Recreation Residence

Guide

for

Permit Holders

Bighorn National Forest

February 2007

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Quick Reference

Contact Information

Forest Supervisor's Office and Tongue Ranger District
2013 Eastside 2nd St.
Sheridan, WY 82801
(307) 674-2600
fax: (307) 674-2668

Medicine Wheel / Paintrock Ranger District
604 East Main St.
Lovell, WY 82431
(307) 548-6541
fax: (307) 548-6581

Powder River Ranger District
1415 Fort St.
Buffalo, WY 82834
(307) 684-7806
fax: (307) 684-9899

Powder River Satellite Office:
101 S. 23rd Street
Worland, Wyoming 82401
(307) 347-5105

Website:
http://www.fs.fed.us/r2/bighorn/contact

Email address: mailroom_r2_bighorn@fs.fed.u

Acronyms and Abbreviations

CFR: Code of Federal Regulations	**NEPA**: National Environmental Policy Act
FS: Forest Service	**NFS**: National Forest System
FSH: Forest Service Handbook	**SHG**: Summer Home Group
FSM: Forest Service Manual	**SUDS**: Special Uses Database System
Permit Holder's Guide: Recreation Residence Guidebook for Permit Holders	**SUP**: Special Use Permit
	USFS: United States Forest Service

Definitions

Authorized Officer — The forest supervisor, or a delegated line officer, having the authority to issue, suspend, terminate, revoke, or amend permits, operating plans, etc. The Authorized Officer for recreation residence special use permits is the District Ranger.

Cabin — *see* Recreation Residence

Guesthouse — Any structure separate from the main cabin that contains sleeping quarters.

Holder / Permit Holder — The person, married couple, or living trust to whom a special use authorization is issued. The party responsible for compliance with the terms and conditions of the Term Recreation Residence Special Use Permit.

Permit	A special use authorization which provides permission, without conveying an interest in land, to occupy NFS land or facilities for specified purposes, and which is both revocable and terminable.
Permittee	*see* Holder / Permit Holder
Recreation Residence	A privately owned dwelling within an established recreation residence tract on National Forest System (NFS) land, authorized for maintenance and use under a special use permit. A recreation residence is to be used by permittees, their families, and guests for enjoyment of related NFS lands and recreation resources. It is not intended for use as a primary or permanent residence.
Reissuance	The issuance of a new special use authorization for the same use when ownership of improvements is transferred.
Renewal	The issuance of a new special use authorization for the same use to the same holder upon the expiration of the current authorization.
Special Use Authorization	A term permit or temporary permit that allows occupancy, use, rights, or privileges on NFS land.
Summer Home	*see* Recreation Residence

Introduction and Overview

The *Recreation Residence Guide for Permit Holders* (*Permit Holder's Guide*) has been prepared by the Bighorn National Forest to help explain how Recreation Residence Special Use Permits are administered on the Forest. The *Permit Holder's Guide* is designed to be a ready reference to the regulations, policies, and forest plan direction that apply to recreation residence permits. It also details any unique Bighorn National Forest policies on the administration of recreation residence permits.

There are 265 Recreation Residences permitted on the Bighorn National Forest, more than any other Forest in the Rocky Mountain Region. There are 82 Summer Home Group tracts on the Forest containing 219 recreation residences. The remaining 46 recreation residences are not included in tracts and are considered isolated. On the Forest, special-use permit procedures are the same for recreation residences located in tracts and those that are isolated.

All three Ranger Districts administer recreation residence permits. The Authorized Officer for all recreation residence permits on the Forest is the District Ranger of the District on which the cabin and associated improvements are located.

Recreation Residence Special Use Permits authorize occupancy of NFS lands. They are not leases and thus convey no privilege of use of the permitted site other than occupancy, as specified in the permit.

Most recreation residence permits on the Bighorn National Forest expire December 31, 2008. All expiring permits that are in compliance with terms and conditions of Recreation Residence Permit and with the 2005 forest plan will be reissued for a new twenty-year term, to expire December 31, 2028.

Purpose of Recreation Residence Management on NFS Lands

Noncommercial sites for recreation use are an important component of the overall National Forest recreation program. They provide a unique forest recreation experience to individuals/families. The cabins and associated improvements are privately built and owned structures on National Forest System (NFS) land. They are maintained for the use and enjoyment of holders and their guests. Recreation residence permits do not grant exclusive use of NFS lands. The permit grants the privilege of occupancy of the site with privately owned improvements. Some objectives of policies governing recreation residence permits are:

1. Manage recreation residences as recreation sites for vacation use.
2. Maintain a forest-related recreation experience for the permittee and the public and to prevent that experience from being significantly lessened by the presence of human improvements.
3. Prevent urbanization of recreation residence tracts.
4. Protect safety of permit holders and general public.
5. Protect the Forest environment, including soil, water, wildlife, vegetation, and air quality.
6. Comply with the laws relating to management of NFS lands and resources, and observe meaning and intent of Forest recreation management and of the special-use permit.

7. Ensure that the general public is not precluded from full enjoyment of the natural, scenic, recreational, and other aspects of the National Forest.

Recreation Residence Permit Administration

Administration of recreation residence permits is directed first by federal regulation and then manual and handbook direction. Permits must also be compatible with the forest plan. The privileges and requirements of the permit holder are defined in the permit itself.

Permit Issuance

A. Term Special Use Permit for Recreation Residence
   1. Use for authorizing occupancy of a recreation residence site by the documented owner of improvements at the site.
   2. Use when site is in full compliance.

B. Temporary Special Use Permit
   1. Use to authorize occupancy of a site during probate of the estate of a deceased permit holder.
   2. Use to authorize occupancy of a site by lien holder in event of loan default by permit holder.
   3. Use to authorize occupancy of site by owner during period necessary to bring site into compliance with permit.
      a. Prior to issuing term permit to new owner
      b. Upon expiration of term permit, if site is in noncompliance

C. Who can hold a Recreation Residence Special Use Permit?
   1. An individual documented as owner of improvements.
   2. A married couple documented as owners of improvements.
   3. An individual or married couple designated as the Permit Holder by multiple owners of permitted improvements. Notarized documentation, signed by all owners, is required.
   4. A Living Trust that is established solely for non-commercial, personal benefit (e.g., family trust).
      a. An individual must be named as the trust representative and holder of the Term Recreation Residence Permit. This individual would agree to act in behalf of the trust and to be responsible for the conditions imposed on the trust under the term permit's provisions. This can be a person specifically named in the trust as having the responsibility of the recreation residence
   5. A family ((husband, wife, dependent children) or an individual may only have one Recreation Residence permit.

D. Special Use Permits will not be issued without legal proof of ownership of improvements. Proof of ownership may include a Bill of Sale, an executed Last Will and Testament, a divorce decree, a Living Trust document, or a probated estate.

Permit Amendments

A. Any change to items on the face of the Recreation Residence Permit, with the exception of legal name change, death of spouse, or an address change, must be made by permit amendment.

1. The Holder sends a letter describing the proposed modification to the permit. The proposal must be signed by the Holder or Trust Representative.
2. The Permit Holder refers to the *Checklist for Submitting Plans for Improvements* in Appendix A.
3. The Holder and the Authorized Officer sign acceptance of the amendment.

Change in Ownership

Ownership may change due to sale, foreclosure or other legal proceeding, or gifting. The sale of a recreation residence on NFS land involves only the sale of structures. No ownership of land is conveyed with special use permits. Permits are not saleable or transferable. If ownership changes, the current permit will be revoked, and a new permit may be issued to the new owner.

A. Current owner (seller)

1. Notify the permit administrator of intent to sell.
2. Provide a copy of the permit and the amount of fees paid for the current year to the buyer.
3. Execute part one of Form FS-2700-3a, Holder-initiated Revocation of Existing Authorization and Request for a Special-Use Permit.

B. Potential Owner / New owner (buyer)

1. Contact the Permit Administrator to discuss the responsibilities and requirements of owning a recreation residence on NFS lands.
2. Execute part two of Form FS-2700-3a.
3. Submit the completed form FS-2700-3a to the District Ranger. Attach the Bill of Sale or other documentation verifying ownership of cabin and associated structures.
4. If the new owner is more than one person or a married couple, all owners must sign a document designating the person or married couple who will act as the Permit Holder on behalf of all owners.
5. As fees are paid to USFS annually and in advance, the seller and buyer negotiate their own arrangements for prorating of fees already paid to the USFS for the current year.

C. USFS is notified of potential change in Recreation Residence ownership:

1. Make a site visit.
   This visit allows the Permit Administrator to inspect the site for any items of noncompliance and to verify that the structures named on the permit are still in place and that no unauthorized structures are in place. Subsequent conversations with the holder, realtors, and prospective buyers should include discussion of the results of the site visit. Discussion will include required correction of noted deficiencies.

D. FS-2700-3a is received in District office:

1. The Permit Administrator completes part three.
2. The Buyer may take occupancy, as fees have been paid for calendar year.
3. The buyer contacts the Permit Administrator and obtains written approval ***before*** beginning any modifications to the structures or the site.
4. If a current site inspection has not been made, as per Part C. above, an inspection will be made as the program of work and seasonal conditions allow. The Permit Administrator will visit the site to determine if there are any conditions that need to be corrected to bring the permit into

compliance. Structures may need to be repaired or removed, or other conditions corrected. Results of the inspection will be discussed with buyer and a compliance schedule agreed upon.

5. New term or temporary permit is issued to the buyer for the remainder of the original permit term. Term permits expire December 31, 2008 or December 31, 2028.

Change in Holder but no Change in Ownership

A. Examples of holder change

1. Permit issued to married couple

   a. One spouse dies.
   Permit continues in force; notation on existing permit of holder change.

   b. Couple divorces.
   New permit must be issued to new holder. Documentation is required: for example, a divorce decree.

2. Permit issued to single person who marries and chooses to add spouse to permit.
   New permit must be issued to new holders. Documentation is required: for example, a marriage license.

3. Holder changes name (marriage, divorce or other legal proceeding).
   New permit must be issued to new name of holder. Documentation required.

4. Holder creates Living Family Trust and includes permitted structures in the Trust.

   a. Holder is Trust Representative.
   New permit must be issued to the Trust, naming the former Holder as Trust Representative. Documentation is required.

   b. Holder is not Trust Representative.
   New permit is issued to Trust, naming Trust Representative. Documentation is required.

5. Holder changes address.
   Permit continues in force, notation on existing permit of holder address change. Change contact in SUDS

6. Recreation Residence has multiple owners
   Owners change the person designated as permit holder. (Notarized documentation, signed by all owners, is required,). No change in ownership.
   New permit is issued to new holder.

Billing

A. Bills for annual permit fees are mailed December 1 and due January 1.

B. Payments are made directly to the Lockbox address indicated on the Bill for Collection.

C. Any bill unpaid for 60 calendar days after the due date accrues interest, administrative fees, and penalties.

Inspections (FSM 2716.5)

A. Inspections are based on the particulars in the special use permit and operations and maintenance plan, as well as other applicable regulation and policy

B. Yearly field inspections are required.

C. It is recommended that site visits be done with the permit holder present.

Site visits are also done to follow-up on previously noted deficiencies and to verify that corrective actions have been taken by the Holder.

D. Compliance inspections are performed to determine compliance with terms and conditions of Recreation Residence Special Use Permit and other applicable regulation and policy.

E. Permit holders are required to take appropriate action regarding noncompliance with terms and conditions of the Permit, including the Operations and Maintenance Plan, or other violations of regulation or policy.

F. When health and safety deficiencies are indicated, the Authorized Officer may require the Holder to have an inspection performed in accord with the Holder's responsibility described in Permit Clause IV.A. This inspection may be performed by federal, state or county health and safety personnel or by qualified professional, technical, and administrative inspectors, as long as the standards are met. If the Holder does not comply with the Authorized Officer's request for inspection, the Authorized Officer files an official complaint with the applicable state or county agency to trigger the inspection.

Non-compliance / Breach of Permit Terms and Conditions (FSM 2347.1, FSH 2721.23i)

A. The Holder must be given an official Notice of Noncompliance and then a reasonable time[1] to correct any breach of permit terms.

B. If there is an immediate threat to public health and safety, or to natural resources, correction may be required in fewer than 90 days.

C. Revoking a permit based on permit noncompliance (Clause VIII.A.) is considered a last resort in most cases. (36 CFR 251.60(e))

D. Deficiencies shall be resolved prior to the issuance of a new term permit (due either to transfer of ownership or to permit expiration). A temporary permit may be issued until the deficiencies are corrected, or the USFS and Permit holder can agree to a correction schedule that adresses the deficiencies and a term permit may be issued.

E. As specified in 36 CFR 261.10(l), a Warning Notice or a Violation Notice may be issued for failure to comply with the terms or conditions of the permit. A Notice of Noncompliance must be issued after a Warning Notice or Violation Notice is issued

F. Violations of federal, state, county and/or municipal law will be dealt with administratively and may also be turned over to Forest Service Law Enforcement and Investigations.

Roads and Other Access Structures

Any special order or temporary closure in effect on roads that access recreation residences must be adhered to. Travel on closed access roads is allowed only with valid "Bighorn National Forest Closed Road Travel Permit" issued by the District Ranger.

Removal of Forest Products Such as Timber

A. Any cutting of trees, live or dead, from permitted sites requires a Forest Product Permit.

[1] Not to exceed 90 days; however, this time can be extended depending on seasonal conditions.

The permits are issued only to Recreation Residence permittees who have coordinated with the Permit Administrator regarding cutting and/or removing green vegetation at their permitted site. The permit administrator must create a map showing the location of the recreation residence site, to be attached to the permit. The forest product permits must be obtained at the Ranger District Office that administers their Recreation Residence special use permit.

Appendix A

Checklist for Submitting Plans for Improvements

Checklist for Submitting Plans for Improvements

- ❑ **Are the plans for additions or changes being submitted at least four months in advance of the proposed start of construction?**
  The Forest Service review process and approval for changes to a recreation residence will take approximately 4 months. This assumes that all necessary information was provided with the submittal. If this time period does not fit with your construction schedule, the process may be shortened somewhat by submitting a third-party review from a licensed architect or certified engineer who is not associated with the development of the submitted plans.

- ❑ **Have you considered in your plans who will complete and when compliance will be completed with Section 106 of the National Historic Preservation Act (NHPA)?**
  Please contact us as early as possible. Completing Section 106 is very convoluted as it depends on whether a survey has previously been completed, whether your cabin is considered eligible to the National Register of Historic Places, and whether the action planned would be considered an adverse effect under the NHPA. This is a procedural law, and includes several steps that can take from 60 to 120 days to complete.

- ❑ **Plans to be included in the submittal:**
  - ❑ A floor plan showing exterior building dimensions.
  - ❑ At least 2 elevation views (front/back or front/side), including exterior finishes and colors.
  - ❑ An electrical schematic plan and type of heat planned.
  - ❑ Water supply/plumbing plan including type of materials to be used.
  - ❑ Waste water/septic system including capacity calculations.
  - ❑ Roof materials and color.
  - ❑ How the new foundation will be connected to the old foundation and type of materials used for the foundation.
  - ❑ Snow load data meeting local snow conditions using Wyoming Snotel data.
  - ❑ Number of trees to be removed and how they will be disposed?
  - ❑ Clearing distance from buildings to mature trees (the horizontal distance should be at least 30 feet, and there should be no overhanging vegetation within 15 feet of the roof).
  - ❑ Site plan depicting the position of each improvement in relation to lot boundaries.

- ❑ **Have the plans been prepared and stamped by a certified engineer or a licensed architect?**

- ❑ **Has the following statement been included with the submittal, and signed by the Permit Holder?**

  "I certify that all construction will meet applicable Department of Agriculture regulations and all Federal, State, County and municipal laws, ordinances or regulations per Clause I.G of the Special Use permit issued to me for this residence."

- ❑ **Has a copy of the County wastewater permit been included, if applicable?**
  Contact the appropriate county office for application and process directions. (Sheridan County Engineer's Office – Steve Bond at 674-2920; Washakie County Planning Office at 347-2741; Johnson County Sanitarian at 684-7102; Big Horn County Planning Office at 568-2424)

Rules for all four Counties

Septic tank minimum distance to:		Leach Field minimum distance to:	
Dwellings and buildings	5 feet	Dwellings and buildings	10 feet
Potable Waterline	25 feet	Septic Tank	10 feet
Waterway or Body of Water	50 feet	Potable Waterline	25 feet
Well or Spring	50 feet	Waterway or Body of Water	50 feet
		Well or Spring	100 feet
		Bottom of leach field must be at least 4 feet above groundwater or bedrock	

- ❑ **Has the process for appropriating ground water (well, spring, surface water) been completed? Refer to Appendix B "Process for Obtaining a Water Right Associated with Recreation Residences on the Bighorn National Forest."**

- ❑ **Have all the planned resource protection measures been included?**
  Examples include: type of spark arrestors, erosion control measures, seeding, temporary storage of fuels, etc?

- ❑ **Has the timeline for construction been shown?**
  When will it begin, when will it end, and what provisions will be made for protecting safety and preventing erosion over the winter?

Submit plans to the appropriate District contact:

Cheri Jones	**Rick Hall**	**Teri Coy**
Tongue Ranger District	Powder River Ranger District	Medicine Wheel – Paintrock RD
2013 Eastside 2nd St.	1415 Fort St.	604 East Main St.
Sheridan, WY 82801	Buffalo, WY 82834	Lovell, WY 82431
307-674-2652	307-684-4634	307-548-5310

Appendix B

Process for Obtaining a Water Right Associated with Recreation Residences on the Bighorn National Forest

Updated 8/2/2010

The following process applies to new appropriations or changes to groundwater and surface water uses at recreation residences on the Bighorn National Forest. Ground water appropriations may be in the form of a well or spring development, if the point of diversion is located where water reaches the surface of the ground. Surface water appropriations may be in any form that diverts water flowing across the surface of the ground, such as a stream channel. For domestic uses, the volume of water to be used cannot exceed 25 gallons per minute, the total area of lawns and gardens watered cannot exceed 1 acre, and the well/spring cannot supply water to more than 3 single-family dwellings. The request for these actions is initiated by the holder of a special use recreation residence permit (Permittee). The water right will be issued in the name of the United States of America, USDA Forest Service, and the Forest Service will initiate the actual process for obtaining a water right for this development. Both the Permittee and the Permit Administrator should be familiar with the definitions of ground water, surface water, domestic use, and miscellaneous use as defined in Wyoming law. A good summary of State water law and definitions can be found at: http://seo.state.wy.us/PDF/b849r.pdf

1. Permittee proposes improvement, expansion of existing, or development of new water use and submits written proposal including full description, well drawing (if applicable), and map with proposed location and GPS coordinates for latitude and longitude. An example of an acceptable well drawing is on the last page of this appendix.

2. Based on proposal, Permit Administrator reviews the proposal for consistency with existing rules and regulations (36 CFR 220.6(e)(3) and FSH 31.2(3), Special Use Authorization or amendment, NHPA Sec. 106, 404 permit, etc.).

3. Permit Administrator initiates and completes actions required to approve proposed development.

4. Permit Administrator sends letter to Permittee authorizing proposed development and informs them of the Forest's initiation of the process for applying and obtaining a water right through the Wyoming State Engineer's Office.
   a. Ground water (springs & wells)
   b. Surface water (streams, ditches, and reservoirs)

Depending on the extent of the proposal, the initial approval may take up to two to four months. In addition to this time, it takes the SEO approximately five to six weeks to process an application, depending on their staff availability. This time period may vary.
YOU MUST HAVE AN APPROVED PERMIT BEFORE CONSTRUCTION ACTIVITIES CAN BEGIN.

5. Once the Forest receives a letter of approval to appropriate water, the Permit Administrator will send a copy of the letter to the Permittee.

6. Permittee must complete development within the time stated on this letter.

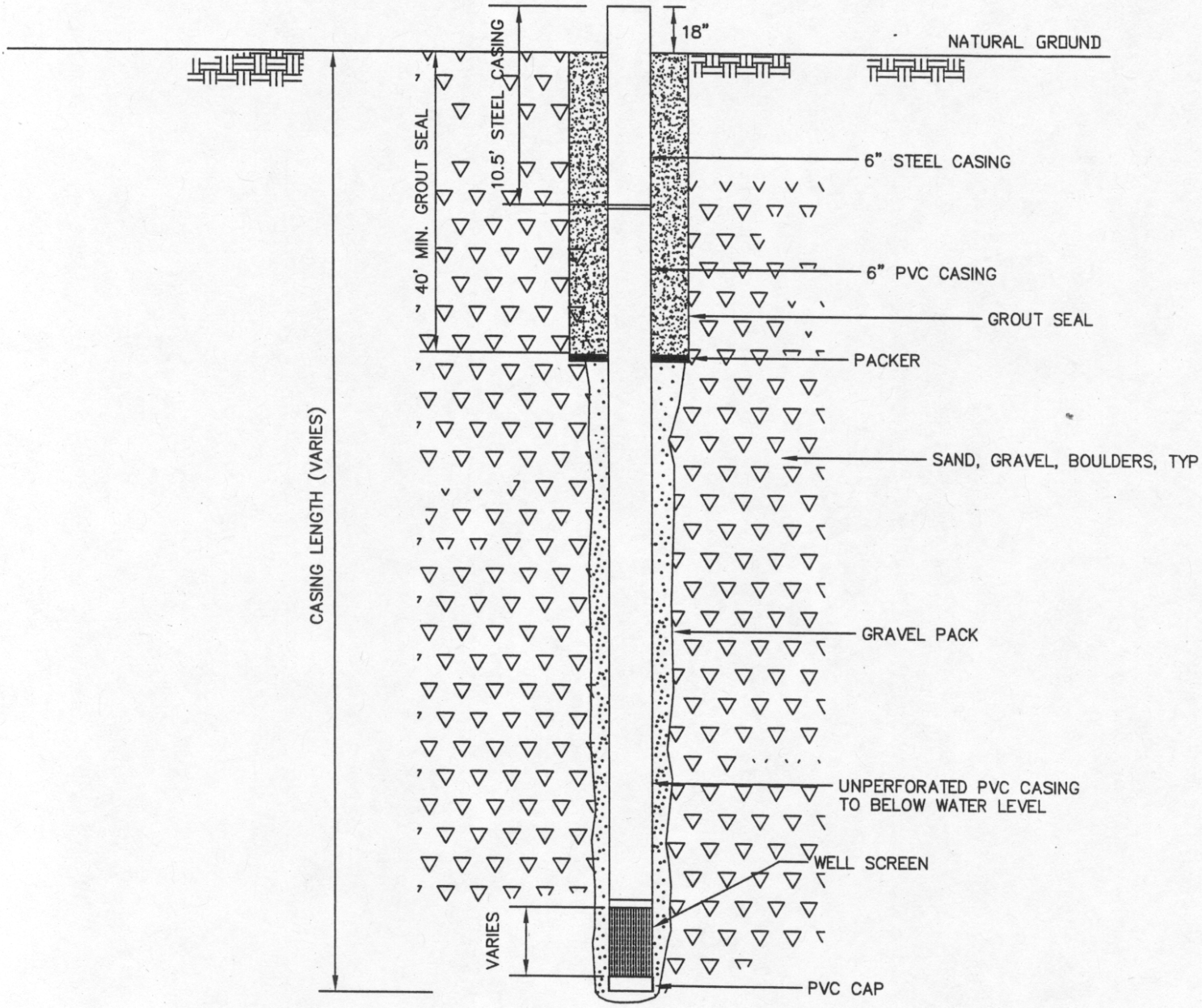
7. If development cannot be completed within this time frame, Permittee must notify Permit Administrator and request an extension.

    a. Forest submits an extension request to the SEO.
    b. Upon receiving a letter from the SEO confirming the extension, the Permit Administrator will send Permittee a copy.

8. Permittee must notify Permit Administrator within 10 days of completion and provide them with a copy of the Well Drillers Log (if applicable).

9. Forest personnel will review the development on site and if acceptable, will file the appropriate Completion forms with the SEO.

    a. If development is unacceptable, the Permittee must remedy the inconsistencies until it is acceptable.



TYPE 1 UNCONSOLIDATED FORMATION

NOT TO SCALE

EXHIBIT A