

RUBY DAM FISHING ACCESS SITE - LEASE AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2022, between the Montana Department of Natural Resources and Conservation, whose main address is 1625 Eleventh Avenue, Helena, Montana 59620, hereinafter referred to as "DNRC" and the Montana Department of Fish, Wildlife, and Parks whose main address is 1420 East Sixth Avenue, Helena, Montana 59620, hereinafter referred to as "DFWP."

WITNESSETH:

WHEREAS, the DNRC owns the Ruby Dam and Reservoir located in Madison County, Montana, more particularly shown on the attached **Exhibit A**; and

WHEREAS, DFWP has been vested with duties and powers for the purposes of conserving recreational resources of the state and providing for their use and enjoyment (MCA 23-1-101) and lease land for the purposes related to public outdoor recreation (MCA 87-1-209) and is desirous to work closely with the State's landowners to provide quality recreational opportunities; and

WHEREAS, public use on a portion of the Projects Lands adjacent to Ruby Dam has been managed for many years by DFWP as the Ruby Dam Fishing Access Site (FAS) with the approval of DNRC, as shown on **Exhibit B**. Thy Ruby Dam FAS is located in the SE ¼ NE ¼, Section 8, T7S, R4W, PMM, Madison County, Montana.

NOW, THEREFORE, in consideration of the following stipulations and agreements, it is mutually agreed as follows:

1. PURPOSE AND PERMITTED USES. DNRC agrees that DFWP shall have the right of control and management of public recreation on the portion of Project Lands shown on the attached **Exhibit B** in the manner described below, and that DFWP may make and enforce rules necessary to regulate the public use, subject to all restrictions, agreements, and easements presently existing or of record or as may be created by DNRC in the future; and subject, further, to DNRC's exclusive right to maintain, operate, and control reservoir level and operations. The control, management, and maintenance of the dam, reservoir level and spillway facilities and water measurement and recording devices is expressly reserved to DNRC, its assignees, and agents; it is understood that DNRC can exclude the general public from any areas (such as the dam, headgates, spillways) that could pose a safety risk to the public, and DNRC, its assignees, and agents, shall at all times have the right of ingress and egress on said lands to access such facilities. DFWP will not be held liable for any damages resulting from DNRC's retention of control, management, or maintenance of the dam, reservoir or spillway facilities or unlawful damage to DNRC facilities by third parties. DFWP agrees to exercise responsibility for the preservation of recreation related law, order, and safety in the area covered by this Lease Agreement.

DFWP agrees that the general public shall not be excluded from reasonable and proper enjoyment of the natural or constructed recreational facilities provided in the area covered by this Lease Agreement, and that it will make such rules as are authorized and necessary to regulate the public use of Ruby Dam FAS. DFWP shall be allowed to charge fees to the public users, in accordance with applicable law, for use of the leased area; and DFWP shall further be allowed to issue and administer licenses, permits, and concession contracts under which services are made available to the public within the FAS.

DFWP may construct, install and maintain latrines, signs, and other improvements necessary to manage the FAS. Primitive camping may be developed in accordance with DFWP's design standards along with the approval of DNRC. No development of boating access or boat ramp is allowed within the leased boundary. No hunting or discharge, target practice or sighting in of weapons, discharge of paintball guns, trap shooting, or similar activities are allowed within the leased boundary. No discharge of

fireworks are allowed within the leased boundary. Fires may be allowed with the consent of DNRC if primitive camping units are developed. DNRC may continue to make such use of the leased property as may be reasonably necessary for the administration of the Ruby Dam Water Project.

DFWP will provide appropriate directional and regulatory signs. The signs will also indicate the boundaries of the FAS and advise the public that no public access is allowed on adjoining private property.

2. MAINTENANCE.

Weed control - DFWP shall control state designated noxious weeds as defined in 7-22-2101 (8) (a) MCA within the DFWP managed FAS boundary and access road from Route 357. Weed control activities shall be coordinated with the Madison County Weed Control District and comply with all applicable State guidelines.

Access Road - DFWP shall provide routine maintenance on the access road from Route 357 to the leased premises including all interior roads and/or parking areas within the leased premises.

3. IMPROVEMENTS. DFWP may place on the lands a reasonable amount of improvements directly related to the necessary use of the lands as specified in this lease. All construction, improvements, or alterations to the site, structures or appurtenances must be approved in writing in advance by DNRC. Requests for these improvements shall be submitted, together with a schedule for completion of the proposed work, in writing at least thirty (30) days in advance of the proposed work. Plans must include labeled drawings that specify dimensions, materials, and structural support design as well as plumbing and electrical design when appropriate. No work shall commence until written approval has been received from DNRC. No improvements will be allowed without proper permits from appropriate permitting agencies. Permits requiring landowner approval and signature shall be submitted to DNRC for signature. Approval and signature will not be unreasonably withheld. DFWP agrees to maintain improvements to a reasonable condition. Maintenance of improvements (replacement in-kind) does not require prior approval.
4. SANITARY FACILITIES. DFWP shall provide sanitary facilities. Plans for such systems shall be submitted to DNRC for written approval, and the systems shall be constructed and maintained in accordance with the rules, regulations, and recommendations of the County and the State Department of Environmental Quality.
5. WATER RIGHTS. Groundwater developed by DFWP for domestic purposes shall be recorded in the name of the State of Montana, Department of Natural Resources and Conservation. Groundwater may not be developed for other than domestic purposes.
6. REMOVAL OF IMPROVEMENTS. DNRC expressly reserves to itself and its successors the right, at its discretion and pursuant to its authority, to construct or cause to be constructed such water resource facilities, including but not limited to, enlargement of the reservoir, irrigation canals, and mining of aggregate and rip rap as it considers necessary upon or near the leased area and to flood the land as a result of said facilities, in which case FWP shall remove any docks, buildings, roads, latrines or other structures, it has constructed or caused to be constructed upon the lands described herein, upon six (6) months written notice by the DNRC. DFWP agrees to clean the premises of all trash and debris to the reasonable satisfaction of DNRC. No compensation will be paid by the DNRC for any costs thus incurred by DFWP.

All installations owned by DFWP such as fixtures, equipment, signs and latrines, shall remain the property of DFWP and on termination of this lease, whether by expiration of the term or for any other reason, DFWP shall have 30 days to remove such installations. DFWP agrees to clean the premises of all trash and debris and to fill any holes left by removal of latrines to the reasonable satisfaction of DNRC.

7. HOLD HARMLESS. DFWP shall not do or omit to do, or knowingly suffer or permit to be done by others anything by which act or omission any persons may be endangered or injured by the use of the leased area. DFWP shall indemnify and hold DNRC harmless from and against any and all claims, demands, or actions from damages to property or injury to persons or other damage to persons or entities arising out of, or resulting from, the performance of this Lease Agreement or the results of this Lease Agreement, provided such damage to property or injury to persons is due, in whole or in part, to the error, omission, or negligent action of DFWP or any of its employees. DNRC shall indemnify and hold DFWP harmless from and against any and all claims, demands, or actions from damages to property or injury to persons or other damage to persons or entities arising out of, or resulting from, the performance of this Lease Agreement or the results of this Lease Agreement, provided such damage to property or injury to persons is due, in whole or in part, to the error, omission, or negligent action of DNRC or any of its employees. Nothing in this Lease Agreement shall be construed or interpreted as authorizing DFWP, its agents, or employees, to act as an agent or representative for or on behalf of DNRC or to incur any obligation of any kind on behalf of DNRC.
8. LIAISONS AND NOTICES. DFWP agrees that it will be responsible for the management of public access and recreational uses and facilities. DFWP designates its Region FAS Manager as its representative. DNRC designates its Project Management Section Supervisor, State Water Projects Bureau, Water Resources Division, as its representative.
9. TERM. The term of this Agreement shall expire on **December 31, 2032**, unless renewed in writing and signed by all parties. This Lease Agreement supersedes and terminates any previous Lease entered into by the DNRC and DFWP concerning the Ruby Dam FAS. This Agreement shall terminate and all rights of DFWP hereunder cease:
 - a. Upon expiration of the term.
 - b. Upon six (6) months written notice of either party.
 - c. Upon failure of DFWP to observe any of the conditions, exceptions, or reservations set out in this Agreement.
10. RENTAL. DFWP's accommodations for public use of the leased property is the consideration for this lease, and no cash rental will be paid during the term of the lease.
11. MODIFICATIONS. This lease constitutes the sole and entire agreement between the parties. No statements, promises or inducements made by either party which are not contained in this lease are valid or binding unless evidenced in writing and signed by both parties. DFWP shall not assign this Agreement or any interest therein without the written consent of DNRC, but the provisions of this Lease Agreement shall apply and bind the successors and assigns of the DNRC and DFWP.

IN WITNESS WHEREOF we have hereunto set our hands and seals this _____ day of _____, 2022.

Amanda Kaster, Director
Department of Natural Resources and Conservation

STATE OF MONTANA)
) ss
COUNTY OF LEWIS AND CLARK)

On this _____ day of _____, 2022, before me, the undersigned a Notary Public in and for the State of Montana, personally appeared Amanda Kaster known to me to be the Director of the Montana Department of Natural Resources and Conservation and acknowledged to me that she executed the within and foregoing Agreement for and on behalf of the Department.

IN WITNESS WHEREOF, have hereto set my hand and affixed my Notarial Seal the day and year first above written.

(Seal)

NOTARY PUBLIC for the State of Montana
Residing at _____
My commission expires _____

Hank Warsech, Director
Montana Department of Fish, Wildlife, & Parks

STATE OF MONTANA)
) ss
COUNTY OF LEWIS AND CLARK)

On this _____ day of _____, 2022, before me, the undersigned a Notary Public in and for the State of Montana, personally appeared Hank Warsech, known to me to be the Director of the Montana Department of Fish, Wildlife and Parks and acknowledged to me that he executed the within and foregoing Agreement for and on behalf of the Department.

IN WITNESS WHEREOF, have hereto set my hand and affixed my Notarial Seal the day and year first above written.

(Seal)

NOTARY PUBLIC for the State of Montana
Residing at _____
My commission expires _____

EXHIBIT A
Ruby River Dam and DNRC Project Lands



EXHIBIT B
Ruby Dam Fishing Access Site Lease Area

