# United States Department of the Interior

National Park Service

Midwest Region
601 Riverfront Drive
Omaha, Nebraska 68102-4226


5.B.(MWRO-PO/CS)

November 24, 2014

Mr. Joe Devall and Mrs. Darlene Devall
Silver Arrow Canoe Rental
HCR 62, Box 164
Salem, Missouri 65560

Dear Mr. and Mrs. Devall:

The National Park Service (NPS) is continuing the process of developing a prospectus for a new concession contract that will replace NPS CC-OZAR007-05 (as it may be amended, "Contract"). To provide time for selection of a new concessioner, the NPS has determined that a continuation of the visitor services provided under the Contract is necessary.

Accordingly, under applicable provisions of the Contract that permit a continuation of operations after expiration, the NPS hereby authorizes, subject to your execution of this letter agreement ("Continuation Agreement"), the continuation of operations as described in the Contract for a period not to exceed December 31, 2015, or until the effective date of a new contract, whichever occurs first. The terms and conditions of the Continuation Agreement are the same as those of the Contract. All references in the Contract to its term shall be considered as also referring to the term of the Continuation Agreement.

Please indicate your agreement by signing and dating in the space provided below and returning the fully executed letter to this office within 30 days of receipt. A copy of this letter is enclosed for your files. A self-addressed envelope is also enclosed for your convenience. If you have any questions related to this continuation of services, please contact Chief of Commercial Services Sandy Poole at 402-661-1748.

Sincerely,

Mark Weekley

For Patricia S. Trap
Acting Regional Director

Enclosures 2

cc:
Superintendent Bill Black, Ozark National Scenic Riverways, P.O. Box 490, Van Buren, Missouri 63965

Concessioner agrees to the continuation of visitor services related to NPS CC-OZAR007-05.

Agreed:

Joe Devall - Darlene M. Devall 12/06/14

Mr. Joe Devall and Mrs. Darlene Devall — Date
Silver Arrow Canoe Rental

TAKE PRIDE IN AMERICA

# United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240


IN REPLY REFER TO:

MARCH 21, 2014

To: NPS Concessioners

From: Ben Erichsen, Chief of Commercial Services

Subject: OZAR007-05
Suspension of the Collection of Concession Franchise Fees for October 2014

The National Park Service (NPS) recognizes that the unfortunate circumstances of the October 2013 Federal Government shutdown resulted in economic costs to our concession partners, including employee layoffs and lost revenue.

As a good faith effort to provide the opportunity to recover some of the economic losses, NPS Regional Directors have been authorized to forego the collection of concession franchise fees payments and special account contributions for the entire month of October 2014 from those concessioners who could have operated in October 2013, and did not, and who will operate in October 2014. This determination is done entirely within the discretion of the National Park Service and does not confer any right or entitlement to any entity or individual.

This letter informs you that you are eligible to forego your franchise fee payment and/or special account contribution for the month of October 2014. Please follow the attached guidance to ensure that you timely submit to the superintendent all appropriate paperwork and correctly complete your Annual Financial Report.

This directive applies to all NPS concessioners that were scheduled to conduct operations and were forced to close when the Federal Government shutdown occurred. Concessioners will have to pay required building use fees and fund required repair and maintenance reserves. It will not apply to any new concessioners that started operations after October 17, 2013.

This action demonstrates our concern for your business. It is not meant to make you whole. It is, however, after considerable analysis, the most fair, across the board gesture the NPS could devise as we continue in service to our visitors.

It is important that you carefully read and follow the directions on the attached forms to remain eligible for this directive. If you have any questions regarding this guidance, please send an email to commercial_services@nps.gov.

# Category III Contract

## United States Department of the Interior
## National Park Service

Ozark National Scenic Riverways
(Name of Area)

Silver Arrow Canoe Rental
(Site)

Canoe, Kayak, Raft, Tube, and Johnboat Rentals, and Shuttle Service
(Type of Service)

Concession Contract No. CC-OZAR007-05

Joe & Darlene Devall
(Name of Concessioner)

HCR 62, Box 164
Salem, Missouri 65560

573/729-5770
(Address, including email address and phone number)

Silver Arrow Canoe Rental
(Doing Business As)

Covering the Period: January 1, 2005 through December 31, 2014

This Contract is between the National Park Service and Joe and Darlene Devall, (hereinafter referred to as "Concessioner"), a Subchapter "S" Corporation, d.b.a., Silver Arrow Canoe Rental under the authority of 16 U.S.C. 1 et. seq., including 16 U.S.C. 5901 et seq., and other laws that supplement and amend these laws. The Director and the Concessioner agree:

## SECTION 1. TERM OF CONTRACT

This Contract will be for the Term of TEN (10) YEARS from January 1, 2005 until its expiration on December 31, 2014.

## SECTION 2. SERVICES AND OPERATIONS

(a) Required and Authorized Visitor Services

The Concessioner must provide the following required Visitor Services within the Area:

Canoe rental services to park visitors (applicable only to those concessioners already assigned a specific number of canoes - refer to Exhibit B of this Contract). This service includes transporting the visitor to the appropriate access point and picking them up again and returning them to the embarkation point.

The Concessioner may provide the following authorized Visitor Services within the Area:

Tube rentals and shuttle service related to the rentals are authorized (applicable only to those concessioners already assigned a specific number of tubes - refer to Exhibit B of this Contract). This service includes transporting the visitor to the appropriate access point and picking them up again and returning them to the embarkation point. The Concessioner is authorized to provide shuttle service to transport private tubes.

Kayak rentals are authorized. This service includes transporting the visitor to the appropriate access point and picking them up again and returning them to the embarkation point. The Concessioner is authorized to provide shuttle service to transport private kayaks (applicable only to those concessioners already assigned a specific number of canoes traded for kayaks - refer to Exhibit B of this Contract).

Raft rentals are authorized for a 3-year trial period. This service includes transporting the visitor to the appropriate access point and picking them up again and returning them to the embarkation point. The Concessioner is authorized to provide shuttle service to transport private rafts (applicable only to those concessioners already assigned a specific number of canoes traded for rafts - refer to Exhibit B of this Contract).

Johnboat rentals (applicable only to those concessioners already assigned a specific number of johnboats - refer to Exhibit B of this Contract) and shuttle service related to the rentals are authorized.

Shuttle service related to the rental. The Concessioner is authorized to provide shuttle service to transport private canoes.

Private vehicle shuttle service is authorized.

(b) Operation, Maintenance and Quality of Operation

The Concessioner must provide, operate and maintain the Visitor Services in accordance with this Contract in a manner considered satisfactory by the Director, including the nature, type and quality of the Visitor Services. The Concessioner's authority to provide Visitor

Services under this Contract is nonexclusive. The Concessioner's operations and Contract compliance will be evaluated on an annual basis.

(c) Operating Plan

The Director will establish and revise, as necessary, after consultation with the Concessioner, specific requirements for the operations of the Concessioner under this Contract in the form of an Operating Plan. The initial Operating Plan is attached to this Contract as Exhibit B.

(d) Rates

All rates and charges to the public by the Concessioner for Visitor Services must be reasonable and appropriate and must be approved by the Director.

(e) No Capital Improvements

The Concessioner may not construct any Capital Improvements upon Area lands.

**SECTION 3. CONCESSIONER PERSONNEL**

(a) The Concessioner must ensure that its employees are hospitable and exercise courtesy and consideration in their relations with the public.

(b) The Concessioner must establish appropriate screening, hiring, training, safety, employment, termination and other policies and procedures.

(c) The Concessioner must review the conduct of any of its employees whose action or activities are considered by the Concessioner or the Director to be inconsistent with the proper administration of the Area and enjoyment and protection of visitors and must take such actions as are necessary to correct the situation.

(d) The Concessioner must maintain, to the greatest extent possible, a drug free work environment.

**SECTION 4. ENVIRONMENTAL**

The Concessioner must utilize appropriate Best Management Practices (practices that apply the most current and advanced means and technologies available to the Concessioner to undertake and maintain a superior level of environmental performance reasonable in light of the circumstances of the operations conducted under this Contract) in its provision of Visitor Services and other activities under this Contract.

**SECTION 5. FEES**

(a) Franchise Fee

(1) The Concessioner must pay a franchise fee to the Director as follows:

For the term of this Contract, the Concessioner shall pay to the Director for the privileges granted under this Contract a fee of _4_ percent (4%) of the total gross receipts.

(2) The Concessioner has no right to waiver of the fee under any circumstances.

(b) Payments Due

(1) The franchise fee is due on a monthly basis and must be paid by the Concessioner in such a manner that the Director will receive payment within fifteen (15) days after the last day of each month that the Concessioner operates. This monthly payment must include the franchise fee equal to the specified percentage of gross receipts for the preceding month.

(2) The Concessioner must pay any additional fee amounts due at the end of the operating year as a result of adjustments at the time of submission of the Concessioner's Annual Financial Report. Overpayments will be offset against the following year's fees. In the event of termination or expiration of this Contract, overpayments will first be offset against any amounts due and owing the Government, and the remainder will be paid to the Concessioner.

(c) Interest

An interest charge will be assessed on overdue amounts for each thirty (30) day period, or portion thereof, that payment is delayed. The percent of interest charged will be based on the current value of funds to the United States Treasury as published quarterly in the Treasury Fiscal Requirements Manual. The Director may also impose penalties for late payment to the extent authorized by Applicable Law.

## SECTION 6. INSURANCE

The Concessioner must obtain and maintain during the entire term of this Contract at its sole cost and expense, coverage necessary to fulfill the obligations of this Contract. The insurance requirements are set forth in Exhibit D.

## SECTION 7. RECORDS AND REPORTS

(a) Accounting System

(1) The Concessioner must maintain an accounting system under which its accounts can be readily identified with its system of accounts classification. Such accounting system must be capable of providing the information required by this Contract. The Concessioner's system of accounts classification must be directly related to the Concessioner Annual Financial Report Form issued by the Director.

(2) If the Concessioner's annual gross receipts are $250,000 or more, the Concessioner must use the accrual accounting method.

(3) The Concessioner must keep its accounts in such manner that there can be no diversion or concealment of profits or expenses in the operations authorized under this Contract by means of arrangements for the procurement of equipment, merchandise, supplies or services from sources controlled by or under common ownership with the Concessioner or by any other device.

(b) Annual Financial Report

(1) The Concessioner must submit by April 30 annually, a financial statement for the preceding fiscal year or portion of a year as prescribed by the Director ("Concessioner Annual Financial Report").

(2) If the annual gross receipts of the Concessioner are in excess of $1,000,000, the financial statements must be audited by an independent Certified Public Accountant in accordance with Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.

(3) If annual gross receipts are between $500,000, and $1,000,000, the financial statements must be reviewed by an independent Certified Public Accountant in accordance with Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.

(4) If annual gross receipts are less than $500,000, the financial statements may be prepared without involvement by an independent Certified Public Accountant, unless otherwise directed by the Director.

(c) Other Reports

(1) Balance Sheet. If requested by the Director, within ninety (90) days of the execution of this Contract or its effective date, whichever is later, the Concessioner must submit to the Director a balance sheet as of the beginning date of the term of this Contract. The balance sheet must be audited or reviewed, as determined by the annual gross receipts, by an independent Certified Public Accountant.

(2) The Director from time to time may require the Concessioner to submit other reports and data regarding its performance under this Contract or otherwise, including, but not limited to, operational information.

## SECTION 8. SUSPENSION, TERMINATION, OR EXPIRATION

(a) Termination and Suspension

(1) The Director may temporarily suspend operations under this Contract in whole or in part or terminate this Contract in writing at any time in order to protect Area visitors, protect, conserve, and preserve Area resources, or to limit Visitor Services in the Area to those that continue to be necessary and appropriate.

(2) The Director may terminate this Contract if the Director determines that the Concessioner has materially breached any requirement of this Contract.

(3) In the event of a breach of this Contract, the Director will provide the Concessioner an opportunity to cure by providing written notice to the Concessioner of the breach. In the event of a monetary breach, the Director will give the Concessioner a fifteen (15) day period to cure the breach. If the breach is not cured within that period, then the Director may terminate this Contract for default. In the event of a nonmonetary breach, if the Director considers that the nature of the breach so permits, the Director will give the Concessioner

thirty (30) days to cure the breach, or to provide a plan, to the satisfaction of the Director, to cure the breach over a specified period of time. If the breach is not cured within this specified period of time, the Director may terminate this Contract for default. Notwithstanding this provision, repeated breaches (two or more) of the same nature will be grounds for termination for default without a cure period. In the event of a breach of any nature, the Director may suspend the Concessioner's operations as appropriate in accordance with Section 8(a).

(b) Requirements in the Event of Suspension, Termination or Expiration

(1) In the event of suspension or termination of this Contract for any reason or expiration of this Contract, no compensation of any nature will be due the Concessioner, including, but not limited to, compensation for personal property, or for losses based on lost income, profit, or the necessity to make expenditures as a result of the termination.

(2) Upon termination of this Contract for any reason, or upon its expiration, and except as otherwise provided in this Section, the Concessioner must, at the Concessioner's expense, promptly vacate the Area, remove all of the Concessioner's personal property, and repair any injury caused by removal of the property. This removal must occur within thirty (30) days (unless the Director in particular circumstances otherwise determines). Personal property not removed from the Area will be considered abandoned property subject to disposition by the Director, at full cost and expense of the Concessioner.

## SECTION 9. ASSIGNMENT, SALE OR ENCUMBRANCE OF INTERESTS

This Contract may not be assigned (e.g. sold) or encumbered (e.g. mortgaged) without the approval of the Director in accordance with 36 CFR Part 51 with respect to proposed assignments and encumbrances.

## SECTION 10. GENERAL PROVISIONS – See Addendum 1.

Addendum 1 attached to this Contract is made a part of this Contract.

**SECTION 11. SPECIAL PROVISIONS – See Addendum 2.**

Addendum 2 attached to this Contract is made a part of this Contract.

By:
CONCESSIONER:

UNITED STATES OF AMERICA
National Park Service

Joe Devall
Silver Arrow Canoe Rental

Noel R. Poe, Superintendent
Ozark National Scenic Riverways

Darlene Devall
Silver Arrow Canoe Rental

Noel R. Poe, Superintendent
Ozark National Scenic Riverways

Date: 04/26/05

Date: 4/26/05

[Corporation]

Attest
By: _____
Title: _____

Attachments:
Addendum 1 – General Provisions
Addendum 2 – Special Provisions
Exhibit A – Nondiscrimination
Exhibit B – Operating Plan
Exhibit C – Assigned Government Personal Property
Exhibit D – Insurance

# ADDENDUM 1
# GENERAL PROVISIONS

## 1. Definitions

The following terms used in this Contract will have the following meanings, which apply to both the singular and the plural forms of the defined terms:

(a) "Applicable Laws" means the laws of Congress governing the Area, including, but not limited to, the rules, regulations, requirements and policies promulgated under those laws, whether now in force, or amended, enacted or promulgated in the future, including, without limitation, federal, state and local laws, rules, regulations, requirements and policies governing nondiscrimination, protection of the environment and protection of public health and safety.

(b) "Area" means the property within the boundaries of Ozark National Scenic Riverways.

(c) "Days" means calendar days.

(d) "Director" means the Director of the National Park Service, and his/her duly authorized representatives.

(e) "Exhibit" means the various exhibits, which are attached to this Contract, each of which is hereby made a part of this Contract.

(f) "Gross Receipts" means the total amount received or realized by, or accruing to, the Concessioner from all sales for cash or credit, of services, accommodations, materials, and other merchandise made pursuant to the rights granted by this Contract, commissions earned on contracts or agreements with other persons or companies operating in the Area, and gross receipts earned from electronic media sales, but excluding:

(1) Intracompany earnings on account of charges to other departments of the operation (such as laundry);
(2) Charges for employees' meals, lodgings, and transportation;
(3) Cash discounts on purchases;
(4) Cash discounts on sales;
(5) Returned sales and allowances;
(6) Interest on money loaned or in bank accounts;
(7) Income from investments;
(8) Income from subsidiary companies outside of the Area;
(9) Sale of property other than that purchased in the regular course of business for the purpose of resale;
(10) Sales and excise taxes that are added as separate charges to sales prices, gasoline taxes, hunting and fishing license fees, and postage stamps, provided that the amount excluded will not exceed the amount actually due or paid government agencies;
(11) Receipts from the sale of handicrafts that have been approved for sale by the Director as constituting authentic American Indian, Alaskan Native, Native Samoan, or Native Hawaiian handicrafts.

All monies paid into coin operated devices, except telephones, whether provided by the Concessioner or by others, must be included in gross receipts. However, only

revenues actually received by the Concessioner from coin-operated telephones must be included in gross receipts.

All revenues received from charges for in-room telephone or computer access must be included in gross receipts.

(g) "Superintendent" means the manager of the Area.

(h) "Visitor Services" means the accommodations, facilities and services that the Concessioner is required and/or authorized to provide by this Contract.

## 2. Legal and Regulatory Compliance

This Contract, operations under it by the Concessioner, and its administration by the Director, are subject to all Applicable Laws. The Concessioner must comply with all Applicable Laws in fulfilling its obligations under this Contract at the Concessioner's sole cost and expense. The Concessioner must give the Director immediate written notice of any violation of Applicable Laws by the Concessioner, including its employees, agents or Contractors, and must promptly correct any violation.

## 3. Services and Operations

(a) All promotional material, regardless of media format (i.e., printed, electronic, broadcast media), provided to the public by the Concessioner in connection with the services provided under this Contract must be approved in writing by the Director prior to use. All such material will identify the Concessioner as an authorized Concessioner of the National Park Service, Department of the Interior.

(b) The Concessioner will provide Federal employees reduced rates, in accordance with guidelines established by the Director, when conducting necessary official business. Complimentary or reduced rates and charges may otherwise not be provided to Federal employees by the Concessioner except to the extent that they are equally available to the general public.

(c) The Director and Comptroller General of the United States, or any of their duly authorized representatives, will have access to the records of the Concessioner as provided by the terms of Applicable Laws.

(d) Subconcession or other third party agreements, including management agreements, for the provision of Visitor Services required and/or authorized under this Contract, whether in consideration of a percentage of revenues or otherwise, are not permitted.

(e) The Concessioner will ensure that any protected sites and archeological resources within the Area are not disturbed or damaged by the Concessioner's activities. Discoveries of any archeological resources by the Concessioner will be promptly reported to the Director.

## 4. Environmental Data, Reports, Notifications, and Approvals

(a) Inventory of Hazardous Substances and Inventory of Waste Streams. The Concessioner must submit to the Director, upon request, an inventory of hazardous chemicals used and stored in the Area by the Concessioner. The Concessioner must obtain the Director's

approval prior to using any extremely hazardous substance, as defined in the Emergency Planning and Community Right to Know Act of 1986, in operations under this Contract. The Concessioner must also submit to the Director, upon request, an inventory of all waste streams generated by the Concessioner under this Contract.

(b) Reports. The Concessioner must submit to the Director copies of all documents, reports, monitoring data, manifests, and other documentation required under Applicable Laws to be submitted to regulatory agencies. The Concessioner must also submit to the Director any environmental plans for which coordination with Area operations are necessary and appropriate, as determined by the Director in accordance with Applicable Laws.

(c) Notification of Releases. The Concessioner must give the Director immediate written notice of any discharge, release or threatened release (as these terms are defined by Applicable Laws) within or at the vicinity of the Area (whether solid, semi-solid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including, without limitation, building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product.

(d) Notice of Violation. The Concessioner must give the Director in writing immediate notice of any written threatened or actual notice of violation from other regulatory agencies of any Applicable Law arising out of the activities of the Concessioner, its agents or employees.

(e) Communication with Regulatory Agencies. The Concessioner must provide timely written advance notice to the Director of communications, including without limitation, meetings, audits, inspections, hearings and other proceedings, between regulatory agencies and the Concessioner related to compliance with Applicable Laws concerning operations under this Contract. The Concessioner must also provide to the Director any written materials prepared or received by the Concessioner in advance of or subsequent to any such communications. The Concessioner must allow the Director to participate in any such communications. The Concessioner must also provide timely notice to the Director following any unplanned communications between regulatory agencies and the Concessioner.

(f) Cost Recovery for Concessioner Environmental Activities. If the Concessioner does not promptly contain and remediate an unauthorized discharge or release arising out of the activities of the Concessioner, its employees, agents and Contractors, as set forth in this section, or correct any environmental self-assessment finding of non-compliance, in full compliance with Applicable Laws, the Director may, in his/her sole discretion and after notice to the Concessioner, take any such action consistent with Applicable Laws as the Director deems necessary to abate, mitigate, remediate, or otherwise respond to such release or discharge, or take corrective action on the environmental self-assessment finding. The Concessioner will be liable for and must pay to the Director any costs of the Director associated with such action upon demand. Nothing in this section precludes the Concessioner from seeking to recover costs from a responsible third party.

## 5. Fees - Adjustment of Franchise Fee

(a) The Concessioner or the Director may request, in the event that either considers that extraordinary, unanticipated changes have occurred after the effective date of this Contract, a reconsideration and possible subsequent adjustment of the franchise fee established in this section. For the purposes of this section, the phrase "extraordinary, unanticipated

changes" will mean extraordinary, unanticipated changes from the conditions existing or reasonably anticipated before the effective date of this Contract which have or will significantly affect the probable value of the privileges granted to the Concessioner by this Contract. For the purposes of this section, the phrase "probable value" means a reasonable opportunity for net profit in relation to capital invested and the obligations of this Contract.

(b) The Concessioner or the Director must make a request for a reconsideration by mailing, within sixty (60) days from the date that the party becomes aware, or should have become aware, of the possible extraordinary, unanticipated changes, a written notice to the other party that includes a description of the possible extraordinary, unanticipated changes and why the party believes they have affected or will significantly affect the probable value of the privileges granted by this Contract.

(c) If the Concessioner and the Director agree that extraordinary, unanticipated changes have occurred, the Concessioner and the Director will undertake good faith negotiations as to an appropriate adjustment of the franchise fee.

(d) The negotiation will last for a period of sixty (60) days from the date the Concessioner and the Director agree that extraordinary, unanticipated changes occurred. If the negotiation results in agreement as to an adjustment (up or down) of the franchise fee within this period, the franchise fee will be adjusted accordingly, prospectively as of the date of agreement.

(e) If the negotiation does not result in agreement as to the adjustment of the franchise fee within this sixty (60) day period, then either the Concessioner or the Director may request binding arbitration to determine the adjustment to franchise fee in accordance with this section. Such a request for arbitration must be made by mailing written notice to the other party within fifteen (15) days of the expiration of the sixty (60) day period.

(f) Within thirty (30) days of receipt of such a written notice, the Concessioner and the Director will each select an arbiter. These two arbiters, within thirty (30) days of selection, must agree to the selection of a third arbiter to complete the arbitration panel. Unless otherwise agreed by the parties, the arbitration panel will establish the procedures of the arbitration. Such procedures must provide each party a fair and equal opportunity to present its position on the matter to the arbitration panel.

(g) The arbitration panel will consider the written submissions and any oral presentations made by the Concessioner and the Director and provide its decision on an adjusted franchise fee (up, down or unchanged) that is consistent with the probable value of the privileges granted by this Contract within sixty (60) days of the presentations.

(h) Any adjustment to the franchise fee resulting from this section will be prospective only.

(i) Any adjustment to the franchise fee will be embodied in an amendment to this Contract.

(j) To make the established franchise fee payments required by this Contract.

## 6. Indemnification

The Concessioner agrees to assume liability for and does hereby agree to save, hold harmless, protect, defend and indemnify the United States of America, its agents and employees from and against any and all liabilities, obligations, losses, damages or judgments (including without limitation penalties and fines), claims, actions, suits, costs and expenses (including without limitation attorneys fees and experts' fees) of any kind and nature whatsoever on account of fire or other peril, bodily injury, death or property damage, or claims for bodily injury, death or property damage of any nature whatsoever, and by whomsoever made, in any way connected with or arising out of the activities of the Concessioner, its employees, agents or Contractors under this Contract. This indemnification will survive the termination or expiration of this Contract.

## 7. Notice of Bankruptcy or Insolvency

The Concessioner must give the Director immediate notice (within five (5) days) after the filing of any petition in bankruptcy, filing any petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, or making any assignment for the benefit of creditors. The Concessioner must also give the Director immediate notice of any petition or other proceeding against the Concessioner for the appointment of a trustee, receiver, or liquidator, or, the taking by any person or entity of the rights granted by this Contract or any part thereof upon execution, attachment or other process of law or equity. For purposes of the bankruptcy statutes, NPS considers that this Contract is not a lease but an executory Contract exempt from inclusion in assets of Concessioner pursuant to 11 U.S.C. 365. The Director may terminate this Contract if the Director determines that the Concessioner is unable to perform the terms of Contract due to such bankruptcy or insolvency action.

## 8. Additional Provisions

(a) This Contract contains the sole and entire agreement of the parties. No oral representations of any nature form the basis of or may amend this Contract. This Contract may be extended, renewed or amended only when agreed to in writing by the Director and the Concessioner.

(b) This Contract does not grant rights or benefits of any nature to any third party.

(c) The invalidity of a specific provision of this Contract will not affect the validity of the remaining provisions of this Contract.

(d) Waiver by the Director or the Concessioner of any breach of any of the terms of this Contract by the other party will not be deemed to be a waiver or elimination of such term, nor of any subsequent breach of the same type, nor of any other term of the Contract. The subsequent acceptance of any payment of money or other performance required by this Contract will not be deemed to be a waiver of any preceding breach of any term of the Contract.

(e) No member of, or delegate to, Congress or Resident Commissioner will be admitted to any share or part of this Contract or to any benefit that may arise from this Contract but this restriction will not be construed to extend to this Contract if made with a corporation or company for its general benefit.

(f) This Contract is subject to the provisions of 43 CFR, Subtitle A, Part 12, Subpart D, concerning nonprocurement debarment and suspension. The Director may recommend that the Concessioner be debarred or suspended in accordance with the requirements and procedures described in those regulations, as they are effective now or may be revised in the future.

# ADDENDUM 2
# SPECIAL PROVISIONS

## Visitor Use Data

The Concessioner will cooperate with the Service in identifying visitor use patterns, numbers, and trends by compiling and maintaining accurate visitor use data as directed by the Service and by participating in any special surveys that may be directed by the Superintendent to produce this information.

Verbal Reporting

The Concessioner will provide canoe and tube counts to the District ranger by the 25th of each month. The compilation of statistics will be the responsibility of the Concessioner. These statistics must be reported to the District Ranger.

The cut-off dates for the statistics to be reported are the 15th of the previous month through the 14th of the current month.

Written Reporting

Concessioners are required to submit written statistics with the monthly submission of rental receipts to the Concessions Specialist. A sample form is included as Attachment 2 to the Operating Plan, Exhibit B, Concession Statistics Report Form.

# Exhibit A
# Nondiscrimination

## Section I: Requirements Relating to Employment and Service to the Public

A. Employment

During the performance of this Contract the Concessioner agrees as follows:

1. The Concessioner will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, or disabling condition. The Concessioner will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, or disabling condition. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Concessioner agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Secretary setting forth the provision of this nondiscrimination clause.
2. The Concessioner will, in all solicitations or advertisements for employees placed by on behalf of the Concessioner, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, national origin, or disabling condition.
3. The Concessioner will send to each labor union or representative of workers with which the Concessioner has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Secretary, advising the labor union or workers' representative of the Concessioner's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. Within 120 days of the commencement of a contract, every Government contractor or subcontractor holding a contract that generates gross receipts which exceed $50,000 and having 50 or more employees shall prepare and maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices, and procedures in accordance with the affirmative action program requirement.
5. The Concessioner will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The Concessioner will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to the Concessioner's books, records, and accounts by the Secretary of the Interior and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the Concessioner's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Concessioner may be declared ineligible for further Government concession contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and such other

sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

8. The Concessioner will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The Concessioner will take such action with respect to any subcontract or purchase order as the Secretary may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Concessioner becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Secretary, the Concessioner may request the United States to enter into such litigation to protect the interests of the United States.

B. Construction, Repair, and Similar Contracts

The preceding provisions A(1) through A(8) governing performance of work under this Contract, as set out in Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, shall be applicable to this Contract, and shall be included in all contracts executed by the Concessioner for the performance of construction, repair, and similar work contemplated by this Contract, and for that purpose the term ``Contract" shall be deemed to refer to this instrument and to contracts awarded by the Concessioner and the term ``Concessioner" shall be deemed to refer to the Concessioner and to contractors awarded contacts by the Concessioner.

C. Facilities

1. Definitions: As used herein:

   a. Concessioner shall mean the Concessioner and its employees, agents, lessees, subleases, and contractors, and the successors in interest of the Concessioner;
   b. Facility shall mean any and all services, facilities, privileges, accommodations, or activities available to the general public and permitted by this agreement.

2. The Concessioner is prohibited from:

   a. Publicizing facilities operated hereunder in any manner that would directly or inferentially reflect upon or question the acceptability of any person because of race, color, religion, sex, age, national origin, or disabling condition;
   b. Discriminating by segregation or other means against any person.

**Section II: Accessibility**

Title V, Section 504, of the Rehabilitation Act of 1973, as amended in 1978, requires that action be taken to assure that any program or service being provided to the general public be provided to the highest extent reasonably possible to individuals who are mobility impaired, hearing impaired, and visually impaired. It does not require architectural access to every building or facility, but only that the service or program can be provided somewhere in an accessible location. It also allows for a wide range of methods and techniques for achieving the intent of

the law, and calls for consultation with disabled persons in determining what is reasonable and feasible.

No handicapped person shall, because a Concessioner's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance or conducted by any Executive agency or by the U.S. Postal Service.

A. Discrimination Prohibited

A Concessioner, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, based on handicap:

1. Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;
2. Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
3. Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;
4. Provide different or separate aids, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;
5. Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;
6. Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or
7. Otherwise, limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

B. Existing Facilities

A Concessioner shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not require a Concessioner to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

# Exhibit B
# Operating Plan

OZARK NATIONAL SCENIC RIVERWAYS

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# I. INTRODUCTION

This Operating Plan will serve as a supplement to Concession Contract CC-OZAR007-05. It describes specific operating responsibilities of the Concessioner and the Service with regard to those lands utilized by the Concessioner for the purposes authorized by the Contract. In the event of any conflict between the terms of the Contract and this Operating Plan, the terms of the Contract, including its designations and amendments, shall prevail.

This plan will be reviewed annually by the Superintendent in consultation with the Concessioner and revised as determined necessary by the Superintendent of the Area. Any revisions must be consistent with the main body of this Contract. Any revisions must be reasonable and in furtherance of the purposes of the Contract.

The Superintendent is responsible for the total park operations, including the concession operation. The Superintendent has the responsibility to carry out the policies and directives of the National Park Service, including contract management of the Concessioner. Directly, or through designated representatives, the Superintendent reviews, directs, and coordinates the Concessioner's activities within and as they relate to Ozark National Scenic Riverways. This includes inspection of facilities, approval of rates charged for all commercial services, evaluation of Concessioner services and facilities, and approval of construction and all improvements to facilities. The Deputy Superintendent has co-responsibility of specific management issues of the park, and has direct delegated responsibility for the concession program at the park. The park Concession Specialist manages the concession program on a day-to-day basis.

The Concessioner is responsible for the concession operations. The Concessioner has the responsibility to conform, support and comply with the policies and directives of the National Park Service, including contract compliance. Directly, or through designated representatives, the Concessioner manages the day-to-day operations of the business and is responsible for the safety and well being of his/her employees and customers.

The Concessioner and the Service will jointly work to maintain the high water quality of the rivers, and to keep the river environment free of trash and litter.

# II. SERVICES AND OPERATIONS

The operation of services authorized by the Contract will conform to the evaluation standards set forth in current National Park Service Concession Guidelines, Risk Management guidelines in NPS-50, and with this Operating Plan. The standards provided are considered to be Service minimums. The Concessioner is expected to make every effort to exceed these standards. The Concessioner shall be responsible for monitoring their operations to assure that quality standards are met.

**Location, Hours and Schedule of Operations:**

Business Location and Telephone

This concession will be required to operate from the Van Buren area. A public contact business telephone number must be provided during the season of operation. An off-season address and telephone number must be provided.

Hours and Emergency Contact

Hours must be clearly posted for the public. Operating hours, including an after-hours emergency contact number must be provided by the Concessioner to the Superintendent prior to each opening season of operation. The individual at this number must have the authority to provide approved services.

| | |
|---|---|
| Contact Name: | Joe DeVALL |
| Business Telephone: | 573-729-5770 |
| Emergency Telephone: | 573-729-7373 |
| Season of Operation: | APRIL 15 – OCT 31 |
| Hours of Operation: | 8:00 AM - 5:00 PM |

Season and Schedule of Operation

Closure prior to the end of the season requires approval by the Superintendent. The Superintendent should be notified at least two weeks in advance of any proposed closure. Opening earlier or remaining open later than the standard season is encouraged and requires no approval; however, the Superintendent must be kept advised of operating plans.

## A. General

1. Vehicles: State and Federal requirements must be adhered to. All shuttle buses, vans, and other operation vehicular equipment including tow trailers, used by the Concessioner, will be properly licensed and maintained in a safe operating condition. Required safety equipment must be in vehicle. In the event, a school bus will be put into service, the words "School Bus", the extension "Stop" sign, and all flashing lights must be removed. Equipment must be in sound mechanical condition and have an overall well-maintained, clean and professional appearance. Interior and exterior must be in good to excellent physical condition, and be reasonably free of rust, with no chipped, faded or discolored paint. The Concessioner's identifying information must be prominently displayed. Each vehicle must be identified with Concession name, utilizing the Concessioner's authorized color, as approved by the Superintendent, that allows visual identification from approximately one-half mile distance. Authorized NPS personnel will inspect vehicles during periodic inspections as outlined in current National Park Service Concession Guidelines. See Attachment 3, Vehicle/Equipment Condition Assessment and Standards.

2. Equipment: Concessioners are responsible for inspecting their own equipment to assure that all equipment used in conjunction with concession operations is in good condition with no sharp/rough edges or large dents and show no signs of warping. Skid plate installation or vessel repair requires a neat, professional appearance. Vessel identification (decal or painted format) should be in good condition with no chipped, torn or faded paint or signs. The Concessioner is required to adhere to the park policy for decal replacement. Authorized NPS personnel will inspect equipment during periodic inspections as outlined in current National Park Service Concession Guidelines. See Attachment 3, Vehicle/Equipment Condition Assessment, and Standards.

3. Rental Agreements: Use of rental agreements, which includes the information required for Service statistical records, will be mandatory and part of the periodic evaluation. Rental agreements will be printed by the Concessioner in the form approved by the park. A copy of the completed rental agreement will be furnished to the Service by the 25th of each month.

4. Glass Containers: In an effort to increase safety and reduce hazardous litter within the park, glass food or beverage containers are not permitted in areas where, if broken, presents a threat to users of the park. Areas include the Current and Jacks Fork Rivers and within 50 feet of any river or stream, on trails, or inside caves.

Glass containers may be used in designated campgrounds, picnic areas, within vehicles on designated roads, and parking areas.

The Concessioner is required to inform visitors of the prohibition of glass on the rivers and actively assist the park with this prohibition.

## B. Operational Evaluations

1. The Service and the Concessioner shall separately inspect and monitor concession services with respect to Service policy, applicable standards, authorized rates, safety, public health, impacts on cultural and natural resources, and visitor concerns and reactions. The Service will evaluate the Concessioner's operation to ensure public safety and health, identify maintenance and operating deficiencies, and ensure satisfactory service to the general public.

2. There will be periodic inspections of Concessioner services by authorized NPS personnel to ensure conformance to operational standards established by current National Park Service Concession Guidelines. Location managers will be contacted at the time of evaluations so that a representative of the Concessioner can accompany the Service evaluator.

a. A minimum of two periodic evaluations on each seasonal concession operation will be conducted annually. At least one evaluation will be unannounced and at least one will be announced for Concessioners with an overall rating history of Satisfactory. Additional evaluations may be performed at the discretion of the Service.

b. A and B deficiencies must be corrected within 15 days unless a different date is agreed to by both parties. C deficiencies must be corrected by the next evaluation. Note that C deficiencies may affect the first evaluation of the next season. Classification of Elements are as follows:

1. First Priority (A). *Significantly* impacts visitor's enjoyment or well being.

2. Second Priority (B) *Moderately* affects visitor's enjoyment or well being.

3. Third Priority (C). *May* result in inconvenience or impariment or visitor's experience if deficient.

3. The Concessioner will perform annual fire and safety inspections of all concession vehicles. Written records, verifying the completion of such inspections will be maintained by the Concessioner and available to the Service upon request. Corrections shall be accomplished according to the Risk Management Program.

4. The Concessioner must be responsive to dates assigned for correction of deficiencies and abatement plans for correction of identified deficiencies. The Concessioner will meet with Service officials to schedule and prioritize correction of deficiencies and improvement programs resulting from these inspections.

## C. Rates

Rates for goods and services are established in conformance with the Rate Approval Method guideline in current National Park Service Concession Guidelines, which includes the Competitive Market Declaration Method. The Competitive Market Declaration method of rate approval will be used in this park for vessel rentals.

The Superintendent is responsible for ensuring that rates are reasonable and in compliance with NPS policy and the law. The Superintendent has the authority to approve and rescind rate methods. See Attachment 4, Sample Competitive Market Declaration Rate Approval Form.

The Concessioner and Superintendent have the responsibility for reviewing visitor complaints and monitoring rates.

The Concessioner will limit services to those listed in the Contract, within a rate schedule approved annually by the Superintendent.

The Concessioner will prominently post all rates for goods and services provided to the general public.

## D. Staffing and Employment

1. Concessioner Hiring:

   a. The Concessioner will hire a sufficient number of employees to ensure satisfactory services during shoulder as well as peak visitor seasons.

   b. The Concessioner will establish hiring policies, which will include appropriate background reviews of applicants for employment. The Concessioner will not hire any person known to have an outstanding warrant for arrest and will make reasonable efforts to secure this information prior to hiring new employees.

   c. All employees dealing with the general public shall either wear a shirt identifying the wearer as concession staff, a ball cap identifying the wearer as concession staff, or a name badge identifying the wearer as concession staff. Employees will project a hospitable, friendly, helpful, positive attitude, be capable and willing to answer visitors' questions, and provide visitor assistance. The Concessioner shall take appropriate steps to enforce these rules.

   d. No person under 14 years of age may be employed by a Concessioner in any occupation. Persons under 18 years of age may be employed for no more hours than the lowest maximum set all applicable laws.

   e. Concessioner must submit to the Service a current list of all employees by May 30 of each year.

   f. Drivers of delivery trucks or passenger carrying vehicles shall have a valid Missouri operator's license (which is currently a CDL) for the size and class of vehicle being driven. They shall also meet any additional requirements

established by the Missouri Highway Patrol for the vehicle driven or passengers carried.

g. The drivers of shuttle vehicles shall be subject to random drug testing performed by the Concessioner's representative in order to fulfill the requirements of a drug-free workplace.

2. Service Employees and Families:

The Concessioner shall not employ in any status a Service employee, his/her spouse, or minor children of Service employees without the Superintendent's approval. Employees must submit a written request to the Superintendent. The Concessioner shall not employ in any status the spouse or children of any employee directly involved in program management or who conducts periodic inspections/evaluations.

3. Training Program:

a. Park staff will conduct an orientation/training session prior to Memorial Day, at no charge for Concessioners, managers/representatives, and/or their employees. This will be **required attendance** for Concessioners and their managers. Topics will include safety, resource protection, technical and regulatory information, appreciation of park values, Service goals, hospitality for the service industry, and current National Park Service Concession Guidelines, which emphasizes the operational review program, to managers.

b. The Service may make instructors and space available in park presented training courses as appropriate for concession managers and their employees when large numbers of concession employees need training, if funding and manpower are available. These may include first aid and defensive driver training.

c. In the event concession employees do not attend the park orientation/ training, the Service will provide a list of applicable competencies to assist the Concessioner in their pre-season orientation of each employee prior to job assignments and working with the public. Concessioner will adequately train employees in safe operating procedures and of park regulations and requirements, which affect their employment and activities while residing and working in the park.

d. The Concessioner will provide hospitality training for employees who have direct visitor contact and/or who provide visitor information.

e. Additional orientation, pertinent to the developed area where the employees are assigned, will be conducted by the Concessioner with Service participation on location, if requested or required.

f. The Concessioner must provide employee training on Ozark National Scenic Riverways, its environment, history, and points of interest. The Concessioner must provide the safety training required by Risk Management policies and procedures.

## E. Vessel Allotments

The Service reserves the right to regulate, limit, apportion, allocate and/or adjust the Concessioner's authorized allotment of vessels and to withdraw such allotment in whole or in part as may be necessary for resource protection and visitor use and enjoyment. Such apportionment, allocations, or adjustments between authorized Concessioners shall be made on an equitable basis. If a withdrawn allotment of vessels is to be continued, the Superintendent may reassign such allotments to other Concessioners.

The Superintendent may also determine, establish, and adjust the number of vessels during any day or year and other similar measures of river use as may be consistent with NPS policies. The number of tubes or personal inflatables rented cannot exceed the Concessioner's permitted allotment, at any given time, within the boundary of the park.

If a Concessioner is unable to continue a business operation, for whatever reason, or wishes to reassign the contract associated with the business operation, the Service must review the assignment or encumbrance pursuant to the regulations.

a) The term "canoes" includes inflatable canoes, or any other canoe-like vessel, including rafts, approved by the Superintendent. With the Superintendent's approval, Concessioners may exchange one canoe for one kayak. Likewise, with the Superintendent's approval, the Concessioner may exchange two canoes for one 4-6 person raft. Rafts cannot exceed a length of 14 feet. The Concessioner can get approval from the Superintendent to rent up to 10% of their total allocation of canoes. The percent limit applies for a three-year trial period to give the park and Concessioner an opportunity to evaluate the benefits or impacts of rafts on the Current and Jacks Fork Rivers. At the end of the trial period the percent limit on rafts may be reduced, modified or if significant problems develop the Superintendent may discontinue the rental of rafts.

1. Number of Vessels:

This concession is authorized to rent:

_120_ Canoes, ____ Kayaks, _____ Rafts (*not to exceed 14'*)

*(With the submission of a written request and the Superintendent's approval, may exchange 1 canoe for 1 kayak or 2 canoe allocations for 1 raft, that meets the above specifications.)*

_____Tubes or Personal Inflatables,and

____ Johnboats.

The number of vessels and tubes or personal inflatables authorized by this Contract is the maximum number of vessels regardless of type, based on the normal occupancy allowed.

The Service will not adjust upward the maximum number of vessels, tubes (personal inflatables) or the total occupancy rating based on normal occupancy or U.S. Coast Guard standards. The Concessioner shall not exceed any carrying capacity per vessel type.

2. Trading, Borrowing, or Subleasing:

Trading or borrowing vessels among Concessioners will not be permitted. Subleasing of vessels or tubes (personal inflatables) among Concessioners within their own district must be supported by rental receipts, applied to the gross receipts reported to the Service, and are subject to franchise fees.

## F. Vessel Identification and Condition Requirements

Concessioners will be required to identify their vessels in the following manner:

**Authorized tubes** or personal inflatables shall be marked with a stripe, patch, cover, or initials utilizing a consistent Concessioner's authorized color, as approved by the Superintendent. Tubes or personal inflatables must be sequentially numbered in at least 3" high block numbers that sharply contrast with its background, allowing visual identification from an approximate distance of 150 feet.

Inner tubes or personal inflatables will be in good condition, free of holes and sufficiently aired. Tube covers will be in good condition with no frayed edges, holes or major fading.

**Authorized canoe/kayak/raft** vessels will be identified with decals furnished by the Service and by marking them and related concession equipment (trailers, shuttle vehicles, etc.) with the Concession name, as indicated in the Contract. Service decals shall be placed on both sides at the front and rear of the vessel.

Canoe/kayak/raft vessels shall further be identified with the Concession name in decal or painted format in at least 3" high block letters that sharply contrast with its background, allowing visual identification from an approximate distance of 150 feet. Identification shall be placed on both sides of the vessel.

All identifying Service or Concessioner decals will be removed when canoes/kayaks/rafts are taken out of service and/or sold. The old decals will be removed by the Concessioner and given to a Law Enforcement Ranger or Concession Specialist who will replace them with new decals within 72 hours of the request.

Concessioners are responsible for inspecting their own equipment to assure that all vessel identification (decal or painted format) is in good condition with no chipped, torn or faded paint or signs. The Concessioner is required to adhere to the park policy for decal replacement.

Canoe/kayak vessels will be in good condition with no sharp/rough edges or large dents and show no signs of warping. Skid plate installation or vessel repair requires a neat, professional appearance. See Attachment 3, Vehicle/Equipment Condition Assessment, and Standards.

Canoes rented to anyone who uses a motor, including trolling motor, must be registered in the State of Missouri. The registration number must be clearly visible and meet all state and federal requirements.

The Concessioner is required to maintain a list of canoes/kayak/rafts and/or johnboats

by manufacturer's identification number in the event a vessel is stolen and must be identified as the Concessioner's property.

Vessels that do not meet these standards will be removed from service until standards are met or a replacement, if required.

## G. Assigned/Authorized Accesses

1. Area of Operation:

River sections for commercial use will be designated by the Superintendent. Canoe and tube rentals will be restricted to the district/zone in which allotted (see attached Figure 1 diagram). Zone limits may be set, raised, lowered, or eliminated by the Superintendent at any time based on needs for resource protection and visitor use and enjoyment.

Concessioners permitted to operate in the Upper Current District (as defined by the River Use Management Plan) will be allowed to use the following river access points only:

| | | |
|---|---|---|
| Tan Vat | Cedargrove | Welch Landing |
| Akers Ferry | Pulltite | Round Spring |
| Williams | Jerktail | Baptist Access |
| Flying W* | | |

*For inner tubes or personal inflatables only.

The maximum use in daily numbers of canoes for the designated zones are:

| District | Zone | River Miles | Weekends & Holidays | | Weekday | |
|---|---|---|---|---|---|---|
| Upper Current | | | *1 Density | *2 Maximum | *1 Density | *2 Maximum |
| | 1. Tan Vat – Cedargrove | 7.3 | 27 | 197 | 15 | 110 |
| | 2. Cedargrove – Akers | 7.7 | 59 | 454 | 30 | 231 |
| | 3. Akers – Pulltite | 9.1 | 70 | 637 | 30 | 273 |
| | 4. Pulltite – Round Springs | 9.7 | 40 | 388 | 20 | 194 |
| | 5. Round Spring – Two Rivers | 18.1 | 10 | 180 | 10 | 180 |

**1 Number of canoes per mile*
**2 Maximum level of canoes per zone per day*

**Densities are based on research data resulting from river use and perceptions of crowding.*

Concessioners permitted to operate in the Lower Current District (as defined in the River Use Management Plan) will be allowed to use the following river access points only:

| | | |
|---|---|---|
| Powder Mill | Roberts Field | Logyard |
| Beal Landing | Paint Rock | Waymeyer |
| Big Spring | Cataract | Hickory |
| Hawes | Raftyard * | |

- For inner tubes or personal inflatables only.

The maximum use in daily numbers of canoes for the designated zones are:

| Lower Current | Zone | River Miles | Weekends & Holidays | | Weekday | |
|---|---|---|---|---|---|---|
| | 6. Two Rivers – Powder Mill | 6.9 | 10 | 69 | 10 | 69 |
| | 7a. Powder Mill – Chilton Creek | 19.8 | 10 | 198 | 10 | 198 |
| | 7b. Chilton Creek – Big Spring | 11.9 | 20 | 238 | 20 | 238 |
| | 8. Big Spring – Hawes | 15.7 | 10 | 157 | 10 | 157 |

**1 Number of canoes per mile*
**2 Maximum level of canoes per zone per day*

**Densities are based on research data resulting from river use and perceptions of crowding.*

Concessioners permitted to operate in the Jacks Fork District will be allowed to use the following river access points only:

| | | |
|---|---|---|
| Buck Hollow | Bluff View | Blue Spring |
| Rymers | Bay Creek | Alley Spring |
| Shawnee Creek | Two Rivers | Round Spring |
| Jerktail | Powder Mill | Roberts Field |
| Logyard | Culpepper Landing/Horse Camp • | |

* For inner tubes or personal inflatables only.

The maximum use in daily numbers of canoes for the designated zones are:

| Jacks Fork | Zone | River Miles | Weekends & Holidays | | Weekday | |
|---|---|---|---|---|---|---|
| | 9. Prongs – Alley Spring | 24.5 | 16 | 392 | 16 | 392 |
| | 10. Alley Spring – Two Rivers | 14.9 | 40 | 596 | 30 | 447 |

**1 Number of canoes per mile*
**2 Maximum level of canoes per zone per day*

**Densities are based on research data resulting from river use and perceptions of crowding*

Additionally, the Jacks Fork permitted Concessioners may put-in at Pulltite for two (2) day trips originating Monday through Friday only.

The Lower Current permitted Concessioners may put in at Two Rivers for two (2) day trips originating Monday through Friday only.

For trips of three (3) days or longer, any Concessioner may use any river access point.

2. Put-Ins and Takeouts:

Only the approved put-in and takeout locations listed above shall be used for access. The Superintendent may regulate put-in and takeout times and the number of canoes and tubes (personal inflatables) launched at any put-in to avoid congestion. All Concessioners will voluntarily comply with the limits established in the River Use Management Plan. If unable to do so, canoe allocations to be put-in at specific river access points or scheduling of put-ins will be established by the Superintendent.

3. Stockpiling:

Each Concession Contract may stockpile twenty (20) canoes at a time on gravel bars. Concessioners are responsible for the security of their vessels.

Tubes or personal inflatables may not be stockpiled on gravel bars.

4. Staging:

Canoe trailers may not be staged on gravel bars.

## H. Powered Boats (Chase Boats)

Concessioners are responsible for responding to overdue floaters either through their own chase boats (motorized johnboats occasionally utilized in assisting visitors or locating overdue floaters) or through a contracted service. Concession owned powered boats and operators must meet all U.S. Coast Guard and State of Missouri requirements.

The Concessioner operated motor boats shall comply with the horsepower limitations in effect for the section of river on which they are operating. The following are the Horsepower (HP) limitations listed by District:

**Upper Current District:**

| | |
|---|---|
| • Two Rivers upstream to Lower Access at Round Spring | 40 HP maximum |
| • Above Round Spring Lower Access | 25 HP maximum |
| • Except above Akers from May 1 – Sept 15 | 10 HP maximum |

**Lower Current District:**

| | |
|---|---|
| • Two Rivers downstream to Big Spring Johnboat Landing | 40 HP maximum |
| • Big Spring Johnboat Landing downstream to boundary | No Limits |

**Jacks Fork District:**

| | |
|---|---|
| • Two Rivers upstream to Alley Spring Campground Access | 40 HP maximum |
| • Above Alley Spring Campground Access | 25 HP maximum |
| • Except above Bay Creek from March 1 through first Saturday before Memorial Day | 10 HP maximum |

NOTE: These limitations DO NOT apply from two miles above to two miles below each city of Van Buren and Eminence, or outside the boundaries of Ozark National Scenic Riverways.

Horsepower measurements are the industry standard as measured at the propeller shaft. Vessels are limited to an outboard motor only.

Concessioners are responsible for their overdue floaters. The Concessioner may request the assistance of the Service to determine the whereabouts of the overdue floater(s) in the event their efforts are exhausted. If the situation appears to require a search and rescue operation, the Concessioner will notify the Park Rangers for assistance.

## I. Damaged Equipment, Salvage and Replacement

Each Concessioner will be required to remove any of its damaged, submerged or lost equipment from the park within 48 hours of notification or discovery of its location, river conditions permitting.

Replacement of damaged equipment with NPS identifying decals must be cleared with the Concessions Specialist. Old decals will be removed and new ones issued within 72 hours of request.

## J. Floatation Devices

Each occupant of a permitted craft will be provided a U.S. Coast Guard approved personal floatation device (PFD) of the type required for that craft by Coast Guard regulations. PFD's must be sized to the individual and be in good condition. The only exception is where the individual supplies their own Coast Guard approved PFD of the proper type in good condition.

Concessioners are required to comply with federal regulations for PFD's. Type IV throwable devices (cushions) may be rented as an extra or comfort item.

The Concessioner will not launch a canoe with a child under the age of thirteen unless the child is wearing an approved PFD of the proper size and is accompanied by a parent or responsible adult.

## K. Customer Damage Liability

The Concessioner agrees to limit the customer's liability when settling claims for damage or loss to canoes, paddles, life vests, and other equipment to the fair market value at the time of loss or a reasonable cost of repair to damaged equipment.

## L. Safety Inspections and Equipment

All vehicles used in conjunction with concession operations must comply with all applicable laws and regulations.

Concessioners are required to document vehicle safety inspections through a maintenance log.

At a minimum, all Concessioners will be required to carry in their vehicles well-stocked first aid kits, fire extinguishers, and flares.

## M. Reservation/Deposit/Refund/Assumption of Risk Forms

A reservation/deposit/refund policy must be approved by the Superintendent.

The reservation/deposit/refund policy will be included in all printed brochures used or provided by the Concessioner and conspicuously posted in the place of business.

Deposits will be refunded if, in the opinion of Service officials, the river is determined to be too hazardous for authorized vessel use.

NPS Concession Guideline, Chapter 23, Insurance Programs, states that, "...it is consistent with National Park Service policy for the Concessioner to warn visitors of the dangers inherent in high risk activities...." It also states, "...that the Concessioner shall not require its customers to release liability or to limit liability of Concessioner in any way." They may, however, advise visitors of the risks involved and have them sign a Visitor's Acknowledgement of Risk form.

The NPS shall review and approve all forms that the Concessioner provides to its customers regarding assumption of risk. Refer to Tab 9, Insurance Requirements and Attachment 5 for an approved sample of a Visitor's Acknowledgement of Risks Form.

# III. REPORTS

**Visitor Use Data**: The Concessioner will cooperate with the Service in establishing visitor use patterns, numbers, and trends by compiling and maintaining accurate visitor use data as requested by the Service and by participating in any special surveys that may be directed by the Superintendent to produce this information. The Concessioner shall be prepared to provide data by the 25th of each month. See Attachment 2, Concession Statistics Report Form.

## A. Concessioner

1. Management Information System:

   To document visitor use impact, the Concessioner shall maintain a management information system on the rental operations and shall provide the Superintendent a monthly report that reflects the number of vessel rentals.

2. Incident Reports:

   The Concessioner will immediately report to the Service: any fatalities or visitor-related incidents which could result in a tort claim to the United States; property damage over $500; any employee, visitor, or stock injuries requiring more than minor first aid treatment; any fire; all motor vehicle accidents; any incident that affects the park's resources; and any known or suspected violations of the law.

3. Human Illness Reporting:

   Information on all human illnesses, whether employees or guests, or the suspicion that the condition originated inside or outside the park, is to be immediately reported to the Concessions Program Manager. This information, along with other information received, will be evaluated by the Region's USPHS Officer to help identify outbreaks of illness associated with contaminated water, or caused by other adverse environmental conditions. Reports shall be made by telephone following the guide of necessary information listed in Attachment 1, Human Illness Reporting.

4. Other Reports Required by the Contract:

   a. Annual Financial Report: The Concessioner will be required to submit payment of the franchise fee adjustment and an annual financial report, on the forms provided by the Service, by April 30 of each year. Forms will be provided on or about December 1 each year.

   b. Franchise Fees: The Concessioner shall provide a memo with each submission of monthly franchise fees which lists the estimated gross upon which the fee was calculated and the amounts of franchise fee with the submission.

   c. Statement of Insurance (from Concessioner's insurance company): Annually, the Concessioner shall have the Statements of Insurance submitted to the Service by May 1 of each year or 30 days prior to the Concessioner's season of operation. If not submitted by the required date, the concession operation will be suspended without further notice.

   d. Concession Statistics Reporting Form (Attachment 2) must be filled out by the Concessioner or their representative and must accompany the monthly rental receipts provided to the Service.

**B. Service**

The Superintendent will provide the Concessioner with the following reports:

1. Concession Operational Performance Report (FORM 10-629) - A summary of the periodic evaluations with ratings for Public Health Service Inspections, a Safety rating based on compliance with the Risk Management Program, and an overall Operational Performance Rating.

2. Superintendent's Annual Concessioner Contract/Permit Compliance Report (FORM 10-630) - A twelve point review and evaluation of permit/Contract compliance.

3. NPS Concessioner Annual Overall Rating (FORM 10-631) - A report which combines the ratings from the above two reports into an "Annual Overall Rating Determination". The report also contains a narrative that details exceptional and problem areas in the operation of this concession and makes recommendations or sets requirements for improvements.

## IV. SANITATION

A. Garbage Collection:

1. The Concessioner should use recycled or recyclable products when available, and make every effort to recycle items collected as trash, specifically aluminum cans, glass and plastic.

2. The Concessioner will be required to provide, at a minimum, one mesh litterbag for each vessel rented.

3. The Concessioner will be responsible for assuring that the litterbags, trash and other debris are removed from the gravel bar at the access points and deposited in the appropriate trash or recyclable container.

B. River Clean-up

1. The Concessioner will be required to participate in two parkwide river clean-ups a year. One clean up will be in conjunction with Service coordinated events and the other shall be by the concession staff at a time convenient to the Concessioner. The concession coordinated clean-up event shall be documented and a letter sent to the Service stating the date and section of the river cleaned.

## V. RISK MANAGEMENT PROGRAM

A. Per the Occupational Safety and Health Act of 1970 and the Risk Management guidelines in NPS-50, the Concessioner will provide a safe and healthful environment for all of its employees and visitors.

B. The Concessioner will develop, maintain, and implement a documented safety program ("Risk Management Plan"), as outlined in current National Park Service Concession Guidelines. An initial submittal and request of approval of this plan will be made to the Superintendent within 120 days of the execution of the Contract.

C. Compliance with the Risk Management Program will be rated and the resulting rating will be reflected as the Safety Rating on the Annual Concession Operational Performance Report Form 10-629.

D. Weather/River/Tree Hazards and Closures:

All put-in activity should be discouraged when river levels are 2 feet above normal and rising as identified by measurements at river gauges presently along the river, or as directed by the Superintendent. In severe circumstances, the Superintendent may announce closure of park areas or the rivers for Concessioner services when weather or conditions warrant. Adequate public notice will be provided.

Concessioners are expected to be knowledgeable of hazardous conditions and discourage area or river use when conditions exist as defined above and should report known hazards to an area Law Enforcement Ranger.

Concessioners are responsible for providing visitors with a pre-launch orientation and safety briefing. Topics should include such topics as proper basic operating procedures for vessel rented, PFD's, no glass on the river, mesh litterbags, sun protection, drinking water, and other items addressed within the Concessioner's individual brochures and in accordance with the Concessioner's Risk Management Plan.

E. The Concessioner will use discretion in providing service to people who appear to be incapacitated to the point of being harmful to themselves or other people and will report serious incidents to the proper authorities and Law Enforcement personnel promptly.

F. When transporting passengers, the doors of all vehicles shall remain closed while the vehicle is moving and driver will assure that all, all applicable laws are adhered to.

## VI. LOST AND FOUND POLICY

Each Concessioner shall manage and maintain their own lost and found program approved by the Superintendent. Concessioners may direct the visitor to Law Enforcement personnel in the event the Concessioner is unable to assist the visitor in the recovery of the item.

## VII. COMPLAINTS

A. The Service will forward complaints or comments regarding concession operations to the Concessioner for investigation. The Concessioner shall respond within five (5) days.

The Concessioner will advise the Superintendent of any complaints received pertaining to the concession operation or any other aspect of Service operations within five (5) days of receipt. If the complaint is about the concession operation, a copy of the Concessioner's response shall be included.

B. In order to initiate valid and responsive visitor comments, the following notice will be prominently posted at all Concessioner cash registers and payment areas:

> "This service is operated by (Name of Concessioner), a Concessioner under Contract with the U.S. Government and administered by the National Park Service. The Concessioner is responsible for conducting these operations in a

satisfactory manner. The reasonableness of prices is based on comparability. Prices are approved by the National Park Service based upon prices charged by similar private enterprises outside the Park for similar services with due consideration for appropriate differences in operating conditions.

Please address comments to:
Superintendent
Ozark National Scenic Riverways
P.O. Box 490, 404 Watercress Drive
Van Buren, Missouri 63965"

## VIII. ADVERTISEMENTS/PUBLIC INFORMATION

A. All promotional material regardless of media format (i.e., printed, electronic, broadcast media), must be approved by the Superintendent prior to publication. All such material will identify the Concessioner as an authorized Concessioner of the National Park Service, Department of the Interior. Brochure changes and layout should be submitted to the Superintendent for review at least 30 days prior to projected need/printing dates. The Superintendent will make every effort to respond to minor changes to brochure text within 15 days. Longer periods may be required for major projects or where NPS assistance is required to help develop the product. The Concessioner should contact park staff well in advance to establish specific time frames for each project.

B. The Concessioner will provide park information to the public.

C. Solicitation of business and advertising within Ozark National Scenic Riverways is prohibited, except that business brochures may be available at rental offices inside park boundaries as long as they are not intentionally handed to, or made reference to, by Concessioners or their employees unless the visitor requests the information. No rate information may be posted on any concession equipment used in the park, including but not limited to vans, trucks, cars and trailers.

Solicitation of business is defined as any overt act indicating the desire to provide commercial service. The following are examples of overt acts referred to, but not all inclusive of such:

1. Approaching visitors, parking and/or driving through campgrounds and/or launch areas with the intention of offering commercial service.

2. Distributing business cards/brochures.

D. When used, advertisements for employment must contain a statement that the Concessioner is an equal opportunity employer.

## IX. PROTECTION AND SECURITY

A. **Visitor Protection**: Visitor protection is provided by the Service and all authorized state and local agencies.

The Concessioner is responsible for security of concession equipment and facilities, particularly vessels that are stockpiled, and customer equipment or possessions under their control.

B. **Fire Protection**: Fire protection shall be provided jointly by the Service, Concessioner, and local fire departments, with primary response from local fire departments. It is the Concessioner's responsibility to report all fires immediately. The park will coordinate General Agreements with other agencies for response to all fires within Ozark National Scenic Riverways.

C. **Fire Prevention:** Fire extinguishers in compliance with NFPA shall be provided in all Concessioner-owned vehicles. Maintenance and replacement of these extinguishers are the responsibility of the Concessioner.

D. **Emergency Medical Care**: The Service provides a limited level of emergency service to the public in conjunction with cooperation from local EMS provider services. If private ambulance services are called, the Service shall be notified of the incident immediately. Any injury sustained by a visitor or employee in a concession facility and/or all medical emergencies shall be reported promptly to the Service.

## X. ENVIRONMENTAL AND CULTURAL PROTECTION

A. The Concessioner will ensure that any protected sites and archeological resources within the Area are not disturbed or damaged by the Concessioner's activities. Discoveries of any archeological resources by the Concessioner will be promptly reported to the Director.

B. The Concessioner will be required to keep the Current and Jacks Fork Rivers clean and free of litter by:

1. Removing litterbags, trash and other debris generated by your customers from the gravel bar at the put-in and take-out points and deposit them in the appropriate trash or recyclable container.

2. The Concessioner shall participate fully in the park's recycling program. The Concessioner shall implement a recycling program that fully supports the efforts of the Service.

C. Participate in organized and/or scheduled river clean-ups upon being notified as to times and locations.

D. Reduce the potential for natural and cultural resource damage by providing parking for visitors outside of the park.

E. The Concessioner is responsible for training staff in the procedures for notifications of environmental hazards, i.e., spills, pollution, etc.

F. No collection of any type of cultural resource is allowed in the park.

G. Provide environmental messages through brochures and bank-side interpretive narration.

## XI. VOLUNTEERS IN THE PARK (VIP)

The Concessioner shall not restrict its employees from participating in the Volunteers-In-Park (VIP) program.

## XII. MEETINGS

A minimum of one meeting or orientation/training session will be required attendance by all Concessioners and their managers/representatives, and will take place prior to Memorial Day. Safety will be a required subject for discussion during this meeting. Either the Service or the Concessioners may add other subjects. Other general meetings may be called during the year at the request of the Superintendent or a majority of the Concessioners.

Dated at Ozark National Scenic Riverways this 26th day of April 2005.

CONCESSIONER

Title: PRES.

NATIONAL PARK SERVICE

Deputy

Noel R. Poe, Superintendent
Ozark National Scenic Riverways

**Attachment 1**

## Human Illness Reporting

Use the following as a guide when reporting human illness.

1. Every human illness complaint will be immediately reported to Park Personnel, at 573-323-4236.

2. The complainant needs to give their opinion as to what they felt caused the illness, i.e., contaminated food, water, insects, etc.

3. Particular attention should be given to:

   a. Symptoms involved.

   b. The time of onset.

   c. The number and names of others who are also ill.

   d. Places visited within the park.

   e. In cases of gastrointestinal symptoms, report:

      (1) Time when food was consumed.

      (2) Place(s) where food, beverages or water were consumed.

**Attachment 2**

## Concession Status Report Form

## Ozark National Scenic Riverways

Please provide statistics on the following to your area park Visitor Use Assistant or Ranger by the 25th of each month.

Concession:_____ Date: _____

Reporting Period: _____
(Month and Year)

A. Number of **CANOES** rented this month _____

1. Number of 1 day trips _____
2. Number of 2 day trips _____
3. Number of 3+ day trips _____

B. Number of **KAYAKS** rented this month _____

1. Number of 1 day trips _____
2. Number of 2 day trips _____
3. Number of 3+ day trips _____

C. Number of **RAFTS** rented this month _____

1. Number of 1 day trips _____
2. Number of 2 day trips _____
3. Number of 3+ day trips _____

D. Number of **TUBES/PERSONAL INFLATABLES** rented this month _____

E. Number of **JOHNBOATS** rented this month _____

Signature of Person Compiling Data: _____

**Attachment 3**

## Vehicle/Equipment Condition Assessment and Standards

| Vehicle, Vessels and Other Equipment Checklist: | Good Condition | Minimum Condition | Poor Condition | Comments |
|---|---|---|---|---|
| **Vehicle Maintenance** | | | | |
| • Equipment in sound mechanical condition | | | | |
| • Maintenance performed on a regular scheduled basis | | | | |
| • Maintained clean, good physical condition – interior and exterior | | | | |
| • Reasonably free of rust, chipped or discolored paint | | | | |
| • Concessioner's identifying information prominently displayed | | | | |
| • Maintenance logs in place | | | | |
| • Required safety equipment onboard, i.e., fire extinguishers, flares, first aid kit | | | | |
| • Park messages displayed, i.e., no glass, etc. | | | | |
| **Other equipment- Canoe Trailers** | | | | |
| • Adequately wired, lights clearly visible when loaded, tires with sufficient tread | | | | |
| • Frame structure adequate, trailer tongue equipped to prevent trailer loss/safety chains 3/16" or more | | | | |
| • Painted as required | | | | |
| **Regulations** | | | | |
| • All applicable regulations are followed, license clearly visible, registration and proof of insurance documentation in place | | | | |
| **Rental Equipment** | | | | |
| • Durable construction | | | | |
| • Maintained clean, good physical condition, free of major blemishes | | | | |
| • Vessel identification clearly marked on both sides as to ownership and authorized by NPS. Decal or painted format in good condition with no chipped, torn or faded paint or signs. Meets Coast Guard, State and local requirements and adheres to Ozark NSR decal program. | | | | |
| • Paddle blades - no major defects, shafts straight and true, no rotation on shaft, clearly marked as to ownership | | | | |
| • Floatation devises – coast guard approved, available in sufficient quantity, without torn straps, properly dried and reasonably clean, clearly marked as to ownership | | | | |
| • Chase Boats – sufficient number | | | | |

**Attachment 4**

## Competitive Market Declaration Rate Approval Form

## Ozark National Scenic Riverways

The rental price is generally negotiated between the customer and owner. The many variables that enter into rental prices, such as changes in season, insurance rates, and fuel prices make the application of fixed prices unrealistic. It is determined that the Concessioner's ability to compete is not enhanced by their location. Prices are comparable based on competition and negotiation.

The Concessioner's rates may be adjusted downward without the specific approval of the Superintendent but are subject to review to ensure that they remain reasonable in comparison to similar services offered outside the park.

This declaration will be reviewed annually and the use of this method could be rescinded if the Superintendent determines that the situation has changed. The decision to change rate approval methods is at the discretion of the Superintendent.

**Rate Schedule**

**Canoe, Kayak, Raft, Tube, and/or Johnboat Rentals and the Provision of Shuttle Service - Competitive Market Declaration.** Services provided by the Concessioner are vended in a competitive market. The prices charged for these services are negotiated between customer and owner. In consideration of these factors, it is declared that rates charged by the Concessioner are comparable and approved.

***Please attach your current proposed rates along with this declaration prior to each operating season.***

**Silver Arrow Canoe Rental** may price services competitively without further approval from the National Park Service. This declaration is for the period of Jan. 1, 2005 through Dec. 31, 2005.

Deputy
Superintendent

4/26/05
Date

**Attachment 5**

## (Sample) Visitor Acknowledgement of Risks

In consideration of the services of _____their officers, agents, employees, and stockholders, and all other persons or entities associated with those businesses (hereinafter collectively referred to as "_____," I agree as follows:

Although_____ has taken reasonable steps to provide me with appropriate equipment and information so I can enjoy an activity for which I may not be skilled. _____ has informed me this activity is not without risk. Certain risks are inherent in each activity and cannot be eliminated without destroying the unique character of the activity. These inherent risks are some of the same elements that contribute to the unique character of this activity and can be the cause of loss or damage to my equipment, or accidental injury, illness, or in extreme cases, permanent trauma or death. _____does not want to frighten me or reduce my enthusiasm for this activity, but believes it is important form me to know in advance what to expect and to be informed of the inherent risks. The following describes some, but not all, of those risks.

*(description of risks here)*

I am aware that _____entails risks of injury or death to any participant. I understand the description of these inherent risks is not complete and that other unknown or unanticipated inherent risks may result in injury or death. I agree to assume and accept full responsibility for the inherent risks identified herein and those inherent risks not specifically identified. My participation in this activity is purely voluntary, no one is forcing me to participate, and I elect to participate in spite of and with full knowledge of the inherent risks.

I acknowledge that engaging in this activity may require a degree of skill and knowledge different than other activities and that I have responsibilities as a participant. I acknowledge that the staffs of _____has been available to more fully explain to me the nature and physical demands of this activity and the inherent risks, hazards, and dangers associated with this activity.

I certify that I am fully capable of participating in this activity. Therefore, I assume and accept full responsibility for myself, including all minor children in my care, custody, and control, for bodily injury, death or loss of personal property and expenses as a result of those inherent risks and dangers identified herein and those inherent risks and dangers not specifically identified, and as a result of my negligence in participating in this activity.

I have carefully read, clearly understood and accepted the terms and conditions stated herein and acknowledge that this agreement shall be effective and binding upon myself, my heirs, assigns, personal representative and estate and for all members of my family, including minor children.

_____ _____
Signature Date

_____ _____
Under 18, signature of parent or guardian Date

# Exhibit C
## Assigned Government Owned Personal Property

Government owned personal property is assigned to the Concessioner for the purposes of this Contract as follows:

| Property Number | Description of Item |
|---|---|
| 120 Permits | Canoe, Kayak, and/or Raft Decals |

Effective, this 26th day of April, 2005.

By:

Noel R. Poe, Superintendent
Ozark National Scenic Riverways

# Exhibit D
# Insurance Requirements

## I. GENERAL

The Concessioner must obtain and maintain during the entire term of this Contract, at its sole cost and expense, the types and amounts of insurance coverage necessary to fulfill the obligations of the Contract. The Director will approve the types and amounts of insurance coverage purchased by the Concessioner.

At the request of the Director, the Concessioner must, at the time insurance is first purchased and annually thereafter, provide the Director with a Certificate of Insurance that accurately details the conditions of the policy as evidence of compliance with this section. The Concessioner must provide the Director immediate written notice of any material change in the Concessioner's insurance program hereunder, including without limitation, cancellation of any required insurance coverages.

From time to time, as conditions in the insurance industry warrant, the Director may modify this Exhibit, provided that any additional requirements must be reasonable and consistent with the types of insurance a prudent business person would purchase in similar circumstances.

The Director will not be responsible for any omissions or inadequacies of insurance coverages and amounts in the event the insurance purchased by the Concessioner proves to be inadequate or otherwise insufficient for any reason whatsoever.

## II. LIABILITY INSURANCE

The Concessioner must provide commercial general liability insurance against claims arising out of or resulting from the acts or omissions of the Concessioner or its employees, agents or contractors, in carrying out the activities and operations required and/or authorized under this Contract.

All liability policies must specify that the insurance company will have no right of subrogation against the United States of America and must provide that the United States of America is named an additional insured.

This insurance must be in the amount commensurate with the degree of risk and the scope and size of the activities required and/or authorized under this Contract. The following Liability Coverages and limits are to be maintained at a minimum, all of which are to be written on an occurrence basis only. The Concessioner may attain the limits specified below by means of supplementing the respective coverage(s) with Excess or Excess "Umbrella" Liability. Furthermore, the commercial general liability package must provide no less than the coverages and limits described.

### A. Commercial General Liability

1. Coverage will be provided for bodily injury, property damage, personal or advertising injury liability (and must include Contractual Liability and Products/Completed Operations Liability).

| | |
|---|---|
| Bodily Injury and Property Damage Limit- | $300,000 |
| Products/Completed Operations Limit- | $300,000 |
| Personal Injury & Advertising Injury Limit- | $300,000 |
| General Aggregate- | $500,000 |
| Fire Damage Legal Liability "per fire"- | per policy |

2. If the policy insures more than one location, the General Aggregate limit must be amended to apply separately to each location, or, at least, separately to the appropriate NPS location(s).

**B. Automobile Liability**

Coverage will be provided for bodily injury of property damage arising out of the ownership, maintenance or use of ``scheduled autos", Symbol 7. (Where there are no owned autos, coverage applicable to ``hired" and ``non-owned" autos, ``Symbols 8 & 9," will be maintained.) **Concessioners that shuttle privately-owned vehicles must have this coverage.**

Each Accident Limit:

| | |
|---|---|
| Cars, trucks and vans up to 5 passengers: | $300,000 |
| Cars, trucks and vans 6-12 passengers: | $500,000 |
| Vans and buses 13-20 passengers: | $750,000 |
| Buses 21-50 passengers: | $1,500,000 |

**C. Excess Liability or Excess "Umbrella" Liability**

This coverage is not required, but may be used to supplement any of the above Liability coverage policies in order to arrive at the required minimum limit of liability. If maintained, coverage will be provided for bodily injury, property damage, personal or advertising injury liability in excess of scheduled underlying insurance. In addition, coverage must be at least as broad as that provided by underlying insurance policies and the limits of underlying insurance must be sufficient to prevent any gap between such minimum limits and the attachment point of the coverage afforded under the Excess Liability or Excess "Umbrella" Liability policy.

**D. Care, Custody and Control - Legal Liability (Describe Specific Coverage)**

Coverage will be provided for damage to property in the care, custody or control of the Concessioner.

Any One Loss – N/A

**E. Environmental Impairment Liability**

Although "not applicable for the National Park Service", the state may require this coverage. Coverage (if requested by the Director) will be provided for bodily injury, personal injury or property damage arising out of pollutants or contaminants (on site and/or offsite).

Each Occurrence or Each Claim Limit as required by the State of Missouri Aggregate Limit as required by the State of Missouri

### F. Special Provisions for Use of Aggregate Policies

At such time as the aggregate limit of any required policy is (or if it appears that it will be) reduced or exhausted, the concessioner may be required to reinstate such limit or purchase additional coverage limits.

### G. Self-Insured Retentions

Self-insured retentions on any of the above-described Liability insurance policies (other than Excess "Umbrella" Liability, if maintained) may not exceed $5,000.

### H. Workers Compensation and Employers' Liability

Coverage will comply with the statutory requirements of the State of Missouri.

### I. Visitor's Acknowledgement of Risk

The Concessioner shall not require its customers to release liability or to limit liability of Concessioner in any way.

NPS Concession Guideline, Chapter 23, Insurance Programs, states that, "it is consistent with National Park Service policy for the Concessioner to warn visitors of the dangers inherent in high risk activities…." It also states that the Concessioner shall not require its customers to release liability or to limit liability of Concessioner in any way. They may, however, advise visitors of the risks involved and have them sign a Visitor's Acknowledgement of Risk form.

The NPS shall review and approve all forms that the Concessioner provides to its customers regarding assumption of risk. See Operating Plan, Attachment 5 for an approved sample of a Visitor's Acknowledgement of Risks Form.

## III. INSURANCE COMPANY MINIMUM STANDARDS

All insurance companies providing the above-described insurance coverages must meet the minimum standards set forth below:

A. All insurers for all coverages must be rated no lower than A- by the most recent edition of Best's Key Rating Guide (Property-Casualty Edition).

B. All insurers for all coverages must have a Best's Financial Size Category of at least VIII according to the most recent edition of Best's Key Rating Guide (Property-Casualty edition).

C. All insurers must be admitted (licensed) in the state in which the concessioner is domiciled.

## IV. CERTIFICATES OF INSURANCE

All certificates of Insurance required by this Contract must be completed in sufficient detail to allow easy identification of the coverages, limits, and coverage amendments that are described above. In addition, the insurance companies must be accurately listed along with their A.M. Best Identification Number ("AMB#"). The name, address and telephone number of the issuing insurance agent or broker must be clearly shown on the certificate of insurance as well.

Due to the space limitations of most standard certificates of insurance, it is expected that an addendum will be attached to the appropriate certificate(s) in order to provide the space needed to show the required information.

In addition to providing certificates of insurance, the concessioner, upon written request of the Director, must provide the Director with a complete copy of any of the insurance policies (or endorsements thereto) required herein to be maintained by the concessioner.

## V. STATUTORY LIMITS

In the event that a statutorily required limit exceeds a limit required herein, the higher statutorily required limit will be considered the minimum to be maintained.