

- (vi) Violate a requirement of section 1867 of the Act or § 489.24 of this title;
- (vii) Substantially fail to provide an enrollee with required medically necessary items and services, or engage in certain marketing, enrollment, reporting, claims payment, employment or contracting abuses; or
- (viii) Have submitted certain prohibited claims under the Medicare program;
- (ix) Present or cause to be presented a bill or claim for designated health service (as defined in § 411.351 of this title) that they know, or should know, were furnished in accordance with a referral prohibited under § 411.353 of this title;
- (x) Have collected amounts that they know or should know were billed in violation of § 411.353 of this title and have not refunded the amounts collected on a timely basis; or
- (xi) Are physicians or entities that enter into an arrangement or scheme that they know or should know has as a principal purpose the assuring of referrals by the physician to a particular entity which, if made directly, would violate the provisions of § 411.353 of this title.

* * * * *

3. Section 1003.101 is amended by adding a definition for the term *timely basis* to read as follows:

§ 1003.101 Definitions

* * * * *

Timely basis means, in accordance with § 1003.102(b)(9) of this part, the 60-day period from the time the prohibited amounts are collected by the individual or the entity.

* * * * *

4. Section 1003.102 is amended by revising paragraphs (a)(3), (a)(4) introductory test, and (a)(4)(iii); and by adding paragraphs (a)(5), (b)(9) and (b)(10) to read as follows:

§ 1003.102 Basis for civil money penalties and assessments.

(a) * * *

(3) An item or service furnished during a period in which the person was excluded from participation in the program to which the claim was made in accordance with a determination made under sections 1128 (42 U.S.C. 1320a-7), 1128A (42 U.S.C. 1320a-7a), 1156 (42 U.S.C. 1320c-5), 1160(b) as in effect on September 2, 1982 (42 U.S.C. 1320c-9(b)), 1842(j)(2) (42 U.S.C. 1395u(j)), 1862(d) as in effect on August 18, 1987 (42 U.S.C. 1395y(d)), or 1866(b) (42 U.S.C. 1395cc(b));

(4) A physician's services (or an item or service) for which the person knew, or should have known, that the

individual who furnished (or supervised the furnishing of) the service—

* * * * *

(iii) Represented to the patient at the time the service was furnished that the physician was certified in a medical specialty board when he or she was not so certified; or

(5) A payment that such person knows, or should know, may not be made under § 411.353 of this title.

(b) * * *

(9) Has not refunded on a timely basis, as defined in § 1003.101 of this part, amounts collected as the result of billing an individual, third party payer or other entity for a designated health service that was provided in accordance with a prohibited referral as described in § 411.353 of this title;

(10) Is a physician or entity that enters into—

(i) A cross referral arrangement, for example, whereby the physician owners of entity "X" refer to entity "Y," and the physician owners of entity "Y" refer to entity "X" in violation of § 411.353 of this title, or

(ii) Any other arrangement or scheme that the physician or entity knows, or should know, has a principal purpose of circumventing the prohibitions of § 411.353 of this title.

* * * * *

5. Section 1003.103 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1003.103 Amount of penalty.

(a) Except as provided in paragraphs (b), (c) and (d) of this section, the OIG may impose a penalty of not more than \$2,000 for each item or service that is subject to a determination under § 1003.102.

(b) The OIG may impose a penalty of not more than \$15,000 for each person with respect to whom a determination was made that false or misleading information was given under § 1003.102(b)(4), or for each item and service that is subject to a determination under § 1003.102(a)(5) or § 1003.102(b)(9) of this part. The OIG may impose a penalty of not more than \$100,000 for each arrangement or scheme that is subject to a determination under § 1003.102(b)(10) of this part.

* * * * *

6. Section 1003.106 is amended by revising paragraph (a)(1) introductory text and paragraph (a)(1)(iv); by redesignating paragraph (a)(1)(v) as paragraph (a)(1)(vii); and by adding new paragraphs (a)(1)(v) and (a)(1)(vi) to read as follows:

§ 1003.106 Determination regarding the amount of the penalty and assessment.

(a) *Amount of penalty.* (1) In determining the amount of any penalty or assessment in accordance with § 1003.102 (a), (b)(1), (b)(4), (b)(9), and (b)(10), the Department will take into account—

* * * * *

(iv) The financial condition of the person presenting the claim or request for payment, or giving the information;

(v) The completeness and timeliness of the refund with respect to § 1003.102(b)(9);

(vi) The amount of financial interest involved with respect to § 1003.102(b)(10); and

* * * * *

Dated: October 4, 1994.

June Gibbs Brown,
Inspector General.

Approved: December 30, 1994.

Donna E. Shalala,
Secretary.

[FR Doc. 95-7845 Filed 3-30-95; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7129

[WY-930-1430-01; WYW-92953-01]

Revocation of Executive Order No. 3410, Dated February 22, 1921; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order that involves 2,844.17 acres of National Forest System land withdrawn for powersite purposes in the Shoshone National Forest. The land is no longer needed for powersite purposes. This action will open 2,336.22 acres to such forms of disposition as may by law be made of National Forest System land, including exchange under the General Exchange Act of 1922. The 2,336.22 acres has been open to mining under the provisions of the Mining Claims Rights Restoration Act of 1955, and these provisions are no longer required. There are 427.95 acres that would remain closed to disposal by an overlapping withdrawal. The remaining 80 acres have been conveyed into private ownership with revocation being a record clearing action as it pertains to that land. The entire acreage, with the exception of the 80 acres,

remains open to mining and mineral leasing.

EFFECTIVE DATE: May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Duane Feick, BLM Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307-775-6127.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Executive Order No. 3410, dated February 22, 1921, which withdrew National Forest System land for powersite purposes, is hereby revoked in its entirety for the following described land:

Sixth Principal Meridian

T. 52 N., R. 105 W.,

Sec. 17, W $\frac{1}{2}$;

Sec. 18;

Sec. 19, lots 1 to 4, inclusive E $\frac{1}{2}$, and E $\frac{1}{2}$ W $\frac{1}{2}$, (formerly sec. 19, all);

Sec. 20, W $\frac{1}{2}$;

Sec. 29, lots 4 to 7, inclusive, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$, (formerly sec. 29, W $\frac{1}{2}$);

Sec. 30.

The area described contains 2,844.17 acres in Park County.

2. The following described National Forest System land will remain closed to disposal because of an overlapping withdrawal, Executive Order dated March 27, 1913, for powersite purposes:

Sixth Principal Meridian

T. 52 N., R. 105 W.,

Sec. 19, lots 2 to 4, inclusive, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$.

The area described contains 427.95 acres in Park County.

3. Revocation of the withdrawal for the following described private land is a record clearing action with no opening:

Sixth Principal Meridian

T. 52 N., R. 105 W.,

Sec. 17, SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 20, NE $\frac{1}{4}$ NW $\frac{1}{4}$.

The area described contains 80 acres in Park County.

4. At 9:00 a.m. on May 1, 1995, the land described in paragraph 1, except as provided in paragraphs 2 and 3, will be opened to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. The land described in paragraph 1 has been open to mining under the provisions of the Mining Claims Rights Restoration Act of 1955, and these provisions are no longer required, except for the land described in paragraphs 2 and 3.

Dated: March 21, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95-8000 Filed 3-30-95; 8:45 am]

BILLING CODE 4310-22-M

43 CFR Public Land Order 7130

[ID-943-1430-01; IDI-29793]

Modification of Secretarial Order Dated June 18, 1908, and Executive Order No. 2067 Dated October 28, 1914, and Transfer of Jurisdiction; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order modifies the Secretarial Order dated June 18, 1908, and Executive Order No. 2067 dated October 28, 1914, insofar as they affect 37.50 acres of public land lying outside National Forest boundaries, withdrawn for a Forest Service guard station/administrative site. This order transfers jurisdiction of the land from the Forest Service to the Fish and Wildlife Service and establishes a 20-year term. The land will continue to be used as an administrative site for the Fish and Wildlife Service and will remain closed to surface entry and mining. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706-2500, 208-384-3166.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is hereby ordered as follows:

1. The Secretarial Order dated June 18, 1908, and Executive Order No. 2067 dated October 28, 1914, which withdrew land for use by the Forest Service, Department of Agriculture, for a guard station/administrative site, are hereby modified to transfer jurisdiction of the land from the Forest Service to the Fish and Wildlife Service for use as an administrative site. The land is described as follows:

Boise Meridian

(Secretarial Order dated June 18, 1908)

T. 4 S., R. 43 E.,

Sec. 35, E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,

N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ and

N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$.

(Executive Order No. 2067 dated October 28, 1914)

T. 4 S., R. 43 E.,

Sec. 35, NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described contains 37.50 acres in Bonneville County.

2. The land described above continues to be withdrawn from settlement, sale, location, or entry under the public land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), to protect the Fish and Wildlife Service Grays Lake Refuge Headquarters. The land has been and remains open to leasing under the mineral leasing laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: March 21, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95-8001 Filed 3-30-95; 8:45 am]

BILLING CODE 4310-CG-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93-185; RM-8249]

Radio Broadcasting Services; Estes Park, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 271A at Estes Park, Colorado, as that community's first local FM service, in response to a petition for rule making filed on behalf of Hambric Associates. See 58 FR 37696, July 13, 1993. With this action, the proceeding is terminated.

DATES: Effective May 12, 1995. The window period for filing applications on Channel 271A at Estes Park, Colorado, will open on May 12, 1995, and close on June 12, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process for Channel 271A at Estes Park, Colorado, should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 418-2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 93-185, adopted March 21, 1995, and released March 28, 1995. The full text of this Commission decision is available for