,220	22%
5-day Shooting Preserve	8,184	7,029	9,556	8,256	10,056	\$ 764,256	500	1,800	\$ 38,000	\$ 136,775	22%
1-day Shooting Preserve	758	685	857	767	836	\$ 38,456	-21	69	\$ (966)	\$ 3,189	9%
Spring Light Goose	2,810	2,961	4,486	3,419	4,251	\$ 212,550	-235	832	\$ (11,750)	\$ 41,600	24%
Youth Spring Light Goose	94	122	161	126	325	\$ 8,450	164	199	\$ 4,264	\$ 5,183	159%
Migratory Bird Certificate*	1,406	1,890	4,595	2,630	3,644	\$ 18,220	-951	1,014	\$ (4,755)	\$ 5,068	39%
Predator/Varmint	4,438	4,061	4,140	4,213	3,972	\$ 158,880	-168	-241	\$ (6,720)	\$ (9,640)	-6%
Furbearer	10	10	9	10	3	\$ 825	-6	-7	\$ (1,650)	\$ (1,833)	-69%
Annual Fishing	22,708	27,404	32,221	27,444	38,309	\$ 2,566,703	6,088	10,865	\$ 407,896	\$ 727,933	40%
Family Fishing	8,015	9,887	7,560	8,487	0	\$ -	-7,560	-8,487	\$ (506,520)	\$ (568,651)	-100%
Youth Annual Fishing	1,116	1,465	1,142	1,241	0	\$ -	-1,142	-1,241	\$ (28,550)	\$ (31,025)	-100%
3-Day Fishing	22,048	21,335	19,590	20,991	18,651	\$ 690,087	-939	-2,340	\$ (34,743)	\$ (86,580)	-11%
1-Day Fishing	19,238	30,054	36,576	28,623	37,285	\$ 596,560	709	8,662	\$ 11,344	\$ 138,597	30%
<b>NONRESIDENT TOTALS =</b>	<b>130,715</b>	<b>148,443</b>	<b>171,963</b>	<b>150,374</b>	<b>167,841</b>	<b>\$ 10,952,013</b>	<b>-4,122</b>	<b>17,467</b>	<b>\$ (201,476)</b>	<b>\$ 1,061,845</b>	<b>11.6%</b>
<b>GRAND TOTALS =</b>	<b>303,560</b>	<b>349,762</b>	<b>359,266</b>	<b>337,529</b>	<b>348,975</b>	<b>\$ 16,465,991</b>	<b>-10,291</b>	<b>11,446</b>	<b>\$ (395,323)</b>	<b>\$ 933,280</b>	<b>3.4%</b>

	2021	2022	+/- Licenses	+/- Revenue	2022 Revenue
Resident Habitat Stamp	153,940	149,186	-4,754	\$ (47,540)	\$ 1,491,860
Nonresident Habitat Stamp	127,999	126,013	-1,986	\$ (49,650)	\$ 3,150,325
Totals =	281,939	275,199	-6,740	\$ (97,190)	\$ 4,642,185

\*The license year for Migratory Bird Certificates changed in 2021 so license sales are not comparable between years.

## DEPARTMENT OF GAME, FISH, AND PARKS NOTICE OF REGULAR MEETING

This meeting will be held in person, via zoom/conference call, and Livestream. Listen to the meeting beginning at 1:00 p.m. CT via Livestream at <https://www.sd.net/remote1/> or join via zoom by clicking on the link below. Depending on your application, you may be required to enter the meeting ID and password. Remember to **enter your display name and mute your microphone**. To help keep background noise and distractions to a minimum, make sure you **mute your microphone and turn off your video** when you are not speaking.

**THURSDAY – November 3, 2022, at 1 pm CT / 12 pm MT**

Zoom Meeting Link <https://state-sd.zoom.us/j/93912915359?pwd=RDVwK3B2eEk1b2w1dWxzNEhaNzNBUT09>  
or join via conference call      Dial 1 669 444 9171      Meeting ID: 939 1291 5359      Passcode: 9502333

**Public Input:** To provide comments, join the meeting in person, via zoom, or via conference call per the info above. To conduct the public hearing and/or open forum as efficiently as possible, we ask those wishing to testify to **register by 1:00 pm MT the day of the meeting by email to [Liz.Kierl@state.sd.us](mailto:Liz.Kierl@state.sd.us)**. **Testifiers should provide their full names, whom they represent, their city of residence, and which proposed topic they will address.**

**Written comments** can be submitted at <https://gfp.sd.gov/forms/positions/>. To be included in the public record, comments must include the complete name and city of residence and meet the **submission deadline of seventy-two hours before the meeting (not including the day of the meeting)**.

Dated this 27th day of October 2022.

s/b Russell Olson  
\_\_\_\_\_  
Russell Olson, GFP Commission Chair



**Issue OTHER**  
**Position OPPOSE**

Name JULIE                    ANDERSON                    City, State RAPID CITY                    SD                    Create Date                    10/31/2022 12:11:22 AM

Comment                    Attachment:

I oppose the petition for year round mountain lion hunting on private land in the Black Hills. The reason stated by the petitioner is concern for visiting grandchildren. There has been no threat to any person other than the distance of sightings, and the proximity was stated in general terms. Precautions need to be taken when living in a wildlife area and unless all mountain lions are killed, there will always be a danger, however slight it may be. To allow killing of mountain lions 365 days on private land in the entire Black Hills for children who do not reside and only visit in the mentioned area is denying these animals gateways they need to cover their territory, migration (in the case of males) and the right to exist. Also, this is a petition from one person, and there have been hundreds of people who have written to this commission who oppose mountain lion hunting, therefore to grant this petition and ignore the people in opposition to this is not in keeping with the will of the majority. Please deny this petition.

**Issue PET ALLOWANCE**  
**Position SUPPORT**

Name FRED                    CARL                    City, State RAPID CITY                    SD                    Create Date                    10/08/2022 10:37:09 AM

Comment                    Attachment:

100% support this proposal. This has been preventing us from staying in CSP cabins, especially with scheduling family reunions. Planning get togethers with out of state friends has had to be at vrbo's because of the no pet policy. This would be a terrific improvement to the park experience

Name KATHRYHN                    LINDGREN                    City, State VOLIN                    SD                    Create Date                    10/11/2022 9:55:18 AM

Comment                    Attachment:

We love staying in the cabins and would do it a lot more if we didn't have to find someone to watch our dog each time. We clean up after our dog everywhere we go and would do so at the camp spot too. If you put those dog poop bag stands near the cabins, people would keep the area clean.

Name DAVID                    MAYS                    City, State SIOUX FALLS                    SD                    Create Date                    10/11/2022 11:43:00 AM

Comment                    Attachment:

I support pets being allowed in cabins. The additional fee is consistent with other accommodations for travelers. I would also support an 'excessive damage' clause in the agreement to charge additional fees if necessary. I am a pet owner (dog) and enjoy camping with my pet. Allowing a pet simplifies my travel plans and enhances my satisfaction of the SD parks. Thank You!

Name JAMES                    BEAVERS                    City, State PIERRE                    SD                    Create Date                    10/11/2022 12:24:36 PM

Comment                    Attachment:

I am in support of the pet allowance fee of \$10 for allowing pets in camping cabins. My wife and I use these camping cabins frequently and it would be nice to have our dogs inside(kenneled if needed) during those hot summer days in ac if we decide to leave for awhile to go hiking etc. Since the GFP doesn't provide linens and you must bring your own I feel they are already setup to accommodate pets.

Name JAMES                    THOMPSON                    City, State MADISON                    SD                    Create Date                    10/31/2022 11:04:21 PM

Comment                    Attachment:

I would use the camping cabins a lot more if I were allowed to bring my dog along. With the continued rise in gas prices it's cheaper to rent a cabin than pull the camper across the state. I ask that you approve this proposal.



## Issue **PET ALLOWANCE**

### Position **OTHER**

Name SANDY LAPLANTE City, State HAYTI SD Create Date 10/14/2022 1:34:34 PM

Comment Attachment:

I think that it is a good idea to allow pets in the camping cabins but not in the lodge or suites. I also think there should be no extra charge for pets being the camping cabins.

Name NANCY WIETGREFE City, State CITY SD Create Date 10/15/2022 4:08:57 PM

Comment Attachment:

Pets should be allowed in the cabins at state parks with the additional \$10 proposed fee. You want to encourage people to be outdoors. People choose recreation areas over hotels because they want to experience the outdoors and why shouldn't they include their pet? The cabins are set up perfectly as there is no carpet and they're easy to clean. It's the taxpayers funds, so let the taxpayers decide. Don't exclude pet owners!

### Position **OPPOSE**

Name GARY SAATHOFF City, State WATERTOWN SD Create Date 10/08/2022 4:24:39 PM

Comment Attachment:

My wife is allergic to pet dander. How well are these units cleaned after pets are allowed? I can see service animals but not all pets.

Name MARY SMITH City, State LAKE NORDEN SD Create Date 10/13/2022 8:36:31 AM

Comment Attachment:

I just visited with a house cleaner who was talking about cleaning a rental house where there had been a heavy shedding dog. As she vacuumed the furniture cushions, dog hair continued to come out of them and she could not get it all. She said the worst place was around the refrigerator door seals.

Name PATTY SUDTELGTE City, State HOT SPRINGS SD Create Date 10/19/2022 9:52:10 AM

Comment Attachment:

I have asthma. One of my biggest flare-ups is from animal dander. If you aren't going to let people smoke in rooms, then you shouldn't have animals in rooms either!! The ADA states that a person's health issues overrides the ability to have a service animal inside a place. Please don't ruin the state cabins, lodges or suites by letting animals live inside!! Do you know how hard it is to get a motel room in South Dakota that doesn't have animal dander? Next to impossible. Please don't let animals in your facilities!!!