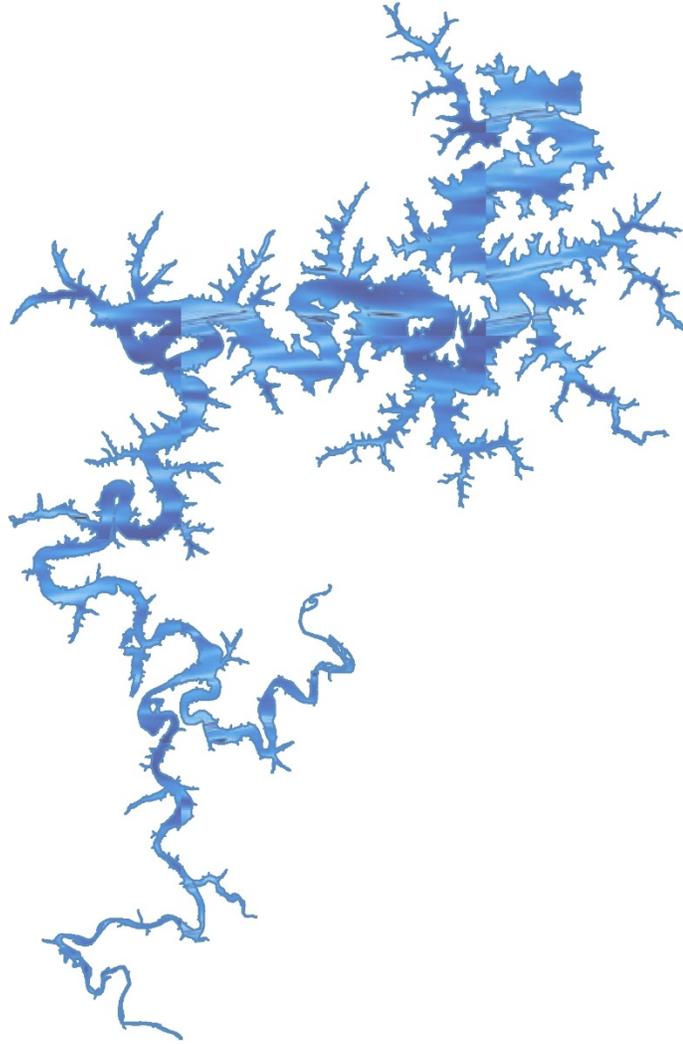


Shoreline Management Plan



**US Army Corps
of Engineers**®
Little Rock District

Beaver Lake

White River and Tributaries,
Arkansas

2018

**SHORELINE MANAGEMENT PLAN
SUPPLEMENT TO THE
BEAVER LAKE
OPERATIONAL MANAGEMENT PLAN**

**DEPARTMENT OF THE ARMY
LITTLE ROCK DISTRICT CORPS OF ENGINEERS
LITTLE ROCK, ARKANSAS
2018**

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INTRODUCTION

PURPOSE

The *Shoreline Management Plan for Beaver Lake* establishes policy and furnishes guidelines for the protection and preservation of the desirable environmental characteristics of the shoreline while maintaining a balance between public and private shoreline uses. The plan also considers means of restoration of the shoreline where degradation has occurred because of private exclusive use. This plan is intended to develop management strategies for the review, approval, and administration of private shoreline uses on Beaver Lake. It is not intended to evaluate or develop management measures for application in the review, approval and administration of public shoreline uses, such as commercial concession leases, limited motel/resort leases, and public utilities, except as specifically stated herein.

POLICY

It is the policy of the Chief of Engineers to protect and manage shorelines of all Civil Works water resource development projects under Corps jurisdiction in a manner which will promote the safe and healthful use of these shorelines by the public while maintaining environmental safeguards to ensure a quality resource for use by the public. Authority for administering this policy is granted under Public Laws 86-717 and 87-874 which charge the Chief of Engineers with the application of good conservation practices which promote recreation and with the operation and maintenance of water resource projects in the public interest.

In this document when the title *Operations Project Manager* is used it is intended to include his or her authorized representatives, except for where specifically excluded.

REFERENCES

- Section 4, 1944 Flood Control Act, as amended (16 USC 460d).
- The Rivers and Harbors Act of 1894, as amended and supplemented (33 USC 1).
- Section 10, Rivers and Harbors Act of 1899 (33 USC 403).
- National Historic Preservation Act of 1966 (P.L. 89-665; 80 Stat. 915) as amended (16 USC 470 et seq.).
- The National Environmental Policy Act of 1969 as amended (42 USC 4321, et seq.).
- The Clean Water Act (33 USC 1344 et seq.).
- Title III of Public Law 85-500 (the 1958 River and Harbor Act) is entitled the "Water Supply Act of 1958." Section 301(a), established a policy of cooperation in development of water supplies for domestic, municipal, industrial, and other purposes. Section 301(b) is the authority for the Corps to include municipal and industrial (M&I) water storage in reservoir projects and to reallocate storage in existing projects to M&I water supply. However, as specified in Section 301(d), modifications to a planned or existing reservoir project to add water supply, which would seriously affect the project, its other purposes, or its operation, requires congressional authorization. This act was amended by Section 10 of Public Law 87-88 and by Section 932 of Public Law 99-662.
- The Water Resources Development Act of 1986 (P.L. 99-662).

- Title 36, Chapter III, Part 327, Code of Federal Regulations, “Rules and Regulations Governing Public Use of Water Resources Development Projects Administered by the Chief of Engineers”.
- Executive Order 12088 (13 Oct 1978), Federal Compliance with Pollution Control Standards.
- 33 CFR 320-330, “Regulatory Programs of the Corps of Engineers”.
- ER 1130-2-540, “Management of Natural Resources and Outdoor Recreation at Water Resource Projects”.
- EM 385-1-1, “Safety and Health Requirements Manual”.
- The Federal Water Pollution Control Act of 1972 (FWPCA).
- ER 1130-2-540, “Historic Preservation Program”.
- Executive Order 11990, “Protection of Wetlands”.
- Endangered Species Act of 1973, as amended.
- Federal Insecticide, Fungicide, and Rodenticide Act of 1972, as amended (P.L. 92 516).
- ER 1130-2-406, Shoreline Management at Civil Works Projects (31 Oct 1990).
- Reservoir/Forest Cover Act of Sept. 6, 1960 (P.L. 86-717).
- ER 405-1-12, Real Estate Handbook, as amended.
- Executive Order 13514, “Federal Leadership in Environmental Energy and Economic Performance”

HISTORY AND BACKGROUND

BEAVER LAKE

Beaver Lake is located in the highlands of the Ozark Mountain region of northwestern Arkansas. The shoreline area is irregular in shape with many deep arms and coves. The surrounding shoreline is generally steep with many overhanging bluffs and ledge outcrops. Some of the coves in the upper end of the lake area are less steep and are subject to rapid dewatering with only a moderately lower pool stage. In 1954, Congress adopted the recommendations from the Chief’s report authorizing the construction of Beaver Lake. The Beaver Lake project was originally authorized as one of the multiple-purpose reservoir projects in the White River Basin for control of floodwaters, generation of hydropower, and other purposes by Section 4 of the Flood Control Act of 1938 and as amended by the Flood Control Acts of 1941 and 1944. The inclusion of storage in the lake for municipal and industrial water supply was authorized by the Water Supply Act of 1958.

SHORELINE MANAGEMENT

Beaver Lake was selected as one of three representative study areas in the Southwestern Division designated to develop the initial Lakeshore Management Plans. The Division Engineer approved the general concept for shoreline management on 26 October 1972. The general public participated in the development of the first lakeshore management plan for the lake at a public meeting held in Rogers, Arkansas, on 21 November 1972.

The initial plan was reviewed, updated with public involvement in May 1978, and approved by the Division Engineer on 29 November 1978. Beginning in October 1983, the Lakeshore

Management Plan for Beaver Lake was once again reviewed and updated with public involvement. The Division Engineer approved the updated plan on 20 August 1984.

After a period of public involvement, 35 rezoning requests were approved as a supplement to the Beaver Lakeshore Management Plan on 24 April 1989. In June 1991, 86 rezoning requests were considered and presented at a public workshop. Subsequently, 55 of the rezoning requests were approved as a supplement to the Beaver plan on 4 October 1991.

An additional review and update was initiated in October 1994, for rezoning requests only. This supplement was approved on 26 April 1995. There were 178 rezoning requests. A public workshop was held in Rogers, Arkansas, in December 1994. Eighty rezoning requests were approved, 70 requests were denied, 28 requests were withdrawn by the applicants. Twenty-nine Limited Development Areas were removed or reduced.

Revision of 36 CFR 327.30 in 1990 required the Little Rock District to convert its approved lakeshore management plans to shoreline management plans. The District's draft operating policy for shoreline management was discussed at a public workshop held at the Beaver Lake Office on 14 May 1991. The final draft of the District's Shoreline Management Operating Policy was presented at a public workshop in Rogers, Arkansas, on 15 September 1992.

During the 1998 SMP review, three public workshops were held; 15 July at Eureka Springs, 16 July at Rogers, and 28 October 1997 at Rogers with 411 public comments received. There were 48 rezoning requests. Twenty-four rezoning requests were approved, 18 requests were denied, and the applicants withdrew six requests. The 29 Limited Development Areas (LDA) removed or reduced in the 1995 review were reinstated.

An administrative review to the shoreline management plan was completed in 2008. These changes were minor and not subject to public review. Generally these changes included incorporation of local policies and definition of terms. There were no shoreline allocation changes made during this review.

The 1998 SMP review included completion of an Environmental Assessment, which provided the documentation of the impacts of the updated SMP.

The Shoreline Management Plan will be reviewed at least once every five years, in accordance with regulations in place at the time of the review.

DESCRIPTION OF SHORELINE

PROJECT INFORMATION

Beaver Lake is located on the White River in Northwest Arkansas (Benton, Washington, Carroll and Madison counties). In 1954, Congress adopted the recommendations from the Chief's report authorizing the construction of Beaver Lake. The Beaver Lake project was originally authorized as one of the multiple-purpose reservoir projects in the White River Basin for control of floodwaters, generation of hydropower, and other purposes by Section 4 of the Flood Control Act

of 1938 and as amended by the Flood Control Acts of 1941 and 1944. The lake is 38,138 acres of land and water with 490 miles of shoreline. Beaver Lake is the primary water supply source for Northwest Arkansas. The water supply mission at Beaver Lake was authorized by the Water Supply Act of 1958. When the lake is at the top of the conservation pool, 1120.43' elevation contour, the water area comprises 28,299 acres. All measurements for dock spacing and location is based on the 1120.43' elevation contour. Beaver Lake has a seasonal conservation pool from May through September, topping at the 1121.43' elevation contour. The top of the flood pool is the 1130' elevation contour.

PRESENT LAND USE

Land classification categories are established in the *Beaver Lake Master Plan* and provide the basic framework that will guide the development, management, and operation of all resources and facilities. The shoreline adjoining all reservoir lands has been classified into shoreline allocations as described in the Shoreline Allocation Section below. The Shoreline Allocations and permitted activities shall not contradict the *Beaver Lake Master Plan*. Should there be cases where the *Master Plan* conflicts with this *SMP*, the *Master Plan* is the overriding document.

GENERAL PUBLIC USE

Beaver Lake provides a wide variety of opportunities for the public to recreate on public lands and waters. There are numerous county roads that end at Government property near the lake and approximately 70 public boat launching ramps. There are 12 public use areas with 7 commercial concessionaires with 2,016 wet boat slips. Additionally, there are 7 limited motel/resort leases with 98 wet boat slips.

PRIVATE USE

At the time of writing this document, there are over 5,000 privately owned land parcels adjacent to public lands, with approximately 3,000 structures. There are 2,450 vegetation modification permits and 1,800 active private floating facility permits (single-owner/multiple-owner docks) with 5,005 boat slips. There are approximately 1,200 outgrants for private uses on public lands, uses such as steps/stairs, roads, tramways, water lines, and electric service lines to boat docks.

BOUNDARY LINE

The boundary line (Government Fee Take Line) at Beaver Lake has been established and marked by the Corps of Engineers or private surveyors under contract with the Corps of Engineers, in accordance with standard survey techniques. The boundary line is generally not located along a specific elevation, and does not form a single contour around the lake, but rather was established by property descriptions. More information on the land acquisition policy for Beaver Lake can be found in the *Beaver Lake Master Plan*. The boundary line was marked with standard brass caps. Replacement monuments may have either a brass or aluminum cap. The year that the monument was set is stamped on the cap along with the monument number. These monuments were witnessed with a steel fence post that was painted white. In open areas where the distance between corners is such that the monuments or pins are not visible, additional Point On Tangent (POT) monuments were installed. These POTs are designated with a letter on the end of the monument number. Additional boundary line posts were installed at some locations to help locate the line. These posts should not be moved or destroyed. Witness posts are used to mark the approximate boundary location but are not registered, legal survey markers. The brass or

aluminum caps designate the boundary. The vandalism, removal, or destruction of survey monuments is a violation of 36 CFR.

If a private need arises for the exact location of the common private/Government property line, the adjacent property owner, at his/her expense, must use a licensed surveyor. The Corps of Engineers will provide information to surveyors or property owners which might assist in the location of boundary lines and property corners. Most of this information is available online and accessible through the Beaver Lake website. This information is indexed by section, township, and range. A copy of this information is kept at the Beaver Lake Office and the master records are kept in the Little Rock District Office. Any discrepancies identified by the survey should be resolved with the Operations Project Manager; Chief, Real Estate Division; and the Chief, Survey Section.

MAJOR CHANGES FROM THE PREVIOUS PLAN

Shoreline Allocations (Zoning)

- Park Buffers allocation name changed to Public Recreation Areas.
- Certain Public Recreation Areas around the lake have been reduced, thus allowing the potential for vegetation permits in some areas where previously not allowed.
- Docks with an approved location outside of Limited Development Areas (LDA) prior to 2015 have been placed in LDA.

Private Floating Facilities (Docks)

- New permits will be issued for new docks containing a range of 1 to 20 slips.
- The density of development (Maximum Density) will not exceed 50 percent of the shoreline allocated for limited development when the lake level is at the top of the conservation pool.
- There is now a threshold of boats on the water at one time . New permits will only be issued to adjoining landowners who meet the access requirements.
- Two printed and one electronic set of engineer stamped plans of the entire facility are required for new and any modifications to existing facilities. In addition to the actual structure, plans must include all amenities, including but not limited to, lockers/storage, PWC moorage, and solar battery storage.
- Maximum size slip has changed from 14 ft. x 30 ft. to 12 ft. x 30 ft.
- Only alternative power sources (e.g. solar) will be allowed for new floating facilities or those existing facilities without service. Existing docks can maintain electrical systems as previously approved. Docks with overhead or underground electrical systems may be modified to accommodate additional electrical needs.
- PWC lifts attached to the dock must be owned/used by a slip owner in the dock.
- Only galvanized, brown, green, or blue roofs will be allowed for new construction. Permit applicants must own at least 75 ft. of common boundary (within Limited Development Areas) to be considered for a dock.

Vegetation Modification Permits

- Mowing and/or underbrushing will not be permitted across any natural or manmade break in vegetation such as a road, creek, electric distribution line, etc.

- Vegetation modification permits may allow the removal of a tree or shrub 2 inches or less in diameter at ground level.

Other Permits/Outgrants

- No new ski course permits will be issued. Current permits can be renewed annually.
- Outgrants will not be issued for new steps or stairs to access a new private floating facility.

SHORELINE ALLOCATION

GENERAL

In compliance with the Corps of Engineers' shoreline management regulation (36 CFR 327.30ER 1130-2-406 and other applicable regulations), the Beaver Lake shoreline has been classified into four allocations. These allocations are described below and are in agreement with the Beaver Lake Master Plan, at the time of writing this document. These allocations extend from the water's edge to the project boundary for land-based uses and from the shoreline waterward for floating facility considerations. A map of the shoreline allocations, stored in GIS format, is readily available for viewing at the Beaver Lake Office and will serve as the authoritative reference. Reduced or smaller scale maps may be developed for public dissemination. These maps will be for reference only, and will not serve as official authoritative reference. No changes will be made to the shoreline allocation layer except through the formal update process.

SHORELINE ALLOCATIONS

Limited Development Areas (LDA) (27.4% of Total Shoreline)

These areas are allocated for private activities, such as vegetative modification, and/or the mooring of privately owned floating facilities following the issuance of a permit in accordance with this SMP and current Federal Regulations. There are 134.4 miles of shoreline allocated as LDA. These areas are shown in red on the *SMP* allocation map.

Public Recreation Areas (PRA) (13.0% of Total Shoreline)

Public recreation shoreline areas were established with the intent of protecting the vista of the park or public use area by prohibiting the construction of private floating facilities and/or the modification of vegetation within the zoned area. Private floating facilities are not permitted within or adjacent to developed or future parks. Individuals or groups are not permitted to make any modifications of the landform or vegetative characteristics of lands under this allocation. These areas were also designated for park operations, such as swim beaches/launch ramps, and for commercial use including marinas/gas docks. Commercial boat docks and concessions are permitted in public recreation areas with a real estate instrument. There are 63.6 miles of shoreline allocated as Public Recreation Areas. These areas are shown in green on the *SMP* allocation map.

Protected Shoreline Areas (58.0 % of Total Shoreline)

Protected shoreline areas are those areas designated to maintain or restore aesthetic, fish and wildlife, historical, cultural, physical limitations, or other environmental values and includes areas with physical limitations such as bluffs. Other reaches of the shoreline were included under this

allocation for physical protection reasons such as heavy siltation, rapid dewatering, erosion or exposure to high wind, wave, and current action. Shoreline Use Permits for floating facilities and AAV permits will not be issued in this allocation. Vegetation modification and footpaths may be permitted in these areas, provided the request area is located inside the appropriate Master Plan land classification. Prior to issuance of the Shoreline Use Permit, the Operations Project Manager must determine that the requested land use will not adversely impact the environment or physical characteristics of the zoned area prior to issuing the Shoreline Use Permit. There are 284.4 miles of shoreline allocated as Protected Shoreline Areas. These areas do not have a designated color on the *SMP* allocation map.

Prohibited Access Areas (1.6% of Total Shoreline)

These areas typically include hazardous zones near dams, spillways, hydroelectric power stations, and water intake structures. Public access is not allowed in these areas for health, safety, and security reasons. No Shoreline Use Permits will be issued in Prohibited Access Areas. Outgrants for public utilities may be considered in Prohibited Access Areas. There are 7.8 miles of shoreline allocated as Prohibited Access Areas. These areas are shown in black on the *SMP* allocation map.

FLOWAGE EASEMENTS

There are lands at Beaver Lake where the Corps of Engineers' real estate interest is limited to the right to flood the privately owned property commonly referred to as flowage easements. These easements were acquired for the operation of the Beaver Lake Project. In most instances, easements were acquired above the monumented Government boundary line up to elevation 1135 msl. On the upper end of the White River and on the War Eagle River, however, the flowage easement elevation varies between 1135 msl and 1148 msl. The typical flowage easement grants the Government the perpetual right to occasionally overflow the easement area, if necessary, for the operation of the reservoir; and specifically provides that, “No structures for human habitation shall be constructed on the land [...]”; and provides further that, “No other structures of any other type shall be constructed or maintained on the land except as may be approved in writing by the representative of the United States in charge of the project.” All flowage easement deeds should be checked for exact rights acquired prior to proceeding in any action on the easement.

Under *Title 36, Chapter III, Part 327, Code of Federal Regulations*, the Corps of Engineers has authority over all waters of the reservoir and all facilities thereon, regardless of ownership of the underlying land. Easement lands and other inundated private property are therefore classified into shoreline use allocations similar to fee-owned lands. Adjoining landowners who desire to place private floating facilities on waters over flowage easement lands or inundated private property must obtain a Shoreline Use Permit from the Operations Project Manager. There are currently 1,432 acres of land affected by flowage easements.

SHORELINE USE PERMITS

All activities or facilities requiring approval from the Corps of Engineers will be authorized in writing. The type of written authorization issued by the Corps depends on the type of activity or facility.

A Shoreline Use Permit or other authorizing document is required for private activities and/or facilities on public lands and waters owned by the Corps of Engineers at Beaver Lake. Shoreline Use Permits are issued for private floating facilities, vegetation modification, and certain other activities. These are governed by the regulations referenced in this SMP.

Ownership, construction, operation, use, and maintenance of permitted/licensed facilities and/or activities are subject to all permit conditions and all applicable federal, state and local laws and regulations. Failure to abide by these applicable laws and regulations may be cause for revocation of the permit. The Beaver Lake Office collects permittee and/or owner information including name, address, phone number, boat registration information, and email to keep on file for permit purposes. This information will not be released to the general public except in accordance with the Freedom of Information Act (FOIA) and the Privacy Act of 1974. All general public requests for permittee and/or owner information must be submitted to the Little Rock District Corps of Engineers FOIA Officer.

A schedule of Shoreline Use Permit fees in place at the time of the publication of this document can be found in CFR 327.31.

GENERAL REQUIREMENTS

Shoreline Use Permits are generally issued for a period of five years. Exhibit B contains general terms and conditions that are uniformly applicable to all permits issued. However, unique circumstances may require the establishment of additional terms and/or special conditions. All applications for Shoreline Use Permits on the reservoir are subject to approval by the Operations Project Manager. Requests for activities not specifically addressed in this plan should be submitted in writing to the Operations Project Manager for review.

All Shoreline Use Permits are issued and enforced in accordance with the provisions of *Title 36, Chapter III, Part 327, Code of Federal Regulations (CFR)*. The version of this *CFR* in place at the time of writing of this document is attached as Exhibit A. Failure to obtain the proper permits or noncompliance with any of the terms and conditions, general or special, may result in termination or revocation of the permit or other enforcement action.

Permits, Where Required. Revocable Shoreline Use Permits will be granted for private floating facilities, mooring buoys, ski courses, and for vegetative modification where such activities conform to the Shoreline Management Plan and to land use allocations of the project master plan.

Permits, Authority to Issue. Operations Project Managers are authorized to approve construction plans and to issue Shoreline Use Permits. ENG Form 4264-R, Application for Shoreline Use Permit, with permit conditions attached will be used. Construction may proceed upon receipt of

written approval of the plans. The Shoreline Use Permit may be issued following final inspection approval.

Permit Administration Charge. A charge will be made for the Shoreline Use Permit to help defray expenses associated with issuance and administration of the permits. Fees paid for Shoreline Use Permit are non-refundable.

Permit Term. A Shoreline Use Permit is issued for a period of time not to exceed 5 years, but is subject to revocation by the District Engineer whenever it is determined that the public interest requires such revocation, the permittee fails to comply with the conditions of the permit, or the shoreline or water surface is needed for a higher public use. Permits for private floating structures and vegetative modification will be issued for up to 5 years.

Posting of Permit Number. Two permit tags, approximately 6 by 12 inches in size, bearing the permit number and expiration date will be furnished with each permit issued. These tags will be posted on the floating facility and/or the land area covered by the permit in accordance with instructions provided by the Operations Project Manager.

Permit Revocation. Authority to revoke Shoreline Use Permits rests with the District Engineer. Permits may be revoked when the action is in the public interest or when the permittee fails to comply with the terms of the permit, the Shoreline Management Plan, or ER 1130-2-406. The permittee notification process is outlined on the back of the permit. Termination of Shoreline Use Permits (ENG Form 4262-R) for floating facilities shall comply with Title 36.

PUBLIC'S RIGHT OF ACCESS AND USE

The issuance of a Shoreline Use Permit does not convey any real estate, personal property, or exclusive use rights to the permit holder. The public's right of access and use of the permit area must be maintained and preserved. Owners of permitted facilities may take necessary precautions to protect their property from theft, vandalism or trespass, but may in no way preclude the public right of pedestrian or vessel access to the water surface or public land adjacent to the facility.

PRIVATE FLOATING FACILITY PERMITS (DOCKS)

Shoreline Use Permits are required for all private floating facilities. Private floating facilities as discussed in this plan include single-owner boat docks and multiple-owner boat docks. No new permits will issued for stand-alone swim docks or mooring buoys. Current permits for existing swim docks and mooring buoys will continue to be reissued, provided the use and maintenance of the facility is in accordance with all applicable laws, regulations and permit conditions.

Floating facilities are private structures, therefore the owners of the dock may restrict use of the facility. All new permits for private floating facilities and any modifications to existing facilities must meet the requirements in this plan. Vessels moored in a private floating facility must be registered to the owner of the facility.

Docks are approved for the mooring of the owner's vessel and the storage of gear essential to the vessel's operation. All boats must be moored inside a slip, with the exception of personal water craft storage as discussed in this plan.

A family household (single individual or married couple) may own a maximum of two slips in any dock and may not own an interest in more than one dock on the lake. A family household is defined as an individual/individuals living at the same address. A family household may have only one of the two following options:

- (1) Ownership of a single owner dock (up to 2 slips).
- (2) Ownership of 1 or 2 slips in a multi-owner dock.

Valid state boat registration will be necessary to verify slip needs. If there is no boat registration at the time of the request a letter of intent to purchase a boat must be provided to the Operations Project Manager. A valid boat registration must be provided prior to the final inspection of the dock and issuance of permit.

There are many areas around the lake where rental homes are adjacent to government property. These homes may be rented on a long term basis or short term, such as a weekend. Rental of the home does not convey any rights or permission for use of a private boat dock that may be owned by the owner of the home. Only bonafide owners of the dock are allowed to moor their vessels in or on the dock.

Fractional interest of a single boat slip is not allowed. Slips having more than one owner prior to the implementation of this SMP will be honored until such time that the entire interest in the slip has been sold.

In the event that slip ownership is determined through an inheritance, and fractional interest is unavoidable considering the circumstances (i.e. three children inherit 2-stall boat dock), fractional slip ownership may be permitted. For such transfers, estate documentation to determine ownership will be reviewed on a case by case basis.

Fractionally owned slips may only be transferred or sold to current owners within the slip, unless all existing slip owners agree to transfer or sell the slip at the same time to a separate family household.

Seaplanes are not permitted to be moored in private docks.

SINGLE-OWNER DOCKS

New permits may be issued for single-owner docks within an LDA, subject to the restrictions listed herein. New docks may be one or two slips.

A permit for a single-owner dock does not give the owners any exclusive rights to the use of Government property for access, parking or utilities to serve the dock. Dock owners may not: (a) remove vegetation or trees without approval, (b) construct breakwaters to protect the dock from wave action or, (c) install buoys.

An applicant requesting change of ownership of an existing single-owner dock permit must obtain a Shoreline Use Permit from the Beaver Lake Project Office.

MULTIPLE-OWNER DOCKS

New permits may be issued for multiple-owner docks within an LDA, subject to the restrictions listed herein. These docks may be two to twenty slips.

When a slip in a multiple-owner dock is transferred to a new owner, the seller and buyer must notify the dock permittee and provide a copy of the notarized bill of sale for the slip, proof of legal access, and boat registration certificate for the boat to be moored in the dock. The dock permittee is responsible to provide updated ownership information to the Operations Project Manager. Providing false information and/or otherwise not complying with this SMP and/or the terms and conditions of the permit can result in the termination of the permit and the removal of the dock from the lake.

The permit for a multiple-owner dock will be issued to the person designated as the authorized representative for the slip owners in the dock, referred to as “permittee”. The authorized representative designation does not give any more rights to the individual than the other owners in the dock. Designation of the permittee will be subject to prior approval by a majority of the other owners with an interest in the dock. The permittee will provide documentation, in writing, with owner’s signatures, verifying the permittee of the dock. A valid state boat registration will be used to verify slip ownership, the size, and the number of slips needed. Where it is applicable, electrical certification is also required.

A permit for a multiple-owner dock does not give the owners any exclusive rights with regard to the use of public land. The permit does not give the owners the right to remove vegetation (unless otherwise noted in the permit) or to construct breakwaters to protect the dock from wave action or install buoys. Parking and vehicular access is prohibited on government property.

Requests to modify a dock will be subject to prior approval by a majority of the other owners with an interest in the dock and the Operations Project Manager. This includes all boat slips, swim decks, walkways, gangways, roof additions, expansions, and extensions to the dock. This also includes steps, stairs, lockers, and electrical additions or changes. If the dock is to be replaced all owners must approve the replacement, unless the owners wanting the changes will assume all financial burdens for the authorized replacement structure. The owners will provide a signed letter regarding the agreement.

In the case a person comes to acquire more than two slips due to an inheritance or other circumstances, the slips must be sold as soon as possible so that ownership becomes compliant with the SMP. Ownership of more than two slips can be cause for termination of the permit and removal of the dock.

APPLICATION

NEW OR MODIFICATION TO EXISTING FACILITY

A request must be submitted to the Beaver Lake Office by the permittee for any new or modification to an existing floating facility. All new facilities or modifications must be located within a Limited Development Area. Upon request, a Corps employee will conduct a site inspection to determine if the location is physically suitable. If approved, the applicant will have sixty days (from date of site approval letter) to provide all required submittals. Upon approval of submittals, the applicant will have one year to complete construction. Construction cannot begin until all submittals have been approved and construction plans are stamped approved for construction.

Upon site approval, the applicant must provide the following submittals to receive construction approval:

- *Shoreline Use Application (new permits only)*. For dock permits issued (new or reissue) after the implementation of this *SMP*, the application must be in the name of the individual dock owner.
- Two printed and one electronic set of engineer reviewed and stamped plans of the entire facility. In addition to the actual structure, plans must include all amenities, including but not limited to, lockers/storage, PWC moorage, and solar battery storage.
- *Dock Owner Information Sheet* with the name, address, phone number, and boat registration for all slips. All dock owner information sheets must be stamped by the County Assessor's Office.
- Copy of current boat registration for each new slip. If there is no boat registration at the time of request, a letter of intent to purchase a boat must be provided and the boat registration must be provided before the permit will be issued. This requirement is necessary to preclude commercial activity on the floating facility.
- When replacing an existing dock, the permittee must submit either a letter stating the old dock will be dismantled and removed from public lands and waters within 30-days of the installation of the new dock, or Bills of Sale to new owners who have an approved location.
- Provide proof of land ownership adjoining to public land within 200 feet of the dock site at conservation pool.
- If the adjoining land is jointly-owned (i.e. Trust, LLC, Non-Profit, etc.), the dock owners must provide documentation indicating their interest in the jointly-owned property.
- All owners of slips in new boat docks must attend a meeting with Corps personnel before the required documents are approved for a new permit.

The appropriate fee payment must be submitted to the Beaver Lake Office prior to issuance of the Shoreline Use Permit. Use of the facility is not permitted until the final inspection is complete and the permit has been issued.

REISSUE (PERMIT RENEWALS)

Applications for “reissue” of expiring permits require the applicant to submit the following:

- A completed and signed Shoreline Use Application with signatures of Permittee and Alternate point of contact (POC);
- Payment for applicable fees;
- Current *Dock Owner Information Sheet* with all owner’s names, address, phone number, and current boat registration numbers. All dock owner information sheets must be stamped by the County Assessor’s Office;
- *Electrical Certification* (if applicable);
- *Certificate of Compliance* or signed statement that all noted deficiencies have been corrected. This signifies the dock meets current inspection criteria.

The permit may then be reissued with a new expiration date to the existing permittee. All permit conditions of the new permit will apply at that time.

Existing docks can be sold and remain at their presently approved location or they may be relocated to any of the approved mooring sites on the lake, upon approval by the Operations Project Manager. Requests to expand the size of existing docks will be subject to prior approval by the Operations Project Manager. Each request to relocate an existing dock to a new area will be reviewed on a case-by-case basis considering the current shoreline allocation, physical characteristics of the area, and available facilities nearby.

DOCK ACCESS

ADJOINING LANDOWNER REQUIREMENT

Upon approval of this SMP, new permits associated with new dock construction will only be issued if all owners in the dock are adjoining landowners to Government property at the dock site. Additionally, any dock relocated to a currently unoccupied site will only be approved if all owners at the new dock site are adjoining landowners to Government property. Any owners of the slip additions to these docks must also be adjoining landowners. All owners of a floating facility must have legal access to government land for that facility.

75 FT. SHARED COMMON BOUNDARY REQUIREMENT

To be considered for a dock permit, the subject private property must share a common boundary with public property (classified as Limited Development Area) for a minimum width of 75 feet and the subject lot must be of a practical design, (i.e. extremely shallow or narrow lots, known as finger lots, will not qualify for permits).

200 FT. REQUIREMENT

All new slips and dock sites at conservation pool shall not be greater than 200 feet from the point of legal access. Applicants must be able to provide a copy of a land deed showing ownership of adjoining private property within 200’ of the dock site. Only adjoining landowners may place new

docks or add slips in Limited Development Areas provided the LDA has not reached the maximum density of development and all other criteria is met.

PARKING

Access across public land will be limited to pedestrian traffic only. Public roads and parking areas will not constitute legal access when applying for a permit. Parking along a public road or within public parking areas is not acceptable. The Corps of Engineers may require the applicant to place large boulders or barricades, heavy enough to prevent easy removal, along the common boundary line. Such barricades should be spaced to prevent vehicular access on public lands, but not impede pedestrian access. Additional special conditions may apply.

PERMITTED DOCKS AND MOORING BUOYS EXISTING PRIOR TO APPROVAL OF THIS SMP

When dock access via a recorded perpetual easement, common-property, or county road access was established, these points of access will be honored.

When transferring ownership of a permitted boat dock or slip, previously approved dock access via a recorded perpetual easement or common-property will be honored.

When considering dock modifications, all dock access requirements in this SMP must be met.

When considering relocating an existing permitted dock or buoy, all current SMP dock access requirements must be met. In addition, a relocated dock or buoy must comply with all current SMP electrical service requirements.

Permitted docks and mooring buoys existing prior to the approval of this SMP may be considered non-conforming. Reference section on non-conforming dock for further details.

REISSUE (PERMIT RENEWALS) AND CHANGE OF OWNERSHIP OF EXISTING FACILITIES

Dock/slip owners must maintain legal access to their private floating facilities. However, no documentation of this will be required at the time of application for reissue of permits provided ownership and access has not changed. In the event slip ownership changes, all access documentation must be provided within 14 days.

VEGETATION MODIFICATION FOR DOCK PERMITS

A maximum four-foot wide path can be maintained for access to the dock. Reference the Vegetation Modification, Foot Paths section in this plan for additional requirements. A maximum three-foot wide area around the anchor pins can be maintained. Submerged trees located underneath a dock structure at the dock's approved site, at the 1120.43 ft. elevation contour, may be removed with approval.

LOCATION AND SPACING REQUIREMENTS

Location, spacing, density, and depth will be determined at the 1120.43 ft. elevation contour.

LOCATION

New floating facilities or relocation of existing facilities will only be considered in areas allocated as Limited Development as indicated on the shoreline zoning map. The entire facility including anchor cables must be located within the Limited Development Area. Docks and associated footpaths will not be located within 30 feet of any public utility right-of-way and/or crossing. Examples may include utility crossings and sewage outfalls.

MAXIMUM DENSITY

The density of development in Limited Development Areas will depend upon and be consistent with the ecological and aesthetic characteristics of the particular area. The density of development will not exceed 50 percent of the shoreline allocated for limited development when the lake level is at the top of the conservation pool. Density will be determined by measuring linear feet of shoreline in the zone and comparing it to the width of the facilities. Density of Limited Development Areas will be assessed with the $((N-1) \times 100 + W \text{ of } D = < 50\%)$ density equation. Once the LDA reaches $\geq 50\%$ density of the length of the zoning, no further expansions or new docks will be approved. N= Number of Docks, W of D= Total width of all docks within the zone.

MAXIMUM DENSITY AREA FACILITY MODIFICATION

When an LDA reaches maximum density, notice should be given to the public and facility owners in that area that no additional facilities (docks) or additions (slips) will be allowed. In those cases where current density of development exceeds the density level established in the *Shoreline Management Plan*, the density will be reduced to the prescribed level through attrition. At the time of writing this document, 211 of the 618 existing LDAs have reached the maximum density. These areas are identified and stored in a GIS format. This map is readily available for viewing at the Beaver Lake Office. The areas that had reached maximum density at the time of writing this document were presented to the public during the *SMP* draft and final presentation public meetings held in March 2018. The maximum density designation is not a shoreline allocation, it is a fluid status that changes as docks are added to or removed from the LDA.

$$D = [((N-1) \times 100) + W \text{ of } D] / L \text{ of } Z \times 100$$

D = density percentage

N = number of docks in the zone

W of D = total width of all docks within the zone

L of Z = length of zone

If $D \geq 50$, maximum density has been reached

SPOT ZONES

A spot zone is an LDA that was created under previous shoreline management plans for the purpose of authorizing a single boat dock at that location. All LDAs at spot zone locations are considered at Maximum Density, therefore, slip additions and/or modifications that increase the overall width of the facility along the shoreline, will not be allowed.

COVE WIDTH

No facility will extend out from the shoreline more than one-third the total width of any particular cove, as determined by the Corps of Engineers, at conservation pool, currently 1120.43 ft. above mean sea level (msl). In the event where docks are placed across the cove or lake from each other, one-third of the cove's width must remain open for navigation.

DOCK SPACING

Docks will be spaced a minimum of 100 ft. apart at 1120.43 ft. above msl (conservation pool), including from outgranted launch ramps. This distance, measured from closest point to closest point at conservation pool elevation, will provide increased fire protection, personal privacy, shoreline aesthetics, fishing access, and general recreational use. The open space will also facilitate frequent maintenance of docks, cables, stiff-arms, and related features of the dock. Sufficient open space will be maintained for simultaneous maneuvering of swimmers and several watercrafts in a safe manner.

Additions or modifications to existing boat docks will be considered if the current spacing is a minimum 100 feet on all sides to others boat docks and outgranted launch ramps, and there is available space for the width of the proposed addition. If current spacing is not 100 feet apart, docks may be moved to an approved location in order to establish the 100 feet minimum distance within a Limited Development Area. If docks are moved, all other permit requirements such as legal access and 100 feet distance still remain in effect. Rearrangement of the dock structure (i.e. reposition dock from parallel to perpendicular to the shoreline) will only be permitted if the 100 feet distance is established between all docks involved. Dock walkway extensions (both entrance ramp and main structure walkways) and roof extensions may be approved with less than 100 feet spacing between existing docks. Boat docks must be positioned where extensions do not encroach on spacing between adjacent docks.

WATER DEPTH AND SLOPE

Site inspections cannot be conducted if the current lake elevation is unreasonably high or low, thereby limiting the ability of Park Rangers to make a valid evaluation of cove width, water depth, and distances between docks. Generally, site inspections for new docks and dock modifications will be performed between lake elevations 1116 ft. and 1124 ft. msl. A minimum of 7 ft. water depth, 50 ft. from the shoreline is required for new dock site approval.

New floating facilities or relocation of existing facilities must maintain a minimum of seven-foot water depth for all slips to provide adequate depth for mooring of boats, lifts, and underwater bracing. Ease of pedestrian access should be considered by the applicant, with the understanding that new construction of steps or stairs may not be approved. A site that presents obvious access limitations, such as a bluff or severe slope, and/or when shoreline conditions prevent proper dock maintenance (adjustment with fluctuating lake levels) by the applicant, the site may be denied for a boat dock at the discretion of the Operations Project Manager.

DOCK CONFIGURATION

Docks may be constructed in a perpendicular or parallel design. The access ramp to the facility must be perpendicular to the shoreline and docks cannot be moored at an angle. The number of slips in a dock may be reduced. All slip owners must be in agreement to reducing the number of slips.

NON-CONFORMING AND GRANDFATHERED FACILITIES

NON-CONFORMING FACILITIES

Facilities that were permitted and constructed in accordance with a previous SMP or a prior written US Army Corps of Engineers commitment, are authorized to remain in place, as long as the facility is maintained in accordance with the *Shoreline Use Permit Conditions*, even if not in compliance with the current SMP. These docks will be referred to as “non-conforming” docks (i.e. exceeds 1/3 of the cove, less than 100ft distance between docks, enclosed, multi-level dock). Docks with enclosed sides (i.e. boat houses) are prohibited by the current SMP; therefore, when an existing dock with enclosed sides is voluntarily replaced, the new dock will not be permitted to have enclosed sides. Other docks which are non-conforming may be rebuilt to the currently approved footprint; however, the new dock must comply with the SMP.

(1) Deviations or changes within the original approved footprint may be considered and are subject to the same conditions of all other permitted boat docks, with the exception of:

(a) The number of boat dock slips and the number of boats will not increase from the number originally permitted.

(b) No appurtenances or enclosures will be permitted including swim decks, diving boards, water slides, end ties, etc.

(2) Anytime structural changes to the dock are required, engineer stamped plans must have prior approval from the Operations Project Manager.

(3) Permitted non-conforming docks that are damaged or destroyed due to wind, ice, snow or other natural causes may be replaced within the original footprint and must conform to current SMP to the maximum extent possible. Engineer stamped plans must have prior approval from the Operations Project Manager.

FACILITIES EXISTING UNDER SPECIAL CONDITIONS (GRANDFATHERED)

Private floating facilities will be permitted to remain in their present locations providing the structures are maintained to the guidelines provided in this document, Section 6 of Pub. L. 97-140 and Section 1134 (d) of Pub. L. 99-662. These public laws are located in 36 CFR 327.30 which can be found in Exhibit A of this SMP.

GRACE PERIOD (SMP IMPLEMENTATION THROUGH 31 DECEMBER 2019)

In order to create a more fair and equitable transition into the regulations of the new SMP, a temporary grace period was developed to allow applicants to submit requests that remained consistent with the requirements from the previous SMP. The following requirements concerning new and existing boat docks, as outlined in this SMP, will not be in effect during the grace period:

NEW DOCKS

1. **200 FT. REQUIREMENT:** Proof of ownership adjoining public land, within 200 ft. of the dock site at conservation pool.

During the grace period, 200 ft. will be measured according to the regulations established in the 2008 Beaver Lake SMP.

2. **75 FT. SHARED COMMON BOUNDARY REQUIREMENT:** To be considered for a dock permit, the subject private property must share a common boundary with public property (classified as Limited Development Area) for a minimum width of 75 feet and the subject lot must be of a practical design, (i.e. extremely shallow or narrow lots, known as finger lots, will not qualify for permits).

During the grace period, individuals who own adjoining properties with less than 75 feet common boundary (within Limited Development Areas) and can provide a legally recorded deed and plat (in their name), an application for a dock permit will be considered until 31 December 2019, after which properties will not qualify.

EXISTING DOCKS

1. **200 FT. REQUIREMENT:** Proof of ownership adjoining public land, within 200 ft. of the dock site at conservation pool.

During the grace period, 200 ft. will be measured according to the regulations established in the 2008 Beaver Lake SMP.

2. **ADJOINING LANDOWNER REQUIREMENT:** Adjoining land owner requirement for the addition of slips or swim decks to existing boat docks.

During the grace period, existing slip owners with easement or platted common-property access, may request dock modifications, to include slip and swim deck additions.

3. **MAXIMUM DENSITY AREA FACILITY MODIFICATION/SPOT ZONES:** Once an LDA reaches $\geq 50\%$ density of the length of the zoning, no further expansions or new docks will be approved.

During the grace period, previously authorized swim docks may be converted to single-slip boat docks, and may include an swim deck, provided the required spacing is present (100 ft. between docks).

The section defining the grace period will no longer apply and will subject to removal from this SMP on 31 December 2019.

FACILITY CONSTRUCTION REQUIREMENTS

New facilities or modification of existing facilities must include plans signed and stamped by a professional engineer licensed in the State of Arkansas. Alterations to the original approved plan may not be made without prior approval, except as noted below. All construction must be in compliance with 36 CFR 327.30, attached as Exhibit A and with all other Federal, State, and local laws and regulations. All electrical facilities must be in compliance with the National Electric Code and meet all requirements of the current Corps of Engineers, Little Rock District Dock Electrical Systems requirements as updated, revised, or superseded. Electrical plans must be reviewed and stamped by a professional engineer licensed in the State of Arkansas or signed by a Master Electrician licensed in the State of Arkansas. Listed below are additional requirements; however, if there is any conflict between this *SMP* and the above, the more stringent rule will apply.

If any modification is required, two printed and one electronic set of engineer reviewed and stamped plans of the entire facility must be provided. In addition to the actual structure, plans must include all amenities, including but not limited to, lockers/storage, PWC moorage, and solar battery storage.

MINIMUM/MAXIMUM COMPONENT DIMENSIONS FOR THE MAIN WALKWAY, FINGERS, SLIPS, AND ACCESS RAMP

<u>Component</u>	<u>Minimum Size (feet)</u>	<u>Maximum Size (feet)</u>
Main Walkway-Header (width)	3	6
Other Walkways-Finger between slips (width)	3	6
Slip (width)	N/A	12
Slip (length)	N/A	30
Access Ramp- Gangway (width)	3	6
Access Ramp- Gangway (length)	20	60

Slips wider than 12 ft. will be considered 2 slips and require a divider or walkway.

ACCESS RAMP (GANGWAY)

All floating facilities must have an access ramp that connects the facility to the shoreline. Each floating access ramp must have enough flotation to provide a stable walking platform or be one solid piece connecting the shoreline to the floating facility without touching water. Access ramps cannot be supported by fixed piers or posts.

DESIGN LOADS (MINIMUM)

(1) Deck loads and walkways loads (substructure) 30 psf.

(2) Wind loads (sub and superstructure) 20 psf.

(3) Roof loads (superstructure) 10 psf.

(4) Bracing – All columns and/or studs must be adequately braced to resist wind loads. Bracing shall be designed and constructed to counteract design loads, while allowing sufficient flexibility so wave action will not damage the structural and/or roof system.

FLOTATION

(1) Must meet 36 CFR 327.30 Appendix A on all new docks and/or on repairs to existing docks.

(2) Flotation may not be stacked under the dock structure.

(3) All flotation for new docks and add-ons must be encapsulated and meet the 8 inch minimum requirement of docks. There will be 8 inches of flotation from the bottom of the substructure to the surface of the water on the entire structure. The measurement will be taken from the bottom of the substructure (lowest portion) to the surface of the water. (Boards placed for bumpers along the structure will not be considered as a part of the substructure). If, upon initial inspection after construction, any portion of the dock substructure is measured to be less than 8 inches above the water's surface, additional flotation must be added until the dock is in full compliance.

(4) Inspections for renewals or transfers will provide for the 6 – 8 inch deviation for the measurement of the flotation. If clearance between the bottom of the dock substructure and the surface of the water is 6 inches or more the dock will pass the inspection. If any part of the dock substructure has less than 6 inches clearance above the water's surface, the dock must be brought into full compliance with the 8 inch minimum clearance standard. In some cases, placement of additional flotation in areas that do not have flotation may provide the additional support necessary to meet the 8 inch clearance standard. In other cases, all flotation on the dock may need to be replaced in order to achieve full compliance.

ROOFS

Roofs may be gabled or single-pitched. The roofs must be securely fastened to the superstructure to resist wind uplift. Minimum thickness: steel 28 ga., aluminum .032 inches. Only galvanized, brown, green, or blue colored roofs will be allowed for new construction.

Upper decks or platforms are prohibited on floating facilities.

ANCHORAGE

An anchorage system shall provide secure mooring of the private floating facility. An anchorage system utilizing a dead man or ground stakes shall be installed flush with the existing grade. Anchor cables or other securing devices shall be maintained in good repair and located to minimize

obstruction hazards to pedestrians, boaters, and vehicular traffic. Anchor cables will not be attached to trees, stumps, power poles, guardrail posts, etc. Anchor pins and cables should be placed to prevent physical damage to trees. Minimum requirements for anchor cables: 3/8 inch steel cable. Galvanized and/or stainless steel cable of same size or larger may be used.

CONSTRUCTION MATERIALS

(1) The dock superstructure and substructure must be constructed of similar type design and construction materials i.e., wood, metal, aluminum.

(2) All materials used in construction of the dock must meet Environmental Protection Agency (EPA), National, State, and local guidelines on all new docks and/or repairs to existing docks.

(3) All materials used in construction must be new. The use of salvaged or previously used materials will not be permitted.

(4) Two separate permitted structures may be combined into one permitted structure provided engineered stamped plans are submitted and approved.

HANDRAILS

(1) Handrails will be provided on at least one side of the walkway leading to the dock and perimeter areas of the dock, with the exception of a swim deck which only requires hand and guard rails on the shore side. Gates or safety chains may be used in areas on the perimeter of the dock where frequent loading/unloading takes place. Chains shall not span more than 4 feet.

(2) Handrails shall be approximately 42 inches in height with a guardrail approximately 22 inches in height, below the handrail.

(3) Handrails must be structurally sound and maintained in a state of good repair.

(4) Handrails must withstand a load of at least 200 pounds applied in any direction at any point with a minimum of deflection.

STORAGE LOCKERS

A minimum sized enclosed storage area or locker may be constructed for the storage of equipment necessary for recreational boating, such as oars or life preservers. The maximum size footprint allowed is 18 square-feet. Only one locker per slip is allowed. A minimum of 3 feet open decking must be provided on the walkway for access.

Lockers may be placed at the end of fingers or on the shore side of the dock. Lockers may be cantilevered. Prior approval is required for the installation of permanently attached lockers and must be shown on the dock plans provided to the Beaver Lake Office. The addition of lockers to an existing multiple-owner dock requires a letter with signatures from a majority of the slip owners prior to approval.

PERSONAL WATERCRAFT (PWC) MOORING

Personal watercrafts are classified as vessels that can be moored in a dock. If a personal watercraft is counted as a vessel for a slip, the slip must be built the same as for any other vessel, including walkways. Personal watercraft attachments are permitted only on the shore side of the dock or inside a slip.

Only current slip owners within the dock are allowed to place, own, and/or use PWC lifts on a dock. Prior approval is not required for the installation of PWC lifts.

SWIM DECKS

Only one swim deck is allowed per dock and can be a maximum of 8 ft. wide up to the length of the dock. Any existing permitted docks with swim decks that are rebuilt must comply with the current size requirements. Swim decks will not be allowed on the shoreline side of a dock. Diving boards, water slides, and elevated platforms are prohibited. Swim decks for irregular docks will be considered on a case by case basis. Maximum roof coverage is 50% of the swim deck.

Swim decks may be hinged or permanently attached. All new swim decks will be permitted positioned on the exterior of the dock to ensure boat moorage/maneuvering does not interfere with the primary purpose of the swim deck. Step downs are permitted, but must be included in the size restrictions and must be shown on plans. Ladders for ingress/egress to the water are authorized on swim decks.

SLIP FILL-INS

According to this SMP, a walkway may be at a maximum of 6 ft. wide. Therefore, a dock designed, built, and authorized with a 4 ft. header walkway can have, at a maximum, a 2 ft. slip fill-in. The addition of a 2 ft. slip fill-in would bring the 4 ft. walkway width to the maximum 6 ft. allowed. The slip fill-in may extend the width of the slip. Triangular-shaped slip fill-ins placed in the header corners of a slip are acceptable, provided the dimensions do not extend any portion of walkway beyond 6 ft. These are the only approved slip fill-ins. Slip fill-ins will be limited to the header walkway portion of the dock. Prior authorization is not required for slip fill-ins.

BOAT LIFT DECKING

A limited amount of decking (walk boards) may be secured to a boat lift to facilitate vessel access. Walk boards placed on boat lifts may be positioned below the bow (front) and sides (port and starboard) of the owner's vessel. Walk boards on boat lifts will only be authorized for the purpose to assist in providing access for the vessel. The bow-positioned walk boards will not exceed 3 ft. by the width of the slip (i.e. 3' X 8', 3' X 10', and 3' X 12'). The side-positioned walk boards may be installed on the lift below the sides of the vessel and will not exceed 18 inches wide by the length of the boat lift. Plywood, OSB, MDF, or other non-dimensional lumber materials will not be permissible. Prior authorization is not required for the installation of boat lift decking.

PERMIT SIGN

Permit holders are required to display two permit plates with the permit number and expiration year sticker. These tags are provided by the Beaver Lake Office and will be sent to the applicant upon permit issuance. One plate must be securely attached to and displayed on the shoreline side and

the other on the lake side of the dock. New expiration year stickers will be sent to the permittee at each renewal of the permit. These stickers are to be placed over the old expiration date on the permit plates.

ELECTRIC SERVICE

New electric service must be supplied from a renewable energy alternative power source (i.e. solar or wind). Generally, new licenses, including an ownership change in a single-owner dock, for land based electric service will not be approved. If a dock with existing land based electric service is relocated or moved, the existing electric service must be removed and the area restored. In these instances, new electric service must be provided by an alternative power source.

Existing electrical services, either located on Corps property or when supplying electricity to floating facilities, must meet the standards set by the current National Electrical Code and current Corps of Engineers, Little Rock District Dock Electrical Systems handout. Licenses are not required for solar or other alternative electric systems that are contained entirely upon a permitted boat dock. Generally, outgrants will not be issued for new electric service to private floating facilities. Electric service for new floating facilities and those existing facilities without service must be supplied from a renewable energy alternative power source (e.g. solar or wind). This service must be installed and maintained to the standards established by the current National Electrical Code and Corps of Engineers, Little Rock District Dock Electrical Systems handout.

A copy of the electrical inspection form must be certified by a Master Electrician, licensed in the State of Arkansas, and provided to the Operations Project Manager at Beaver Lake before a Shoreline Use Permit will be issued or renewed. Generators may be used but may not be permanently affixed to the dock. Extension cords will be kept out of reach of pedestrian traffic, and must be removed when not in use or fully supervised by the dock owner. Extension cords must be grounded (three-pronged). Fixtures or lights cannot be affixed to trees on public property. See section on Facilities Requiring Outgrants, Electric Lines, for information on use, maintenance, and renewal of existing electric line right-of-ways.

DOCK LIGHTING

It is the intent to allow the amount and location of light for the safe and convenient use of a dock while limiting the amount of light that creates glare and trespass.

All lighting on docks shall be “shielded” downward directional lighting and aimed so that it is not visibly creating light trespass or glare. Any lighting that creates light trespass, glare or skyglow shall be replaced with lighting that conforms to these lighting standards.

STRUCTURE ENCLOSURE

Enclosure of the superstructure will not be allowed. Existing enclosed facilities will be allowed to remain as long as they are maintained in their current condition. No modifications to or replacement of an enclosed facility will be allowed. If replaced, the new facility must be open in design. Floating facilities will not be used for human habitation. New docks must be constructed with open sides.

AMENITIES

Docks are approved for the mooring of the owner's vessel and the storage of gear essential to the vessel's operation, therefore, any amenities that present an appearance of human habitation is not allowed. Upper decks and platforms are prohibited on any floating facility. The following items that are also prohibited on any floating facility include, but are not limited to: diving boards, slides, grills, playground equipment, plants, bird houses, indoor furniture, couches, sinks, cabinets, appliances, satellite dishes, permanent stereo systems and televisions. Decorative lights (rope lights, string lights, party lights, holiday lights, or any other light source not authorized by the project office), underwater lighting, hot tubs, curtains, showers, fire pits, and ceiling fans are also prohibited.

VEGETATION MODIFICATION PERMITS

Mowing, underbrushing, dead tree removal, and all other related work performed on Government property around the lake must have prior written approval from the Corps of Engineers. The approval for a vegetation modification request is granted through a Shoreline Use Permit. Where significant wildlife habitat or scenic/aesthetic areas occur, requests for vegetation modification may be denied or additional restrictions may be included on the permit.

In all cases, the permittee will avoid creating the appearance of private exclusive use of Government property. All lands covered by a Shoreline Use Permit will remain open at all times for use by the general public. The placement of personal property on public lands is prohibited. Permit conditions are attached as Exhibit B.

APPLICATION

An application must be made to the Beaver Lake Office, and permit issued prior to modification of vegetation on Government property.

NEW OR CHANGE OF OWNERSHIP PERMIT REQUESTS

All persons applying for a permit allowing vegetation modification in a new area or persons requesting a change of ownership of an existing Shoreline Use Permit must submit a completed Application for Shoreline Use Permit along with the required fee and proof of ownership of property adjoining Government property. Upon issuance of a permit, the boundary must be marked by installing a standard Corps-supplied permit sign on the common boundary line. The applicant must provide a metal T-post or 4 x 4 inch wooden post and install the provided sign on the post as directed. In cases where there is a boundary line dispute or a potential encroachment, the applicant will be required to provide a survey, prior to issuance of a permit.

REISSUE (RENEWAL)

Applications for "reissue" of expiring permits require the applicant to submit a signed Application for Shoreline Use Permit and payment for the permit fee. The permit will then be reissued with a new expiration date to the existing permittee. All permit conditions in place at the time of the new permit issuance will apply to the renewed permit.

VEGETATION MODIFICATION

MOWING AND UNDERBRUSHING

Vegetation modification requests for mowing or underbrushing may be approved and a Shoreline Use Permit issued within areas of the lake allocated as LDA and Protected Area, provided the area is not classified as Environmentally Sensitive Area or Wildlife Management Area in the most current Beaver Lake Master Plan. Approved vegetation modification requests within a shoreline allocation, which normally would not allow vegetation modification should be grandfathered; however these grandfathered permits will not be transferrable to a new landowner should the properties be sold or transferred.

Mowing and underbrushing will be limited to the area of Government property between the adjoining private property lot lines, as though the lot lines were extended onto Government property from the common private/Government property line towards the shoreline, for up to a maximum of 100 feet from the base of the permanent habitable structure on the adjoining private property. At no time should mowing or underbrushing occur in an area that exceeds 100 feet from a habitable structure. Within specified areas of the permitted vegetation modification request, turf tired lawn mowers, string trimmers, and hand tools may be used. Chemicals and fertilizer cannot be applied on government property. Campsites, decks, porches, and garages are not considered part of the habitable structure for the purposes of obtaining mowing and/or underbrushing permit. Mowing and/or underbrushing will not be permitted across any natural or manmade break in vegetation such as a road, creek, electric distribution line, etc. The actual limits of vegetation modification in each case will be determined by the Operations Project Manager, and defined in the Shoreline Use Permit. Trees and shrubs up to two (2) inches in diameter (measured at ground level) may be removed. Trimming, limbing or topping of trees is prohibited.

Permits for mowing and underbrushing on lands classified as Wildlife Management Areas may be considered on a case-by-case basis by the Operations Project Manager.

There is currently one active Shoreline Use Permit for vegetative modification located in an Environmentally Sensitive Areas (ESA) (under the land classifications of the Beaver Lake Master Plan). Shoreline Use Permits for vegetative modification are not allowed in ESA per master plan regulations. The current permit holder has been notified of the permit status and will be allowed to continue and/or renew his or her existing permit as long as it remains active and in good standing. The permit will not be transferrable to a new landowner should the properties be sold or transferred. There is one active Shoreline Use Permit for vegetative modification located in a public recreation area (PRA), in the master plan land classification High Density (HD). Similar to ESA lands, Shoreline Use Permits for vegetative modification are not allowed in HD per master plan regulations. The current permit holder has been notified of the permit status and will be allowed to continue and/or renew his or her existing permit as long as it remains active and in good standing. The permit will not be transferrable to a new landowner should the properties be sold or transferred.

FOOT PATHS

In areas with a land classification as Low Density Recreation, a foot path may be permitted to the water's edge. There is no requirement for a habitable structure on the adjacent private property for the issuance of this permit. The path cannot exceed 4 feet in width and must be meandering to prevent erosion. The path route will be the shortest meandering distance between private property and the lake, keeping in mind possible safety issues. The only materials that can be used are natural colored wood mulch or wood bark. No stairs, steps, landscape blocks, stones, or landscape timbers are permitted on the path. Erosion control methods for the path may be considered and approved on a case by case basis. When a permitted path to the shoreline creates an erosion problem, the permit may be revoked to allow the terrain to be restored. Digging, placement of fill material, or construction of bridges will not be allowed. Within specified areas of the permitted vegetation modification request, turf tired lawn mowers, string trimmers, and hand tools may be used. Trees may be limbed along the path to keep the immediate area of the path clear for walking (maximum four foot wide and seven feet tall).

In areas with a land classification as Environmentally Sensitive, the same permit requirements will apply, however, there will be no use of any materials such as natural colored wood mulch or wood bark. Existing paths will be allowed to remain in their current condition, however will not be allowed to add any materials.

DEAD TREES AND LIMB HAZARDS

Cutting of dead trees without a permit is prohibited. Dead trees which have fallen to the ground within a vegetation modification permitted area may be cut up and removed from Government property or left for wildlife habitat. Trees which have fallen to the ground outside a vegetation modification permitted area must be left, unless it is impeding a permitted path. Standing dead trees require a separate permit issued by the Corps of Engineers. Dead, standing trees that present a potential hazard to a permanent structure or pose a safety threat to fall on a designated foot path or structure may be approved for removal. Dead, standing trees within a vegetative management permitted area may be allowed to be removed. With approval, dead or live limbs may be removed if causing a hazard to a structure or obstructing the designated foot path.

OTHER SHORELINE USE PERMITS

SKI COURSES

No new ski course permits will be issued on Beaver Lake. Current permits with the Corps of Engineers will be considered for renewal annually. Existing permits can be re-located with concurrence by the Corps of Engineers. Applicants are advised that the permit does not convey exclusive use of the ski course. The general public must be allowed to use the ski course free of charge.

EROSION CONTROL

When bank erosion occurs on Beaver Lake, certain measures may be approved to prevent further erosion. Federally funded erosion control is limited to protecting the Government's investment in

the Project, such as the dam, overflow structure, or the shoreline of a park or other public use areas. Adjoining landowners may apply for a permit(s) to complete a bank stabilization project, subject to all current Federal, State and local laws and regulations. Potential applicants should contact the Beaver Lake Office for current specific requirements. For additional information see Exhibit D, Shoreline Erosion Control.

AMBULATORY ASSISTANCE VEHICLE PERMIT

Individuals with physical impairments are eligible to receive an Ambulatory Assistance Vehicle or AAV Permit to operate a golf cart, ATV, or UTV on public lands to gain access to a boat dock only. Accessibility will be limited to a permitted maximum six-foot wide path to provide access to a dock. AAV permit use is not available on public lands classified as Environmentally Sensitive Areas.

The applicant must submit a request for an AAV permit. The request will include name, address, telephone number, site location, and a letter from a medical professional indicating the applicants permanent physical limitations for access to the boat dock. The information submitted will not be released to the general public except in accordance with the Freedom of Information Act (FOIA) and the Privacy Act of 1974.

The following are terms and conditions of the AAV permit. Abuse of any of these conditions are grounds for termination of the AAV permit:

- The AAV permit is granted to the applicant only;
- Only golf carts, ATVs, or UTVs are allowed;
- The AAV permit is for the sole purpose of transporting the permittee and/or slip owner to a private floating facility;
- The vehicle will only be driven on a designated permitted path;
- This permit is granted for access to the applicants boat dock only;
- The access path will comply with the conditions in the *SMP* for a pedestrian foot path, with the exception of path width;
- The path will not exceed six feet (6') in width and must follow a meandering route;
- Digging, placement of fill material, or constructions of bridges will not be allowed;
- Applicants must own land adjoining public land or have a legal access;
- The AAV permit does not give the Applicant the right to operate the AAV in violation of other federal, state, or local laws including traffic regulations or ordinances. Applicants assume the risks associated with of operation of their AAV in violation of all applicable laws. Applicants further assume the risks associated with all unsafe operation of their AAV including operation on public roads as well as federal property;
- Permittee must have a copy of their AAV permit readily available to provide proof of permission and the shoreline permit must be attached to the vehicle so it can be easily seen;
- The AAV permit is granted for the same period of time as the boat dock and may be terminated pending future changes in policies;
- If the permitted path is creating an erosion problem, use of the trail must cease and the terrain must be restored.

UNAUTHORIZED ACTIVITIES AND VIOLATIONS

All Shoreline Use Permits are issued and enforced in accordance with the provisions of Title 36, Chapter III, Part 327, Code of Federal Regulations. Any activities, other than public recreational activities or unimproved pedestrian access, which are not covered by a Shoreline Use Permit or license will be considered an encroachment or degradation of Government property. These unauthorized activities are considered violations of the rules and regulations contained in Title 36, Chapter III, Part 327, Code of Federal Regulations. Violations can result in enforcement actions such as, but not limited to removal, restitution, restoration, permit revocation, access restrictions, issuance of a citation requiring the payment of a fine and/or the appearance before a Federal Magistrate, and/or recovery of damages through civil litigation, etc.

PLACEMENT OF PERSONAL PROPERTY ON PUBLIC LANDS

Personal property is not to be placed or stored on public lands. This includes, but is not limited to items such as sheds, furniture, outdoor decor, swing sets, bird baths, fire wood, boats, lights and lighting, hammocks, fire pits, fencing, trailers, etc.

SHORELINE TIE-UP OF VESSELS

Temporary shoreline tie-up is defined as the intermittent moorage of private watercraft along the shoreline during a period of recreational activity, not to exceed 24 hours of non-use. All vessels shall be removed from Government property if not in actual use. Habitation is not allowed on Government lands or waters; however, the temporary use of a houseboat for recreational purposes is allowed. Houseboats may be tied to the shoreline (outside of public uses areas) for overnight moorage when being used for recreational purposes. Watercraft owners needing non-temporary moorage of vessels are encouraged to contact local marinas or apply for a private floating facility permit.

BURNING

In general, no burning of any kind is allowed on Government property. Any burning must be performed on private property and in accordance to applicable state and local laws. In special circumstances, for instance after a flood event, permits for limited burning of debris may be approved by Operations Project Manager.

NON-COMPLIANCE RESPONSE ACTIONS

The permittee shall be responsible for all Shoreline Use Permit/License Conditions. The failure to comply with any permit/license condition may result in the issuance of a written warning, citation, use restriction, and recommendation of revocation of the permit. The violations listed below are considered to be common issues requiring standardized response actions on Beaver Lake in order to gain and maintain compliance. It is our intent for all permittees to remain compliant with all permit/license conditions.

UNAUTHORIZED USE OF A PRIVATE FLOATING FACILITY:

The use of a permitted private floating facility shall be limited to the mooring of the permittee's vessel or watercraft and the storage of his/her gear essential to the operation of such vessel or

watercraft in an enclosed locker. Only bonafide owners of the dock are allowed to moor their vessels in or on the dock. Facilities granted under this permit will not be leased, rented, sub-let or provided to others by any means of engaging in commercial activity(s) by the permittee or his/her agent for monetary gain. This does not preclude the sale of total ownership of a single-owner dock or slip(s) in a multiple-owner dock. Commercial use of a boat slip in a single-owner and/or multiple-owner dock, to include but not limited to rental of a slip, use of a slip included in a residential or commercial rental agreement, or use of a slip in the operation of business is prohibited. The following enforcement standards will be applied:

1st Offense: Written warning.

2nd Offense: Citation.

3rd Offense: Restrict use of boat slip(s), by barricading slip(s) or dock, for a period of two years, regardless of sale of slip(s) or dock.

4th Offense: Recommend revocation of the permit or removal/permanent barricading of the slip(s), regardless of sale of slip(s) or dock.

IMPROPER MAINTENANCE OF ELECTRIC FACILITIES:

If electric on the dock and/or to the dock is not meeting the National Electric Code or found not to be in compliance with the current SMP, the following enforcement standards will be enforced:

1st Offense: Written citation.

2nd Offense: Mandatory Court Appearance/Citation. Restrict use of boat slip(s), by barricading slip(s) or dock, for a period of two years, regardless of sale of slip(s) or dock.

3rd Offense: Recommend revocation of the permit or removal/permanent barricading of the slip(s), regardless of sale of slip(s) or dock.

POLICY FOR GROUNDED DOCKS:

Failure to maintain dock in a floating condition.

1st Offense: Written warning.

2nd Offense: Written Citation.

3rd Offense: Written Citation.

4th Offense: Recommend revocation of the permit and removal of dock from public lands by owner/owners.

UNAUTHORIZED VEGETATION MODIFICATION:

Unauthorized vegetation modification can include, but is not limited to destruction of Government property, timber trespass, mowing/underbrushing outside of a permitted area, chemical application and/or unauthorized limbing.

Depending on severity of the offense, at the option of the Operations Project Manager, citation and/or revocation of the Shoreline Use Permit, establishment of a restoration area, and/or payment of restitution, may result. The Operation Project Manager may restrict use of boat slip(s) or dock, by barricading slip(s) or dock, for a period of two years, regardless of sale of slip(s) or dock or revocation of the permit.

UNAUTHORIZED DOCK STRUCTURE OR DOCK MODIFICATION:

Unauthorized docks and additions or modifications to a dock can include, but is not limited to slip fill-ins, enclosures, swim decks, slip additions, walkway extensions, electrical alterations, diving platforms and roof extensions.

Depending on severity of the offense, at the option of the Operations Project Manager, citation and/or revocation of the Shoreline Use Permit may result. The Operation Project Manager may require immediate removal, restrict use of boat slip(s) or dock, by barricading slip(s) or dock, for a period of two years, regardless of sale of slip(s) or dock.

FACILITIES REQUIRING AN OUTGRANT

Outgrants, such as licenses and easements, are real estate instruments and are governed by Corps real estate regulations. All real estate instruments are administered by the Corps of Engineers Real Estate Division. This section discusses only those uses associated with private use of public lands. Uses of the project for the general public, such as public roads and highways or electric distribution lines are not discussed in this *SMP*.

A real estate instrument is required for the installation and maintenance of certain land-based facilities such as roads, parking areas, boat launching facilities, electric lines, improved pathways, stairways or water lines. In general, new outgrants will not be issued for residential amenities, such as steps, stairs, water lines, tramways, or private electric service lines. Specific information regarding steps and stairs is located in its own section below. Renewal outgrants for existing structures may be reissued in accordance with current rules, regulations, and policies in place at the time of expiration or termination.

Fees will be collected for specific facilities prior to the issuance of an outgrant. These fees are separate from any Shoreline Use Permit fees for permitted activities or facilities.

Individuals issued an outgrant must agree to give the Chief, Real Estate Division or his/her representative access across their properties for the purpose of inspecting outgranted facilities or other activities.

APPLICATION

NEW

Applicants requesting a land-based facility must complete a written request to the Beaver Lake Office. The request must include all required documents including a map showing where the structure will cross public land, a legal description of the area of the facility and proof of ownership of the land of or access to the land adjoining Government property, and any other pertinent information (i.e. plans and specifications). Contact the Beaver Lake Office for current requirements.

CHANGE OF OWNERSHIP OF EXISTING STRUCTURE

Applicants requesting a change of grantee of a land-based structure outgrant must submit a written request to the Beaver Lake Office. The request must include proof of ownership of the land adjoining Government property at the point the facility enters Government property. Other documents may also be required. Contact the Beaver Lake Office for current requirements.

RENEWAL

Current grantees may request to “renew” expiring outgrants by submitting a written request to the Beaver Lake Office stating the intent to have the real estate instrument reissued to them. Other documents may also be required. Contact the Beaver Lake Office for current requirements.

ELECTRIC LINES

Existing electrical services, either located on Corps property or when supplying electricity to floating facilities, must meet the standards set by the current National Electrical Code and current Corps of Engineers, Little Rock District Dock Electrical Systems handout. Licenses are not required for solar or other alternative electrical systems that are contained entirely upon a permitted boat dock.

Real Estate Outgrants will not be issued for new electric service to private floating facilities. Electric service for new floating facilities and those existing facilities without service must be supplied from a renewable energy alternative power source (e.g. solar or wind) or generator. This service must be installed and maintained to the standards established by the current NEC and current Corps of Engineers, Little Rock District Dock Electrical Systems requirements..

Existing licensed electric lines providing service to private floating facilities or to provide shoreline lighting for security will be allowed to remain. All electric service must be maintained in a safe working condition and meet Corps standards (including license/easement and *SMP* conditions), meet all local and state codes, and meet all requirements of the NEC and current Corps of Engineers, Little Rock District Dock Electrical Systems requirements.

ROADS, PARKING AREAS, AND BOAT LAUNCHING RAMPS

Construction of new roads, turnarounds, parking areas and boat launching ramps will only be considered when the following conditions are met:

1. Request is in compliance with the *Master Plan* land classifications;
2. Requested by a Government entity;

3. No other alternative exists on privately owned lands;
4. The use will not interfere with project purposes and is located within “Limited Development Area” designation in the *SMP*;
5. Access to the facility is by public road or is guaranteed by legally dedicated right of access through private property;
6. The use is considered an integral part of a boat-launching ramp facility;
7. The proposed new boat launching facility is greater than three shoreline miles from the nearest public ramp at conservation pool, or if there is an existing ramp in the area, but it can’t be modified to meet the current demand;
8. The improvements are sited or routed to minimize impacts to the natural and cultural resources;
9. Public lands are not severed and isolated rendering them too small for beneficial use.
10. Archeological survey must be completed, if required, and all archeological sites avoided.
11. Mitigation for environmental damage must be evaluated, valued, and agreed to by the Operations Project Manager.

STAIRS/STEPS

Authorization to build new steps/stairs for access to an approved dock location will be considered on a case by case basis. An outgrant for steps/stairs will only be considered when shoreline conditions have proven to significantly impact the access of the applicant, and;

- The slope exceeds 20 percent
- No other access opportunity is available within 100 feet of the closest point to the requested location

When changes in topography caused by natural events (i.e. floods) occur, and previously approved access has been deemed impractical, applicants may request to build steps/stairs to access the existing dock location. Requests will be considered on a case by case basis.

Existing outgranted steps or stairs will be allowed to remain, in accordance with the regulations in place at the time of renewal, so long as they are maintained in safe working condition and meet Corps standards (including license/easement and *SMP* conditions).

All facilities must be available for public use. Steps/stairs will be approved for pedestrian ingress/egress only. Steps/stairs may not be constructed as to attach to, or facilitate the walkway of a floating facility.

STEPS

The placement of an acceptable material on the ground to serve as stepping aides for pedestrian ingress/egress to the approved dock location, regardless of quantity, spacing, or rise/run measurements, will be considered as steps and will be outgranted through a Real Estate license. The proposed route must be meandering and follow the natural contour of the ground surface. Construction materials should be as unobtrusive to the natural shoreline as possible. Acceptable materials include native stone, earth-tone landscape blocks/stones, 6 x 6 inch treated timbers, etc. Gravel or non-natural materials are used only as needed to prevent erosion. Steps should be 8-10 inches wide with risers not greater than 5-8 inches high. Handrails are not required, but if placed,

shall be constructed with a top rail 42 inches in height and a guardrail located 22 inches in height, below the top rail.

STAIRS

Stairs will only be permitted when the terrain is too steep or unstable for the placement of steps. Stairs must be painted or stained to be minimally intrusive and blend in with the natural environment. Brightly painted or otherwise visually conspicuous stairs will not be permitted. The stairs must be securely anchored and made of wood, metal, tinted concrete or native materials. Handrails and guardrails are required. Stairs should be 8-10 inches wide with risers not greater than 5-8 inches high. Handrails shall be constructed with a top rail 42 inches in height and a guardrail located 22 inches in height, below the top rail.

SPECIAL TOPICS

CARRYING CAPACITY

During the summer of 2016, a recreational boating carrying capacity study was completed on Beaver Lake, Arkansas for the Little Rock District of the U.S. Army Corps of Engineers (USACE). This study characterizes current boating lake use during peak boating periods and boaters' perspectives on safety and crowding at the lake. The primary focus of the study was to evaluate existing recreational use and users' perspectives against carrying capacity ranges researched and developed specifically for the Beaver Lake setting.

To establish the current (2016) summer recreational boating use profile for Beaver Lake, a field survey was conducted consisting of coordinated aerial and ground surveys. The results and analysis from these surveys recommended a lake-wide range of 10 to 20 acres per boat developed using the WALROS (Water and Land Recreation Opportunity Spectrum) methodology and the Observed Peak Boat Density of 16.8 useable acres per boat. Beaver Lake has currently reached but not exceeded the recommended carrying capacity during peak use times. Observed Peak Boat Density is calculated by dividing the total useable water surface acres by the boat count from the survey period that tallied the most number of boats.

Observed peak density: $24,401 / 1,450 = 16.8$ useable acres per boat

BOATS is defined as the number of boats on the water at one time. The carrying capacity study concluded the number of *BOATS* to remain within capacity is between 1,410 (low end) and 1,689 (high end). For management purposes, the Beaver Lake Project Office has determined to use the high end capacity, 1,689, to represent the maximum boat density. Therefore, the maximum recommended boat density allowable at Beaver Lake is 14.5 useable acres per boat, calculated by dividing the useable acres of water by the recommended high end cumulative total boats that can operate without exceeding capacity on the available water surface at any given point in time.

Maximum recommended boat density: $24,401/1,689 = 14.5$ useable acres per boat

Boaters can access Beaver Lake from various infrastructure and facilities: public boat ramps, marina slips, or private, community, and resort docks. These can be referred to as access points or opportunities, wherein one access point is equal to an opportunity for one boat to engage in boating activities on Beaver Lake. The Total Access Opportunities, then, is the total number of boats that can be moored or stored at an approved moorage facility, such as a marina or boat dock, plus the total number of boats that can be placed on the water surface using an approved boat ramp or launch facility. The number of boats that can be placed on the water surface from public boat ramps is calculated as the number of boat trailer parking spaces available. Currently, the Total Access Opportunities for Beaver Lake is 7,843 boats and was calculated as follows:

711 Boat trailer parking spaces at boat ramps
1,957 Marina wet slips
5,175 Slips at private, community, and resort boat docks
= 7,843 Total Access Opportunities

The Facility Impact Rate is a measure of the proportion of available access infrastructure to *BOATS*. It can be a useful tool to estimate the effects of changes in Total Access Opportunities on *BOATS*. That is, if the available infrastructure for accessing the lake were to change, the lake use rate provides a way to estimate how those changes would affect the number of boats on the lake at one time and thus the boating density should the observed use rate remain constant in the future.

The boat ramp facilities have the highest impact on *BOATS*, with an impact ratio of 1:1, followed by marinas with a ratio of 4:1. Private, community, and resort dock slips have the lowest impact on *BOATS* with an impact ratio of 14:1. Note: Slips associated with sailing clubs are included with the private, community, and resort dock slips.

- Marina Facility Impact Rate = 4:1
- Boat Ramp Facility Impact Rate = 1:1
- Private (Single Owner), Community (Multi-Owner), and Resort Dock Slips Facility Impact Rate = 14:1

Observed is currently 1,450 peak boats which translates to 16.8 useable acres per boat; 1,689 is the recommended high end peak boats which translates to 14.5 maximum potential density of acres per boat. This will allow for an additional 239 boats on the water at any given time before reaching maximum potential density.

Assuming facility impact rates remain similar to carrying capacity results, any new request for an access opportunity will be calculated by using the observed ratios in the carrying capacity study. The requested access opportunities will be divided by the ratio; that number will equate to the number of additional boats on the water and will be subtracted from the maximum boat density of 239. Once the 239 max boat density has been met, no other access opportunities will be allowed to be placed on the water.

MARINE SANITATION DEVICES AND HOUSEBOATS

The discharge of any type of effluent in the water of Little Rock District lakes is prohibited. All permanently installed boat toilets must have a U.S. Coast Guard certified Marine Sanitation Device (MSDs). The use of any type MSD other than a USCG approved "no discharge" type is prohibited.

Proof of State certification must be displayed on the vessel. Only approved marine pump out locations may be used to discharge effluent. Houseboats/vessels with marine sanitation devices (MSDs) must be permanently moored at commercial marinas. All vessels, commercial boating facilities, docks, and marinas are subject to the Arkansas marine sanitation laws at Arkansas Code Annotated §§ 27-101-407 to 27-101-414.

Generally, houseboats are not permitted to be moored at private docks. Houseboats are defined as a vessel that has been designed or modified to be used as a dwelling, or capable of being used as a dwelling. These boats are typically wide-beamed, flat bottom or pontoon supported, high-sided with large interior area, and have accommodations that could support longer-term living and occupancy.

Houseboats not equipped with MSDs that have been authorized to be moored at private docks will not be permitted to transfer to another single-owner or community private dock on Beaver Lake. When the owner of a houseboat is no longer using the vessel for recreational purposes, or the vessel is sold to another party, the vessel must be moored at a commercial marina or removed from the lake.

LIMITED MOTEL/RESORT LEASES

Limited Motel/Resorts are quasi-public recreational facilities located on public land, owned and operated by individuals for commercial purposes. The resort is located on private property and is operated along with supporting facilities on outgranted public land. The facilities on public land are open to registered overnight resort guests only. At the time of writing this plan, there are 7 existing Limited Motel/Resort Leases on Beaver Lake. These leases are managed and administered under a Little Rock District regulation that requires the lease facilities follow the applicable *SMP* to the maximum extent possible, under the binding lease agreement.

NO WAKE AND OTHER REGULATORY BUOYS

“No Wake” and other regulatory buoys to support private floating facilities will not be approved for use on Beaver Lake.

DOCKS IN LDA ADJACENT TO PUBLIC RECREATION AREA

The following docks were previously located in Public Recreation shoreline allocation before 1994 and are subject to the following restrictions listed below. Docks included are:

- a. 1427 located in Hickory Creek PRA
- b. 1316 located in Indian Creek PRA
- c. 2047 located in Alpine PRA

The floating facility will be limited to 2 slips and a single-owner to maintain the safety and aesthetics of Corps parks for public use.

Docks may be moved to an approved location within an LDA outside the PRA if all requirements of the current *SMP* are met.

CHANGES AND REVISIONS

Natural Resources Management personnel will continually work to protect and manage shoreline uses at Beaver Lake in a manner to promote the safe and healthful use by the public while maintaining environmental safeguards to ensure a quality resource for use by the public. When needed, the *SMP* will be revised to better accomplish this. At a minimum, the *SMP* will be reviewed every five years, at which time minor changes in the *SMP* may be approved by the District Engineer. When major revisions to the *SMP* are needed, including any changes in the Shoreline Allocations, the plan will be formally updated through the public participation process. Cumulative environmental impacts of permit actions and the possibility of preparing or revising project NEPA documentation will be considered.

Requests for shoreline allocation changes are only considered or accepted during shoreline management plan revisions. Boat dock rezoning requests for additional Limited Development Areas (LDA) will not be considered or accepted until all current LDA at Beaver Lake are utilized to the maximum extent permitted by 36 CFR 327.20. During a *SMP* revision shoreline allocations will not be changed unless unique situations exist.

CONTACT INFORMATION

Beaver Lake personnel are available to address requests or questions concerning the *Shoreline Management Plan* and its policies. The Beaver Lake Office is located at 2260 N. 2nd Street in Rogers, Arkansas. You may contact Beaver Lake Project Office at 479-636-1210, ext 1710 or via email at ceswl-bv@usace.army.mil.

EXHIBIT A: TITLE 36, PART 327

Title 36: Parks, Forests, and Public Property

PART 327—RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCE DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

PART 327—RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCE DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

Sec.

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- 327.30 Shoreline Management on Civil Works Projects.
- 327.31 Shoreline management fee schedule.

AUTHORITY: 16 U.S.C. 460d; 16 U.S.C. 4601–6a; Sec. 210, Pub. L. 90–483, 82 Stat. 746.; 33 U.S.C. 1, 28 Stat. 362.

SOURCE: 50 FR 35556, Sept. 3, 1985, unless otherwise noted.

§ 327.0 Applicability.

The regulations covered in this part 327 shall be applicable to water resources development projects, completed or under construction, administered by the Chief of Engineers, and to those portions of jointly administered water resources development projects which are under the administrative jurisdiction of the Chief of Engineers. All other Federal, state and local laws and regulations remain in full force and effect where applicable to those water resources development projects.

[65 FR 6898, Feb. 11, 2000]

§ 327.1 Policy.

(a) It is the policy of the Secretary of the Army, acting through the Chief of Engineers, to manage the natural, cultural and developed resources of each project in the public interest, providing the public with safe and healthful recreational opportunities while protecting and enhancing these resources.

(b) Unless otherwise indicated in this part, the term “District Commander” shall include the authorized representatives of the District Commander.

(c) The term “project” or “water resources development project” refers to the water areas of any water resources development project administered by the Chief of Engineers, without regard to ownership of underlying land, to all lands owned in fee by the Federal Government and to all facilities therein or thereon of any such water resources development project.

(d) All water resources development projects open for public use shall be available to the public without regard to sex, race, color, creed, age, nationality or place of origin. No lessee, licensee, or concessionaire providing a service to the public shall discriminate against any person because of sex, race, creed, color, age, nationality or place of origin in the conduct of the operations under the lease, license or concession contract.

(e) In addition to the regulations in this part 327, all applicable Federal, state and local laws and regulations remain in full force and effect on project lands or waters which are outgranted by the District Commander by lease, license or other written agreement.

(f) The regulations in this part 327 shall be deemed to apply to those lands and waters which are subject to treaties and Federal laws and regulations concerning the rights of Indian Nations and which lands and waters are incorporated, in whole or in part, within water resources development projects administered by the Chief of Engineers, to the extent that the regulations in this part 327 are not inconsistent with such treaties and Federal laws and regulations.

(g) Any violation of any section of this part 327 shall constitute a separate

violation for each calendar day in which it occurs.

(h) For the purposes of this part 327, the operator of any vehicle, vessel or aircraft as described in this part, shall be presumed to be responsible for its use on project property. In the event where an operator cannot be determined, the owner of the vehicle, vessel, or aircraft, whether attended or unattended, will be presumed responsible.

Unless proven otherwise, such presumption will be sufficient to issue a citation for the violation of regulations applicable to the use of such vehicle, vessel or aircraft as provided for in § 327.25.

(i) For the purposes of this part 327, the registered user of a campsite, picnic area, or other facility shall be presumed to be responsible for its use. Unless proven otherwise, such presumption will be sufficient to issue a citation for the violation of regulations applicable to the use of such facilities as provided for in § 327.25.

[65 FR 6898, Feb. 11, 2000]

§ 327.2 Vehicles.

(a) This section pertains to all vehicles, including, but not limited to, automobiles, trucks, motorcycles, mini-bikes, snowmobiles, dune buggies, all-terrain vehicles, and trailers, campers, bicycles, or any other such equipment.

(b) Vehicles shall not be parked in violation of posted restrictions and regulations, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, property or environmental feature. Vehicles so parked are subject to removal and impoundment at the owner’s expense.

(c) The operation and/or parking of a vehicle off authorized roadways is prohibited except at locations and times designated by the District Commander. Taking any vehicle through, around or beyond a restrictive sign, recognizable barricade, fence, or traffic control barrier is prohibited.

(d) Vehicles shall be operated in accordance with posted restrictions and regulations.

(e) No person shall operate any vehicle in a careless, negligent or reckless

manner so as to endanger any person, property or environmental feature.

(f) At designated recreation areas, vehicles shall be used only to enter or leave the area or individual sites or facilities unless otherwise posted.

(g) Except as authorized by the District Commander, no person shall operate any motorized vehicle without a proper and effective exhaust muffler as defined by state and local laws, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.

(h) Vehicles shall be operated in accordance with applicable Federal, state and local laws, which shall be regulated by authorized enforcement officials as prescribed in § 327.26.

[65 FR 6899, Feb. 11, 2000]

§ 327.3 Vessels.

(a) This section pertains to all vessels or watercraft, including, but not limited to, powerboats, cruisers, houseboats, sailboats, rowboats, canoes, kayaks, personal watercraft, and any other such equipment capable of navigation on water or ice, whether in motion or at rest.

(b) The placement and/or operation of any vessel or watercraft for a fee or profit upon project waters or lands is prohibited except as authorized by permit, lease, license, or concession contract with the Department of the Army. This paragraph shall not apply to the operation of commercial tows or passenger carrying vessels not based at a Corps project which utilize project waters as a link in continuous transit over navigable waters of the United States.

(c) Vessels or other watercraft may be operated on the project waters, except in prohibited or restricted areas, in accordance with posted regulations and restrictions, including buoys. All vessels or watercraft so required by applicable Federal, state and local laws shall display an appropriate registration on board whenever the vessel is on project waters.

(d) No person shall operate any vessel or other watercraft in a careless, negligent, or reckless manner so as to endanger any person, property, or environmental feature.

(e) All vessels, when on project waters, shall have safety equipment, including personal flotation devices, on board in compliance with U.S. Coast flight devices or any other such equipment.

(b) The operation of aircraft on project lands at locations other than those designated by the District Commander is prohibited. This provision shall not be applicable to aircraft engaged on official business of Federal,

state or local governments or law enforcement agencies, aircraft used in emergency rescue in accordance with the directions of the District Commander or aircraft forced to land due to circumstances beyond the control of the operator.

(c) No person shall operate any aircraft while on or above project waters or project lands in a careless, negligent or reckless manner so as to endanger any person, property or environmental feature.

(d) Nothing in this section bestows authority to deviate from rules and regulations or prescribed standards of the appropriate State Aeronautical Agency, or the Federal Aviation Administration, including, but not limited to, regulations and standards concerning pilot certifications or ratings, and airspace requirements.

(e) Except in extreme emergencies threatening human life or serious property loss, the air delivery or retrieval of any person, material or equipment by parachute, balloon, helicopter or other means onto or from project lands or waters without written permission of the District Commander is prohibited.

(f) In addition to the provisions in paragraphs (a) through (e) of this section, seaplanes are subject to the following restrictions:

(1) Such use is limited to aircraft utilized for water landings and takeoff, in this part called seaplanes, at the risk of owner, operator and passenger(s).

(2) Seaplane operations contrary to the prohibitions or restrictions established by the District Commander (pursuant to part 328 of this title) are prohibited. The responsibility to ascertain whether seaplane operations are prohibited or restricted is incumbent upon the person(s) contemplating the use of, or using, such waters.

(3) All operations of seaplanes while upon project waters shall be in accordance with U.S. Coast Guard navigation rules for powerboats or vessels and § 327.3.

(4) Seaplanes on project waters and lands in excess of 24 hours shall be securely moored at mooring facilities and at locations permitted by the District Commander. Seaplanes may be temporarily moored on project waters and lands, except in areas prohibited by the District Commander, for periods less than 24 hours providing:

(i) The mooring is safe, secure, and accomplished so as not to damage the rights of the Government or members of the public, and

(ii) The operator remains in the vicinity of the seaplane and reasonably available to relocate the seaplane if

necessary.

(5) Commercial operation of seaplanes from project waters is prohibited without written approval of the District Commander following consultation with and necessary clearance from the Federal Aviation Administration (FAA) and other appropriate public authorities and affected interests.

(6) Seaplanes may not be operated at Corps projects between sunset and sunrise unless approved by the District Commander.

[65 FR 6899, Feb. 11, 2000]

§ 327.5 Swimming.

(a) Swimming, wading, snorkeling or scuba diving at one's own risk is permitted, except at launching sites, designated mooring points and public docks, or other areas so designated by the District Commander.

(b) An international diver down, or inland diving flag must be displayed during underwater activities.

(c) Diving, jumping or swinging from trees, bridges or other structures which cross or are adjacent to project waters is prohibited.

[65 FR 6900, Feb. 11, 2000]

§ 327.6 Picnicking.

Picnicking and related day-use activities are permitted, except in those areas where prohibited by the District Commander.

[65 FR 6900, Feb. 11, 2000]

§ 327.7 Camping.

(a) Camping is permitted only at sites and/or areas designated by the District Commander.

(b) Camping at one or more campsites at any one water resource project for a period longer than 14 days during any 30-consecutive-day period is prohibited without the written permission of the District Commander.

(c) The unauthorized placement of camping equipment or other items on a campsite and/or personal appearance at a campsite without daily occupancy for the purpose of reserving that campsite for future occupancy is prohibited.

(d) The digging or leveling of any ground or the construction of any structure without written permission of the District Commander is prohibited.

(e) Occupying or placement of any camping equipment at a campsite which is posted or otherwise marked or indicated as "reserved" without an authorized reservation for that site is prohibited.

[65 FR 6900, Feb. 11, 2000]

§ 327.8 Hunting, fishing, and trapping.

(a) Hunting is permitted except in areas and during periods where prohibited by the District Commander.

(b) Trapping is permitted except in areas and during periods where prohibited by the District Commander.

(c) Fishing is permitted except in

swimming areas, on boat ramps or other areas designated by the District Commander.

(d) Additional restrictions pertaining to these activities may be established by the District Commander.

(e) All applicable Federal, State and local laws regulating these activities apply on project lands and waters, and shall be regulated by authorized enforcement officials as prescribed in § 327.26.

[65 FR 6900, Feb. 11, 2000]

§ 327.9 Sanitation.

(a) Garbage, trash, rubbish, litter, gray water, or any other waste material or waste liquid generated on the project and incidental to authorized recreational activities shall be either removed from the project or deposited in receptacles provided for that purpose. The improper disposal of such wastes, human and animal waste included, on the project is prohibited.

(b) It is a violation to bring onto a project any household or commercial garbage, trash, rubbish, debris, dead animals or litter of any kind for disposal or dumping without the written permission of the District Commander. For the purposes of this section, the owner of any garbage, trash, rubbish, debris, dead animals or litter of any kind shall be presumed to be responsible for proper disposal. Such presumption will be sufficient to issue a citation for violation.

(c) The spilling, pumping, discharge or disposal of contaminants, pollutants or other wastes, including, but not limited to, human or animal waste, petroleum, industrial and commercial products and by-products, on project lands or into project waters is prohibited.

(d) Campers, picnickers, and all other persons using a water resources development project shall keep their sites free of trash and litter during the period of occupancy and shall remove all personal equipment and clean their sites upon departure.

(e) The discharge or placing of sewage, galley waste, garbage, refuse, or pollutants into the project waters from any vessel or watercraft is prohibited. [65 FR 6900, Feb. 11, 2000]

§ 327.10 Fires.

(a) Gasoline and other fuels, except that which is contained in storage tanks of vehicles, vessels, camping equipment, or hand portable containers designed for such purpose, shall not be carried onto or stored on the project without written permission of the District Commander.

(b) Fires shall be confined to those areas designated by the District Commander, and shall be contained in fireplaces, grills, or other facilities designated

for this purpose. Fires shall not be left unattended and must be completely extinguished prior to departure.

The burning of materials that produce toxic fumes, including, but not limited to, tires, plastic and other floatation materials or treated wood products is prohibited. The District Commander may prohibit open burning of any type for environmental considerations.

(c) Improper disposal of lighted smoking materials, matches or other burning material is prohibited. [65 FR 6900, Feb. 11, 2000]

§ 327.11 Control of animals.

(a) No person shall bring or allow dogs, cats, or other pets into developed recreation areas or adjacent waters unless penned, caged, on a leash under six feet in length, or otherwise physically restrained. No person shall allow animals to impede or restrict otherwise full and free use of project lands and waters by the public. No person shall allow animals to bark or emit other noise which unreasonably disturbs other people. Animals and pets, except properly trained animals assisting those with disabilities (such as seeing eye dogs), are prohibited in sanitary facilities, playgrounds, swimming beaches and any other areas so designated by the District Commander. Abandonment of any animal on project lands or waters is prohibited. Unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with state and local laws.

(b) Persons bringing or allowing pets in designated public use areas shall be responsible for proper removal and disposal of any waste produced by these animals.

(c) No person shall bring or allow horses, cattle, or other livestock in camping, picnicking, swimming or other recreation areas or on trails except in areas designated by the District Commander.

(d) Ranging, grazing, watering or allowing livestock on project lands and waters is prohibited except when authorized by lease, license or other written agreement with the District Commander.

(e) Unauthorized livestock are subject to impoundment and removal in accordance with Federal, state and local laws.

(f) Any animal impounded under the provisions of this section may be confined at a location designated by the District Commander, who may assess a reasonable impoundment fee. This fee shall be paid before the impounded animal is returned to its owner(s).

(g) Wild or exotic pets and animals (including but not limited to cougars, lions, bears, bobcats, wolves, and snakes), or any pets or animals displaying

vicious or aggressive behavior or otherwise posing a threat to public safety or deemed a public nuisance, are prohibited from project lands and waters unless authorized by the District Commander, and are subject to removal in accordance with Federal, state and local laws. [65 FR 6901, Feb. 11, 2000]

§ 327.12 Restrictions.

(a) The District Commander may establish and post a schedule of visiting hours and/or restrictions on the public use of a project or portion of a project. The District Commander may close or restrict the use of a project or portion of a project when necessitated by reason of public health, public safety, maintenance, resource protection or other reasons in the public interest. Entering or using a project in a manner which is contrary to the schedule of visiting hours, closures or restrictions is prohibited.

(b) Quiet shall be maintained in all public use areas between the hours of 10 p.m. and 6 a.m., or those hours designated by the District Commander.

Excessive noise during such times which unreasonably disturbs persons is prohibited.

(c) Any act or conduct by any person which interferes with, impedes or disrupts the use of the project or impairs the safety of any person is prohibited. Individuals who are boisterous, rowdy, disorderly, or otherwise disturb the peace on project lands or waters may be requested to leave the project.

(d) The operation or use of any sound producing or motorized equipment, including but not limited to generators, vessels or vehicles, in such a manner as to unreasonably annoy or endanger persons at any time or exceed state or local laws governing noise levels from motorized equipment is prohibited.

(e) The possession and/or consumption of alcoholic beverages on any portion of the project land or waters, or the entire project, may be prohibited when designated and posted by the District Commander.

(f) Unless authorized by the District Commander, smoking is prohibited in Visitor Centers, enclosed park buildings and in areas posted to restrict smoking. [65 FR 6901, Feb. 11, 2000]

§ 327.13 Explosives, firearms, other weapons and fireworks.

(a) The possession of loaded firearms, ammunition, loaded projectile firing devices, bows and arrows, crossbows, or other weapons is prohibited unless:

- (1) In the possession of a Federal, state or local law enforcement officer;
- (2) Being used for hunting or fishing as permitted under § 327.8, with devices

being unloaded when transported to, from or between hunting and fishing sites;

(3) Being used at authorized shooting ranges; or

(4) Written permission has been received from the District Commander.

(b) Possession of explosives or explosive devices of any kind, including fireworks or other pyrotechnics, is prohibited unless written permission has been received from the District Commander. [65 FR 6901, Feb. 11, 2000]

§ 327.14 Public property.

(a) Destruction, injury, defacement, removal or any alteration of public property including, but not limited to, developed facilities, natural formations, mineral deposits, historical and archaeological features, paleontological resources, boundary monumentation or markers and vegetative growth, is prohibited except when in accordance with written permission of the District Commander.

(b) Cutting or gathering of trees or parts of trees and/or the removal of wood from project lands is prohibited without written permission of the District Commander.

(c) Gathering of dead wood on the ground for use in designated recreation areas as firewood is permitted, unless prohibited and posted by the District Commander.

(d) The use of metal detectors is permitted on designated beaches or other previously disturbed areas unless prohibited by the District Commander for reasons of protection of archaeological, historical or paleontological resources. Specific information regarding metal detector policy and designated use areas is available at the Manager's Office. Items found must be handled in accordance with §§ 327.15 and 327.16 except for non-identifiable items such as coins of value less than \$25. [65 FR 6901, Feb. 11, 2000]

§ 327.15 Abandonment and impoundment of personal property.

(a) Personal property of any kind shall not be abandoned, stored or left unattended upon project lands or waters. After a period of 24 hours, or at any time after a posted closure hour in a public use area or for the purpose of providing public safety or resource protection, unattended personal property shall be presumed to be abandoned and may be impounded and stored at a storage point designated by the District Commander, who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to its owner.

(b) Personal property placed on Federal lands or waters adjacent to a private residence, facility and/or developments

of any private nature for more than 24 hours without permission of the District Commander shall be presumed to have been abandoned and, unless proven otherwise, such presumption will be sufficient to impound the property and/or issue a citation as provided for in § 327.25.

(c) The District Commander shall, by public or private sale or otherwise, dispose of all lost, abandoned or unclaimed personal property that comes into Government custody or control. However, property may not be disposed of until diligent effort has been made to find the owner, heirs, next of kin or legal representative(s). If the owner, heirs, next of kin or legal representative(s) are determined but not found, the property may not be disposed of until the expiration of 120 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at the last known address. When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be disposed of without delay except that if it has a fair market value of \$100 or more the property may not be disposed of until 90 days after the date it is received at the storage point designated by the District Commander. The net proceeds from the sale of property shall be conveyed into the Treasury of the United States as miscellaneous receipts. [65 FR 6901, Feb. 11, 2000]

§ 327.16 Lost and found articles.

All articles found shall be deposited by the finder at the Manager's office or with a ranger. All such articles shall be disposed of in accordance with the procedures set forth in § 327.15. [65 FR 6902, Feb. 11, 2000]

§ 327.17 Advertisement.

(a) Advertising and the distribution of printed matter is allowed within project land and waters provided that a permit to do so has been issued by the District Commander and provided that this activity is not solely commercial advertising.

(b) An application for such a permit shall set forth the name of the applicant, the name of the organization (if any), the date, time, duration, and location of the proposed advertising or the distribution of printed matter, the number of participants, and any other information required by the permit application form. Permit conditions and procedures are available from the District Commander.

(c) Vessels and vehicles with semipermanent or permanent painted or installed signs are exempt as long as they are used for authorized recreational

activities and comply with all other rules and regulations pertaining to vessels and vehicles.

(d) The District Commander shall, without unreasonable delay, issue a permit on proper application unless:

(1) A prior application for a permit for the same time and location has been made that has been or will be granted and the activities authorized by that permit do not reasonably allow multiple occupancy of the particular area; or

(2) It reasonably appears that the advertising or the distribution of printed matter will present a clear and present danger to the public health and safety; or

(3) The number of persons engaged in the advertising or the distribution of printed matter exceeds the number that can reasonably be accommodated in the particular location applied for, considering such things as damage to project resources or facilities, impairment of a protected area's atmosphere of peace and tranquility, interference with program activities, or impairment of public use facilities; or

(4) The location applied for has not been designated as available for the advertising or the distribution of printed matter; or

(5) The activity would constitute a violation of an applicable law or regulation.

(e) If a permit is denied, the applicant shall be so informed in writing, with the reason(s) for the denial set forth.

(f) The District Commander shall designate on a map, which shall be available for inspection in the applicable project office, the locations within the project that are available for the advertising or the distribution of printed matter. Locations may be designated as not available only if the advertising or the distribution of printed matter would:

(1) Cause injury or damage to project resources; or

(2) Unreasonably impair the atmosphere of the peace and tranquility maintained in natural, historic, or commemorative zones; or

(3) Unreasonably interfere with interpretive, visitor service, or other program activities, or with the administrative activities of the Corps of Engineers; or

(4) Substantially impair the operation of public use facilities or services of Corps of Engineers concessioners or contractors.

(5) Present a clear and present danger to the public health and safety.

(g) The permit may contain such conditions as are reasonably consistent

with protection and use of the project area for the purposes for which it is established.

(h) No permit shall be issued for a period in excess of 14 consecutive days, provided that permits may be extended for like periods, upon a new application, unless another applicant has requested use of the same location and multiple occupancy of that location is not reasonably possible.

(i) It is prohibited for persons engaged in the activity under this section to obstruct or impede pedestrians or vehicles, harass project visitors with physical contact or persistent demands, misrepresent the purposes or affiliations of those engaged in the advertising or the distribution of printed matter, or misrepresent whether the printed matter is available without cost or donation.

(j) A permit may be revoked under any of those conditions, as listed in paragraph (d) of this section, that constitute grounds for denial of a permit, or for violation of the terms and conditions of the permit. Such a revocation shall be made in writing, with the reason(s) for revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension may be made, to be followed by written confirmation within 72 hours.

(k) Violation of the terms and conditions of a permit issued in accordance with this section may result in the suspension or revocation of the permit.

[65 FR 26137, May 5, 2000]

§ 327.18 Commercial activities.

(a) The engaging in or solicitation of business on project land or waters without the express written permission of the District Commander is prohibited.

(b) It shall be a violation of this part to refuse to or fail to comply with any terms, clauses or conditions of any lease, license or agreements issued by the District Commander.

[65 FR 6902, Feb. 11, 2000]

§ 327.19 Permits.

(a) It shall be a violation of this part to refuse to or fail to comply with the fee requirements or other terms or conditions of any permit issued under the provisions of this part 327.

(b) Permits for floating structures (issued under the authority of § 327.30) of any kind on/in waters of water resources development projects, whether or not such waters are deemed navigable waters of the United States but where such waters are under the management of the Corps of Engineers, shall be issued at the discretion of the District Commander under the authority of this section. District Commanders will delineate those portions

of the navigable waters of the United States where this provision is applicable and post notices of this designation in the vicinity of the appropriate Manager's office.

(c) Permits for non-floating structures (issued under the authority of § 327.30) of any kind constructed, placed in or affecting waters of water resources development projects where such waters are deemed navigable waters of the U.S. shall be issued under the provisions of section 10 of the Rivers and Harbors Act approved March 3, 1899 (33 U.S.C. 403). If a discharge of dredged or fill material in these waters is involved, a permit is required under section 404 of the Clean Water Act (33 U.S.C. 1344). (See 33 CFR parts 320 through 330.)

(d) Permits for non-floating structures (issued under the authority of § 327.30) of any kind in waters of water resources development projects, where such waters are under the management of the Corps of Engineers and where such waters are not deemed navigable waters of the United States, shall be issued as set forth in paragraph (b) of this section. If a discharge of dredged or fill material into any water of the United States is involved, a permit is required under section 404 of the Clean Water Act (33 U.S.C. 1344) (See 33 CFR parts 320 through 330). Water quality certification may be required pursuant to Section 401 of the Clean Water Act (33 U.S.C. 1341).

(e) Shoreline Use Permits to authorize private shoreline use facilities, activities or development (issued under the authority of § 327.30) may be issued in accordance with the project Shoreline Management Plan. Failure to comply with the permit conditions issued under § 327.30 is prohibited.

[65 FR 6902, Feb. 11, 2000]

§ 327.20 Unauthorized structures.

The construction, placement, or existence of any structure (including, but not limited to, roads, trails, signs, nonportable hunting stands or blinds, buoys, docks, or landscape features) of any kind under, upon, in or over the project lands, or waters is prohibited unless a permit, lease, license or other appropriate written authorization has been issued by the District Commander. The design, construction, placement, existence or use of structures in violation of the terms of the permit, lease, license, or other written authorization is prohibited. The government shall not be liable for the loss of, or damage to, any private structures, whether authorized or not, placed on project lands or waters.

Unauthorized

structures are subject to summary removal or impoundment by the District Commander. Portable hunting stands, climbing devices, steps, or blinds, that are not nailed or screwed into trees and are removed at the end of a day's hunt may be used.

[65 FR 6902, Feb. 11, 2000]

§ 327.21 Special events.

(a) Special events including, but not limited to, water carnivals, boat regattas, fishing tournaments, music festivals, dramatic presentations or other special recreation programs are prohibited unless written permission has been granted by the District Commander.

Where appropriate, District Commanders can provide the state a blanket letter of permission to permit fishing tournaments while coordinating the scheduling and details of tournaments with individual projects. An appropriate fee may be charged under the authority of § 327.23.

(b) The public shall not be charged any fee by the sponsor of such event unless the District Commander has approved in writing (and the sponsor has properly posted) the proposed schedule of fees. The District Commander shall have authority to revoke permission, require removal of any equipment, and require restoration of an area to prevent condition, upon failure of the sponsor to comply with terms and conditions of the permit/permission or the regulations in this part 327.

[65 FR 6902, Feb. 11, 2000]

§ 327.22 Unauthorized occupation.

(a) Occupying any lands, buildings, vessels or other facilities within water resource development projects for the purpose of maintaining the same as a full-or part-time residence without the written permission of the District Commander is prohibited. The provisions of this section shall not apply to the occupation of lands for the purpose of camping, in accordance with the provisions of § 327.7.

(b) Use of project lands or waters for agricultural purposes is prohibited except when in compliance with terms and conditions authorized by lease, license or other written agreement issued by the District Commander.

[65 FR 6903, Feb. 11, 2000]

§ 327.23 Recreation use fees.

(a) In accordance with the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601) and the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66, the Corps of Engineers collects day use fees, special recreation use fees and/or special permit fees for the use of specialized sites, facilities, equipment or services related to outdoor recreation furnished at Federal expense.

(b) Where such fees are charged, the

District Commander shall insure that clear notice of fee requirements is prominently posted at each area, and at appropriate locations therein and that the notice be included in publications distributed at such areas. Failure to pay authorized recreation use fees as established pursuant to Pub. L. 88-578, 78 Stat. 897, as amended (16 U.S.C. 4601-6a), is prohibited and is punishable by a fine of not more than \$100.

(c) Failure to pay authorized day use fees, and/or properly display applicable receipt, permit or pass is prohibited.
(d) Any Golden Age or Golden Access Passport permittee shall be entitled, upon presentation of such a permit, to utilize special recreation facilities at a rate of 50 percent off the established use fee at Federally operated areas.

Fraudulent use of a Golden Age or Golden Access Passport is prohibited.
[65 FR 6903, Feb. 11, 2000]

§ 327.24 Interference with Government employees.

(a) It is a Federal crime pursuant to the provisions of sections 111 and 1114 of Title 18, United States Code, to forcibly assault, resist, oppose, impede, intimidate, or interfere with, attempt to kill or kill any civilian official or employee for the U.S. Army Corps of Engineers engaged in the performance of his or her official duties, or on account of the performance of his or her official duties. Such actions or interference directed against a Federal employee while carrying out the regulations in this part are violation of such regulations and may be a state crime pursuant to the laws of the state where they occur.

(b) Failure to comply with a lawful order issued by a Federal employee acting pursuant to the regulations in this part shall be considered as interference with that employee while engaged in the performance of their official duties. Such interference with a Federal employee includes failure to provide a correct name, address or other information deemed necessary for identification upon request of the Federal employee, when that employee is authorized by the District Commander to issue citations in the performance of the employee's official duties.
[65 FR 6903, Feb. 11, 2000]

§ 327.25 Violations of rules and regulations.

(a) Any person who violates the provisions of the regulations in this part, other than for a failure to pay authorized recreation use fees as separately provided for in § 327.23, may be punished by a fine of not more than \$5,000 or imprisonment for not more than six months or both and may be tried and sentenced in accordance with the provisions

of section 3401 of Title 18, United States Code. Persons designated by the District Commander shall have the authority to issue a citation for violation of the regulations in this part, requiring any person charged with the violation to appear before the United States Magistrate within whose jurisdiction the affected water resources development project is located (16 U.S.C. 460d).

(b) Any person who commits an act against any official or employee of the U.S. Army Corps of Engineers that is a crime under the provisions of section 111 or section 1114 of Title 18, United States Code or under provisions of pertinent state law may be tried and sentenced as further provided under Federal or state law, as the case may be.
[65 FR 6903, Feb. 11, 2000]

§ 327.26 State and local laws.

(a) Except as otherwise provided in this part or by Federal law or regulation, state and local laws and ordinances shall apply on project lands and waters. This includes, but is not limited to, state and local laws and ordinances governing:

- (1) Operation and use of motor vehicles, vessels, and aircraft;
- (2) Hunting, fishing and trapping;
- (3) Use or possession of firearms or other weapons;
- (4) Civil disobedience and criminal acts;
- (5) Littering, sanitation and pollution; and
- (6) Alcohol or other controlled substances.

(b) These state and local laws and ordinances are enforced by those state and local enforcement agencies established and authorized for that purpose.
[65 FR 6903, Feb. 11, 2000]

§§ 327.27-327.29 [Reserved]

§ 327.30 Shoreline Management on Civil Works Projects.

(a) *Purpose.* The purpose of this regulation is to provide policy and guidance on management of shorelines of Civil Works projects where 36 CFR part 327 is applicable.

(b) *Applicability.* This regulation is applicable to all field operating agencies with Civil Works responsibilities except when such application would result in an impingement upon existing Indian rights.

(c) *References.* (1) Section 4, 1944 Flood Control Act, as amended (16 U.S.C. 460d).

(2) The Rivers and Harbors Act of 1894, as amended and supplemented (33 U.S.C. 1)

(3) Section 10, River and Harbor Act of 1899 (33 U.S.C. 403).

(4) National Historic Preservation Act of 1966 (Pub. L. 89-665; 80 Stat. 915)

as amended (16 U.S.C. 470 *et seq.*).

(5) The National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*).

(6) The Clean Water Act (33 U.S.C. 1344, *et seq.*).

(7) The Water Resources Development Act of 1986 (Pub. L. 99-662).

(8) Title 36, chapter III, part 327, Code of Federal Regulations, "Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers."

(9) Executive Order 12088 (13 Oct. 78).

(10) 33 CFR parts 320-330, "Regulatory Programs of the Corps of Engineers."

(11) ER 1130-2-400, "Management of Natural Resources and Outdoor Recreation at Civil Works Water Resource Projects."

(12) EM 385-1-1, "Safety and Health Requirements Manual."

(d) *Policy.* (1) It is the policy of the Chief of Engineers to protect and manage shorelines of all Civil Works water resource development projects under Corps jurisdiction in a manner which will promote the safe and healthful use of these shorelines by the public while maintaining environmental safeguards to ensure a quality resource for use by the public. The objectives of all management actions will be to achieve a balance between permitted private uses and resource protection for general public use. Public pedestrian access to and exit from these shorelines shall be preserved. For projects or portions of projects where Federal real estate interest is limited to easement title only, management actions will be appropriate within the limits of the estate acquired.

(2) Private shoreline uses may be authorized in designated areas consistent with approved use allocations specified in Shoreline Management Plans. Except to honor written commitments made prior to publication of this regulation, private shoreline uses are not allowed on water resource projects where construction was initiated after December 13, 1974, or on water resource projects where no private shoreline uses existed as of that date. Any existing permitted facilities on these projects will be grandfathered until the facilities fail to meet the criteria set forth in § 327.30(h).

(3) A Shoreline Management Plan, as described in § 327.30(e), will be prepared for each Corps project where private shoreline use is allowed. This plan will honor past written commitments. The plan will be reviewed at least once every five years and revised as necessary. Shoreline uses that do not interfere with authorized project purposes, public safety concerns, violate

local norms or result in significant environmental effects should be allowed unless the public participation process identifies problems in these areas. If sufficient demand exists, consideration should be given to revising the shoreline allocations (e.g. increases/decreases). Maximum public participation will be encouraged as set forth in § 327.30(e)(6). Except to honor written commitments made prior to the publication of this regulation, shoreline management plans are not required for those projects where construction was initiated after December 13, 1974, or on projects not having private shoreline use as of that date. In that case, a statement of policy will be developed by the district commander to present the shoreline management policy. This policy statement will be subject to the approval of the division commander. For projects where two or more agencies have jurisdiction, the plan will be cooperatively prepared with the Corps as coordinator.

(4) Where commercial or other public launching and/or moorage facilities are not available within a reasonable distance, group owned mooring facilities may be allowed in Limited Development Areas to limit the proliferation of individual facilities. Generally only one permit will be necessary for a group owned mooring facility with that entity, if incorporated, or with one person from the organization designated as the permittee and responsible for all moorage spaces within the facility. No charge may be made for use of any permitted facility by others nor shall any commercial activity be engaged in thereon.

(5) The issuance of a private shoreline use permit does not convey any real estate or personal property rights or exclusive use rights to the permit holder. The public's right of access and use of the permit area must be maintained and preserved. Owners of permitted facilities may take necessary precautions to protect their property from theft, vandalism or trespass, but may in no way preclude the public right of pedestrian or vessel access to the water surface or public land adjacent to the facility.

(6) Shoreline Use Permits will only be issued to individuals or groups with legal right of access to public lands.

(e) *Shoreline Management Plan*—(1) *General*. The policies outlined in § 327.30(d) will be implemented through preparation of Shoreline Management Plans, where private shoreline use is allowed.

(2) *Preparation*. A Shoreline Management Plan is prepared as part of the Operational Management Plan. A moratorium

on accepting applications for new permits may be placed in effect from the time an announcement of creation of a plan or formal revision of a plan is made until the action is completed.

(3) *Approval*. Approval of Shoreline Management Plans rests with division commanders. After approval, one copy of each project Shoreline Management Plan will be forwarded to HQUSACE (CECW-ON) WASH DC 20314–1000. Copies of the approved plan will also be made available to the public.

(4) *Scope and Format*. The Shoreline Management Plan will consist of a map showing the shoreline allocated to the uses listed in § 327.30(e)(6), related rules and regulations, a discussion of what areas are open or closed to specific activities and facilities, how to apply for permits and other information pertinent to the Corps management of the shoreline. The plan will be prepared in sufficient detail to ensure that it is clear to the public what uses are and are not allowed on the shoreline of the project and why. A process will be developed and presented in the Shoreline Management Plan that prescribes a procedure for review of activities requested but not specifically addressed by the Shoreline Management Plan.

(5) *Shoreline Allocation*. The entire shoreline will be allocated within the classifications below and delineated on a map. Any action, within the context of this rule, which gives a special privilege to an individual or group of individuals on land or water at a Corps project, that precludes use of those lands and waters by the general public, is considered to be private shoreline use. Shoreline allocations cover that land and/or water extending from the edge of the water and waterward with the exception of allocations for the purpose of vegetation modification which extends landward to the project boundary. These allocations should complement, but certainly not contradict, the land classifications in the project master plan. A map of sufficient size and scale to clearly display the shoreline allocations will be conspicuously displayed or readily available for viewing in the project administration office and will serve as the authoritative reference. Reduced or smaller scale maps may be developed for public dissemination but the information contained on these must be identical to that contained on the display map in the project administration office. No changes will be made to these maps except through the formal update process. District commanders may add specific constraints and identify areas having unique characteristics during the plan preparation, review,

or updating process in addition to the allocation classifications described below.

(i) *Limited Development Areas*. Limited Development Areas are those areas in which private facilities and/or activities may be allowed consistent with § 327.30(h) and appendix A. Modification of vegetation by individuals may be allowed only following the issuance of a permit in accordance with appendix A. Potential low and high water conditions and underwater topography should be carefully evaluated before shoreline is allocated as Limited Development Area.

(ii) *Public Recreation Areas*. Public Recreation Areas are those areas designated for commercial concessionaire facilities, Federal, state or other similar public use. No private shoreline use facilities and/or activities will be permitted within or near designated or developed public recreation areas. The term "near" depends on the terrain, road system, and other local conditions, so actual distances must be established on a case by case basis in each project Shoreline Management Plan. No modification of land forms or vegetation by private individuals or groups of individuals is permitted in public recreation areas.

(iii) *Protected Shoreline Areas*. Protected Shoreline Areas are those areas designated to maintain or restore aesthetic, fish and wildlife, cultural, or other environmental values. Shoreline may also be so designated to prevent development in areas that are subject to excessive siltation, erosion, rapid dewatering, or exposure to high wind, wave, or current action and/or in areas in which development would interfere with navigation. No Shoreline Use Permits for floating or fixed recreation facilities will be allowed in protected areas. Some modification of vegetation by private individuals, such as clearing a narrow meandering path to the water, or limited mowing, may be allowed only following the issuance of a permit if the resource manager determines that the activity will not adversely impact the environment or physical characteristics for which the area was designated as protected. In making this determination the effect on water quality will also be considered.

(iv) *Prohibited Access Areas*. Prohibited Access Areas are those in which public access is not allowed or is restricted for health, safety or security reasons. These could include hazardous areas near dams, spillways, hydro-electric power stations, work areas, water intake structures, etc. No shoreline use permits will be issued in Prohibited Access Areas.

(6) *Public Participation.* District commanders will ensure public participation to the maximum practicable extent in Shoreline Management Plan formulation, preparation and subsequent revisions. This may be accomplished by public meetings, group workshops, open houses or other public involvement techniques. When master plan updates and preparation of the Shoreline Management Plans are concurrent, public participation may be combined and should consider all aspects of both plans, including shoreline allocation classifications. Public participation will begin during the initial formulation stage and must be broadbased to cover all aspects of public interest. The key to successful implementation is an early and continual public relations program. Projects with significant numbers of permits should consider developing computerized programs to facilitate exchange of information with permittees and to improve program efficiency. Special care will be taken to advise citizen and conservation organizations; Federal, state and local natural resource management agencies; Indian Tribes; the media; commercial concessionaires; congressional liaisons; adjacent landowners and other concerned entities during the formulation of Shoreline Management Plans and subsequent revisions. Notices shall be published prior to public meetings to assure maximum public awareness. Public notices shall be issued by the district commander allowing for a minimum of 30 days for receipt of written public comment in regard to the proposed Shoreline Management Plan or any major revision thereto.

(7) *Periodic Review.* Shoreline Management Plans will be reviewed periodically, but no less often than every five years, by the district commander to determine the need for update. If sufficient controversy or demand exists, consideration should be given, consistent with other factors, to a process of reevaluation of the shoreline allocations and the plan. When changes to the Shoreline Management Plan are needed, the plan will be formally updated through the public participation process. Cumulative environmental impacts of permit actions and the possibility of preparing or revising project NEPA documentation will be considered. District commanders may make minor revisions to the Shoreline Management Plan when the revisions are consistent with policy and funds for a complete plan update are not available. The amount and type of public involvement needed for such revision is at the discretion of the district commander.

(f) *Instruments for Shoreline Use.* Instruments used to authorize private shoreline use facilities, activities or development are as follows:

(1) *Shoreline Use Permits.* (i) Shoreline Use Permits are issued and enforced in accordance with provisions of 36 CFR 327.19.

(ii) Shoreline Use Permits are required for private structures/activities of any kind (except boats) in waters of Civil Works projects whether or not such waters are deemed navigable and where such waters are under the primary jurisdiction of the Secretary of the Army and under the management of the Corps of Engineers.

(iii) Shoreline Use Permits are required for non-floating structures on waters deemed commercially non-navigable, when such waters are under management of the Corps of Engineers.

(iv) Shoreline Use Permits are also required for land vegetation modification activities which do not involve disruption to land form.

(v) Permits should be issued for a term of five years. To reduce administration costs, one year permits should be issued only when the location or nature of the activity requires annual reissuance.

(vi) Shoreline Use Permits for erosion control may be issued for the life or period of continual ownership of the structure by the permittee and his/her legal spouse.

(2) *Department of the Army Permits.* Dredging, construction of fixed structures, including fills and combination fixed-floating structures and the discharge of dredged or fill material in waters of the United States will be evaluated under authority of section 10, River and Harbor Act of 1899 (33 U.S.C. 403) and section 404 of the Clean Water Act (33 U.S.C. 1344). Permits will be issued where appropriate.

(3) *Real Estate Instruments.* Commercial development activities and activities which involve grading, cuts, fills, or other changes in land form, or establishment of appropriate land-based support facilities required for private floating facilities, will continue to be covered by a lease, license or other legal grant issued through the appropriate real estate element. Shoreline Management Plans should identify the types of activities that require real estate instruments and indicate the general process for obtaining same. Shoreline Use Permits are not required for facilities or activities covered by a real estate instrument.

(g) *Transfer of Permits.* Shoreline Use Permits are non-transferable. They become null and void upon sale or transfer of the permitted facility or the

death of the permittee and his/her legal spouse.

(h) *Existing Facilities Now Under Permit.* Implementation of a Shoreline Management Plan shall consider existing permitted facilities and prior written Corps commitments implicit in their issuance. Facilities or activities permitted under special provisions should be identified in a way that will set them apart from other facilities or activities.

(1) Section 6 of Pub. L. 97-140 provides that no lawfully installed dock or appurtenant structures shall be required to be removed prior to December 31, 1989, from any Federal water resources reservoir or lake project administered by the Secretary of the Army, acting through the Chief of Engineers, on which it was located on December 29, 1981, if such property is maintained in usable condition, and does not occasion a threat to life or property.

(2) In accordance with section 1134(d) of Pub. L. 99-662, any houseboat, boathouse, floating cabin or lawfully installed dock or appurtenant structures in place under a valid shoreline use permit as of November 17, 1986, cannot be forced to be removed from any Federal water resources project or lake administered by the Secretary of the Army on or after December 31, 1989, if it meets the three conditions below except where necessary for immediate use for public purposes or higher public use or for a navigation or flood control project.

(i) Such property is maintained in a usable and safe condition,

(ii) Such property does not occasion a threat to life or property, and

(iii) The holder of the permit is in substantial compliance with the existing permit.

(3) All such floating facilities and appurtenances will be formally recognized in an appropriate Shoreline Management Plan. New permits for these permitted facilities will be issued to new owners. If the holder of the permit fails to comply with the terms of the permit, it may be revoked and the holder required to remove the structure, in accordance with the terms of the permit as to notice, time, and appeal.

(i) *Facility Maintenance.* Permitted facilities must be operated, used and maintained by the permittee in a safe, healthful condition at all times. If determined to be unsafe, the resource manager will establish together with the permittee a schedule, based on the seriousness of the safety deficiency, for correcting the deficiency or having it removed, at the permittee's expense.

The applicable safety and health prescriptions in EM 385-1-1 should be used as a guide.

(j) *Density of Development.* The density of private floating and fixed recreation facilities will be established in the Shoreline Management Plan for all portions of Limited Development areas consistent with ecological and aesthetic characteristics and prior written commitments. The facility density in Limited Development Areas should, if feasible, be determined prior to the development

of adjacent private property. The density of facilities will not be more than 50 per cent of the Limited Development Area in which they are located. Density will be measured by determining the linear feet of shoreline as compared to the width of the facilities in the water plus associated moorage arrangements which restrict the full unobstructed use of that portion of the shoreline. When a Limited Development Area or a portion of a Limited Development area reaches maximum density, notice should be given to the public and facility owners in that area that no additional facilities will be allowed. In all cases, sufficient open area will be maintained for safe maneuvering of watercraft. Docks should not extend out from the shore more than one-third of the width of a cove at normal recreation or multipurpose pool. In those cases where current density of development exceeds the density level established in the Shoreline Management Plan, the density will be reduced to the prescribed level through attrition. (k) *Permit Fees.* Fees associated with the Shoreline Use Permits shall be paid prior to issuing the permit in accordance with the provisions of § 327.30(c)(1). The fee schedule will be published separately.

APPENDIX A TO § 327.30—GUIDELINES FOR GRANTING SHORELINE USE PERMITS
1. *General*

a. Decisions regarding permits for private floating recreation facilities will consider the operating objectives and physical characteristics of each project. In developing Shoreline Management Plans, district commanders will give consideration to the effects of added private boat storage facilities on commercial concessions for that purpose. Consistent with established policies, new commercial concessions may be alternatives to additional limited development shoreline.
b. Permits for individually or group owned shoreline use facilities may be granted only in Limited Development Areas when the sites are not near commercial marine services and such use will not despoil the shoreline nor inhibit public use or enjoyment thereof. The installation and use of such facilities will not be in conflict with the preservation of the natural characteristics of the shoreline nor will they result in significant environmental damage. Charges will be made

for Shoreline Use Permits in accordance with the separately published fee schedule.

c. Permits may be granted within Limited Development Areas for ski jumps, floats, boat moorage facilities, duck blinds, and other private floating recreation facilities when they will not create a safety hazard and inhibit public use or enjoyment of project waters or shoreline. A Corps permit is not required for temporary ice fishing shelters or duck blinds when they are regulated by a state program. When the facility or activity is authorized by a shoreline use permit, a separate real estate instrument is generally not required.

d. Group owned boat mooring facilities may be permitted in Limited Development Areas where practicable (e.g. where physically feasible in terms of access, water depths, wind protection, etc.).

2. *Applications for Shoreline Use Permits*

a. Applications for private Shoreline Use Permits will be reviewed with full consideration of the policies set forth in this and referenced regulations, and the Shoreline Management Plan. Fees associated with the Shoreline Use Permit shall be paid prior to issuing the permit. Plans and specifications of the proposed facility shall be submitted and approved prior to the start of construction. Submissions should include engineering details, structural design, anchorage method, and construction materials; the type, size, location and ownership of the facility; expected duration of use; and an indication of willingness to abide by the applicable regulations and terms and conditions of the permit. Permit applications shall also identify and locate any land-based support facilities and any specific safety considerations.

b. Permits will be issued by the district commander or his/her authorized representative on ENG Form 4264-R (Application for Shoreline Use Permit) (appendix B). Computer generated forms may be substituted for ENG Form 4264-R provided all information is included. The computer generated form will be designated, "ENG Form 4264-RE, Oct 87 (Electronic generation approved by USACE, Oct 87)".

c. The following are guides to issuance of Shoreline Use Permits:

- (1) Use of boat mooring facilities, including piers and boat (shelters) houses, will be limited to vessel or watercraft mooring and storage of gear essential to vessel or watercraft operation.
- (2) Private floating recreation facilities, including boat mooring facilities shall not be constructed or used for human habitation or in a manner which gives the appearance of converting Federal public property on which the facility is located to private, exclusive use. New docks with enclosed sides (i.e. boathouses) are prohibited.
- (3) No private floating facility will exceed the minimum size required to moor the owner's boat or boats plus the minimum size required for an enclosed storage locker of oars, life preservers and other items essential to watercraft operation. Specific size limitations may be established in the project Shoreline Management Plan.
- (4) All private floating recreation facilities including boat mooring facilities will be constructed in accordance with plans and specifications, approved by the resource manager, or a written certification from a licensed engineer, stating the facility is structurally

safe will accompany the initial submission of the plans and specifications.

(5) Procedures regarding permits for individual facilities shall also apply to permits

for non-commercial group mooring facilities.

(6) Facilities attached to the shore shall be securely anchored by means of moorings which do not obstruct the free use of the shoreline, nor damage vegetation or other natural features. Anchoring to vegetation is prohibited.

(7) Electrical service and equipment leading to or on private mooring facilities must not pose a safety hazard nor conflict with other recreational use. Electrical installations must be weatherproof and meet all current applicable electrical codes and regulations. The facility must be equipped with quick disconnect fittings mounted above the flood pool elevation. All electrical installations must conform to the National Electric Code and all state, and local codes and regulations.

In those states where electricians are licensed, registered, or otherwise certified, a copy of the electrical certification must be provided to the resource manager before a Shoreline Use Permit can be issued or renewed. The resource manager will require immediate removal or disconnection of any electrical service or equipment that is not certified (if appropriate), does not meet code, or is not safely maintained. All new electrical lines will be installed underground. This will require a separate real estate instrument for the service right-of-way. Existing overhead lines will be allowed, as long as they meet all applicable electrical codes, regulations and above guidelines, to include compatibility and safety related to fluctuating water levels.

(8) Private floating recreation facilities will not be placed so as to interfere with any authorized project purposes, including navigation, or create a safety or health hazard.

(9) The district commander or his/her authorized representative may place special conditions on the permit when deemed necessary. Requests for waivers of shoreline management plan permit conditions based on health conditions will be reviewed on a case by case basis by the Operations Manager. Efforts will be made to reduce onerous requirements when a limiting health condition is obvious or when an applicant provides a doctor's certification of need for conditions which are not obvious.

(10) Vegetation modification, including but not limited to, cutting, pruning, chemical manipulation, removal or seeding by private individuals is allowed only in those areas designated as Limited Development Areas or Protected Shoreline Areas. An existing (as of July 1, 1987) vegetation modification permit, within a shoreline allocation which normally would not allow vegetation modification, should be grandfathered. Permittees will not create the appearance of private ownership of public lands.

(11) The term of a permit for vegetation modification will be for five years. Where possible, such permits will be consolidated with other shoreline management permits into a single permit. The district commander is authorized to issue vegetation modification permits of less than five years for onetime requests or to aid in the consolidation of shoreline management permits.

(12) When issued a permit for vegetative modification, the permittee will delineate

the government property line, as surveyed and marked by the government, in a clear but unobtrusive manner approved by the district commander and in accordance with the project Shoreline Management Plan and the conditions of the permit. Other adjoining owners may also delineate the common boundary subject to these same conditions. This delineation may include, but is not limited to, boundary plantings and fencing. The delineation will be accomplished at no cost to the government.

(13) No permit will be issued for vegetation modification in Protected Shoreline Areas until the environmental impacts of the proposed modification are assessed by the resource manager and it has been determined that no significant adverse impacts will result. The effects of the proposed modification on water quality will also be considered in making this determination.

(14) The original of the completed permit application is to be retained by the permittee. A duplicate will be retained in the resource manager's office.

3. *Permit Revocation*

Permits may be revoked by the district commander when it is determined that the public interest requires such revocation or when the permittee fails to comply with terms and conditions of the permit, the Shoreline Management Plan, or of this regulation. Permits for duck blinds and ice fishing shelters will be issued to cover a period not to exceed 30 days prior to and 30 days after the season.

4. *Removal of Facilities*

Facilities not removed when specified in the permit or when requested after termination or revocation of the permit will be treated as unauthorized structures pursuant to 36 CFR 327.20.

5. *Posting of Permit Number*

Each district will procure 53-83 or larger printed permit tags of light metal or plastic for posting. The permit display tag shall be posted on the facility and/or on the land area covered by the permit, so that it can be visually checked, with ease in accordance with instructions provided by the resource manager. Facilities or activities permitted under special provisions should be identified in a way that will set apart from other facilities or activities.

APPENDIX B TO § 327.30—APPLICATION FOR SHORELINE USE PERMIT [RESERVED]
APPENDIX C TO § 327.30—SHORELINE USE PERMIT CONDITIONS

1. This permit is granted solely to the applicant for the purpose described on the attached permit.

2. The permittee agrees to and does hereby release and agree to save and hold the Government harmless from any and all causes of action, suits at law or equity, or claims or demands or from any liability of any nature whatsoever for or on account of any damages to persons or property, including a permitted facility, growing out of the ownership, construction, operation or maintenance by the permittee of the permitted facilities and/or activities.

3. Ownership, construction, operation, use and maintenance of a permitted facility are subject to the Government's navigation servitude.

4. No attempt shall be made by the permittee to forbid the full and free use by the public of all public waters and/or lands at or adjacent to the permitted facility or to unreasonably

interfere with any authorized project purposes, including navigation in connection with the ownership, construction, operation or maintenance of a permitted facility and/or activity.

5. The permittee agrees that if subsequent operations by the Government require an alteration in the location of a permitted facility and/or activity or if in the opinion of the district commander a permitted facility and/or activity shall cause unreasonable obstruction to navigation or that the public interest so requires, the permittee shall be required, upon written notice from the district commander to remove, alter, or relocate the permitted facility, without expense to the Government.

6. The Government shall in no case be liable for any damage or injury to a permitted facility which may be caused by or result from subsequent operations undertaken by the Government for the improvement of navigation or for other lawful purposes, and no claims or right to compensation shall accrue from any such damage. This includes any damage that may occur to private property if a facility is removed for noncompliance with the conditions of the permit.

7. Ownership, construction, operation, use and maintenance of a permitted facility and/or activity are subject to all applicable Federal, state and local laws and regulations. Failure to abide by these applicable laws and regulations may be cause for revocation of the permit.

8. This permit does not convey any property rights either in real estate or material; and does not authorize any injury to private property or invasion of private rights or any infringement of Federal, state or local laws or regulations, nor does it obviate the necessity of obtaining state or local assent required by law for the construction, operation, use or maintenance of a permitted facility and/or activity.

9. The permittee agrees to construct the facility within the time limit agreed to on the permit issuance date. The permit shall become null and void if construction is not completed within that period. Further, the permittee agrees to operate and maintain any permitted facility and/or activity in a manner so as to provide safety, minimize any adverse impact on fish and wildlife habitat, natural, environmental, or cultural resources values and in a manner so as to minimize the degradation of water quality.

10. The permittee shall remove a permitted facility within 30 days, at his/her expense, and restore the waterway and lands to a condition accepted by the resource manager upon termination or revocation of this permit or if the permittee ceases to use, operate or maintain a permitted facility and/or activity.

If the permittee fails to comply to the satisfaction of the resource manager, the district commander may remove the facility by contract or otherwise and the permittee agrees to pay all costs incurred thereof.

11. The use of a permitted boat dock facility shall be limited to the mooring of the permittee's vessel or watercraft and the storage, in enclosed locker facilities, of his/her gear essential to the operation of such vessel or watercraft.

12. Neither a permitted facility nor any houseboat, cabin cruiser, or other vessel moored thereto shall be used as a place of habitation or as a full or part-time residence or in any manner which gives the appearance

of converting the public property, on which the facility is located, to private use.

13. Facilities granted under this permit will not be leased, rented, sub-let or provided to others by any means of engaging in commercial activity(s) by the permittee or his/her agent for monetary gain. This does not preclude the permittee from selling total ownership to the facility.

14. Floats and the flotation material for all docks and boat mooring buoys shall be fabricated of materials manufactured for marine use. The float and its flotation material shall be 100% warranted for a minimum of 8 years against sinking, becoming waterlogged, cracking, peeling, fragmenting, or losing beads. All floats shall resist puncture and penetration and shall not be subject to damage by animals under normal conditions for the area. All floats and the flotation material used in them shall be fire resistant. Any float which is within 40 feet of a line carrying fuel shall be 100% impervious to water and fuel. The use of new or recycled plastic or metal drums or non-compartmentalized air containers for encasement or floats is prohibited. Existing floats are authorized until it or its flotation material is no longer serviceable, at which time it shall be replaced with a float that meets the conditions listed above. For any floats installed after the effective date of this specification, repair or replacement shall be required when it or its flotation material no longer performs its designated function or it fails to meet the specifications for which it was originally warranted.

15. Permitted facilities and activities are subject to periodic inspection by authorized Corps representatives. The resource manager will notify the permittee of any deficiencies and together establish a schedule for their correction. No deviation or changes from approved plans will be allowed without prior written approval of the resource manager.

16. Floating facilities shall be securely attached to the shore in accordance with the approved plans by means of moorings which do not obstruct general public use of the shoreline or adversely affect the natural terrain or vegetation. Anchoring to vegetation is prohibited.

17. The permit display tag shall be posted on the permitted facility and/or on the land areas covered by the permit so that it can be visually checked with ease in accordance with instructions provided by the resource manager.

18. No vegetation other than that prescribed in the permit will be damaged, destroyed or removed. No vegetation of any kind will be planted, other than that specifically prescribed in the permit.

19. No change in land form such as grading, excavation or filling is authorized by this permit.

20. This permit is non-transferable. Upon the sale or other transfer of the permitted facility or the death of the permittee and his/her legal spouse, this permit is null and void.

21. By 30 days written notice, mailed to the permittee by certified letter, the district commander may revoke this permit whenever the public interest necessitates such revocation or when the permittee fails to comply with any permit condition or term. The revocation notice shall specify the reasons for such action. If the permittee requests

a hearing in writing to the district commander through the resource manager within the 30-day period, the district commander shall grant such hearing at the earliest opportunity. In no event shall the hearing date be more than 60 days from the date of the hearing request. Following the hearing, a written decision will be rendered and a copy mailed to the permittee by certified letter.

22. Notwithstanding the conditions cited in condition 21 above, if in the opinion of the district commander, emergency circumstances dictate otherwise, the district commander may summarily revoke the permit.

23. When vegetation modification on these lands is accomplished by chemical means, the program will be in accordance with appropriate Federal, state and local laws, rules and regulations.

24. The resource manager or his/her authorized representative shall be allowed to cross the permittee's property, as necessary to inspect facilities and/or activities under permit.

25. When vegetation modification is allowed, the permittee will delineate the government property line in a clear, but unobtrusive manner approved by the resource manager and in accordance with the project Shoreline Management Plan.

26. If the ownership of a permitted facility is sold or transferred, the permittee or new owner will notify the Resource Manager of the action prior to finalization. The new owner must apply for a Shoreline Use Permit within 14 days or remove the facility and restore the use area within 30 days from the date of ownership transfer.

27. If permitted facilities are removed for storage or extensive maintenance, the resource manager may require all portions of the facility be removed from public property. APPENDIX D TO § 327.30—PERMIT [RESERVED] [55 FR 30697, July 27, 1990, as amended at 57 FR 21895, May 26, 1992; 57 FR 29220, July 1, 1992; 63 FR 35828, July 1, 1998]

EFFECTIVE DATE NOTE: The amendment to § 327.30 revising the last sentence of paragraph (k), published at 56 FR 29587, June 28, 1991, was deferred indefinitely. See 56 FR 49706, Oct. 1, 1991. The administrative charges contained in § 327.30, Shoreline Management on Civil Works Projects, published in the July 1, 1991 edition of the Code of Federal Regulations will remain in effect. Any future decisions affecting this regulation will be published in the FEDERAL REGISTER at a later date by the Corps of Engineers, Department of the Army. For the convenience of the user, the rule published on June 28, 1991, at FR page 29587, is set forth as follows:
§ 327.30 Shoreline Management on Civil Works Projects.

* * * * *

(k) * * * The Fee Schedule is published in § 327.31.

§ 327.31 Shoreline management fee schedule.

A charge will be made for Shoreline Use Permits to help defray expenses associated with issuance and administration of the permits. As permits become eligible for renewal after July 1, 1976, a charge of \$10 for each new permit and a \$5 annual fee for inspection of floating

facilities will be made. There will be no annual inspection fee for permits for vegetative modification on Shoreline areas. In all cases the total administrative charge will be collected initially at the time of permit issuance rather than on a piecemeal annual basis. [56 FR 61163, Dec. 2, 1991; 56 FR 65190, Dec. 16, 1991]

EXHIBIT B: SHORELINE USE PERMIT CONDITIONS

SHORELINE USE PERMIT/LICENSE CONDITIONS

This Shoreline Use Permit//License is granted subject to the following conditions:

1. The permittee shall pay, in advance, to the United States, compensation in accordance with the fee schedule attached hereto as Exhibit A.

2. This permit/license is granted solely to the applicant for the purpose described on the attached permit/license. The exercise of the privileges herein granted shall be:
 - a. without cost or expense to the United States;
 - b. subject to the right of the United States to improve, use or maintain the premises.
 - c. subject to other outgrants of the United States on the premises.
 - d. personal to the permittee, and this Shoreline Use Permit/License, or any interest therein, may not be transferred or assigned. Upon the sale or other transfer of the permitted facility or the death of the permittee and his/her legal spouse, this permit/license is null and void.

3. If the ownership of a permitted facility is sold or transferred, the permittee or new owner will notify the Resource Manager of the action prior to finalization. The new owner must apply for a Shoreline Use Permit/license within 14 days or remove the facility and restore the use area within 30 days from the date of the ownership transfer.

4. Notices to be given pursuant to this Shoreline Use Permit/License shall be addressed, if to permittee, the same as recited on the Application for Shoreline Use Permit/License, and if to the United States, to FAO, U.S. Army, Little Rock District and delivered to Duty Ranger, U.S. Army Corps of Engineers, 2260 North Second Street, Rogers, AR 72756, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly-sealed envelope or wrapper addressed as aforesaid, and deposited postage prepaid in a post office regularly maintained by the United States Postal Service.

5. The construction, operation, maintenance, repair or replacement of said facilities shall be performed at no cost or expense to the United States and subject to the approval of the District Engineer, Little Rock District, Corps of Engineers, P.O. Box 867, Little Rock, AR 72203-0867, hereinafter referred to as "said officer." Upon the completion of any of the above activities, the Permittee shall immediately restore the premises to the satisfaction of said officer. The use and occupation of the premises for the purposes herein

granted shall be subject to the Government's navigation servitude, to rules published in Title.36, Code of Federal Regulations, Part 327, and to all applicable Federal, state and local laws and regulations.

6. Except as otherwise specifically provided, any reference herein to "Secretary," "District Engineer," "Installation Commander," "Resource Manager" or "said officer" shall include their duly authorized representatives. Any reference to "grantee" or "permittee" shall include their duly authorized representatives.

7. The permittee acknowledges that it has inspected the premises, knows the condition, and understands that the same is granted without any representation or warranties whatsoever and without any obligation on the part of the United States. The permittee shall inspect the facilities at reasonable intervals and immediately repair any defects found by such inspection or when required by said officer to repair any such defects.

8. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property or injuries to the person of the permittee's officers, agents, or employees or others who may be on the premises at the invitation of any one of them, and the permittee shall hold the United States harmless from any and all causes of action, suits at law or equity, claims or demands, or from any liability of any nature whatsoever for or on account of any damages to persons or property, construction or maintenance by the permittee of the permitted facilities and/or activities.

9. The permittee shall be responsible for any damage that may be caused to the property of the United States by the activities of the permittee under this Shoreline Use Permit/License and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed by the permittee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the permittee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefor by the permittee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

10. The right is reserved to the United States, its officers, agents, and employees to enter upon the premises at any time and for any purpose necessary or convenient in connection with government work, to make inspections, to remove timber or other material, except property of the permittee, and/or to make any other use of the lands as may be necessary in connection with government purposes, and the permittee shall have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof.

The authorized representative shall be allowed to cross the permittee's property, as necessary, to inspect facilities and/or activities under permit. The resource manager will notify the permittee of any deficiencies and together establish a schedule for their correction. No deviation or changes from approved plans will be allowed without prior written approval of the resource manager.

11. This permit/license does not convey any property rights either in real estate or material; and does not authorize any injury to private property or invasion of private rights or any infringement of Federal, state or local laws or regulations, nor does it obviate the necessity of obtaining state or local assent required by law for the construction, operation, use or maintenance of a permitted facility and/or activity.

12. The permittee agrees to construct the facility within the time limit agreed to on the permit/license issuance date. The permit/license shall become null and void if construction is not completed within that period. Further, the permittee agrees to operate and maintain any permitted facility and/or activity in a manner so as to provide safety, minimize any adverse impact on fish and wildlife habitat, natural, environmental, or cultural resources values and in a manner so as to minimize the degradation of water quality.

13. The permittee shall maintain, in a manner satisfactory to said officer, all soil and water conservation structures that may be in existence upon said premises at the beginning of or that may be constructed by the permittee during the term of this Shoreline Use Permit/License, and the permittee shall take appropriate measures to prevent or control soil erosion within the right-of-way herein granted. Any soil erosion occurring outside the premises resulting from the activities of the permittee shall be corrected by the permittee as directed by said officer.

14. The use of a permitted boat dock facility shall be limited to the mooring of the permittee's vessel or watercraft and the storage, in enclosed locker facilities, of gear essential to the operation of such vessel or watercraft.

15. No attempt shall be made by the permittee to forbid the full and free use by the public of all navigable waters or public land at or adjacent to the approved facility. No charge may be made for use by others of the facilities nor shall commercial activities be conducted thereon. Use of all land-based improvements shall be open to the general public without charge.

16. Neither a permitted facility, any improvement authorized, nor any houseboat, cabin cruiser, or other vessel moored thereto shall be used as a place of habitation or as a full or part-time residence or in any manner that gives the appearance of converting the public property on which the facility is located to private use. Household furnishings are not permitted on boat docks or other structures.

17. Facilities granted under this permit/license will not be leased, rented, sub-let or provided to others by any means of engaging in commercial activity(s) by the permittee or his/her agent for monetary gain. This does not preclude the permittee from selling total ownership of the facility.

18. Floats and the flotation material for all docks and boat mooring buoys shall be fabricated of materials manufactured for marine use. The float and its flotation material shall be 100% warranted for a minimum of 8 years against sinking, becoming waterlogged, cracking, peeling, fragmenting or losing beads. All floats shall resist puncture and penetration and shall not be subject to damage by animals under normal conditions for the area. All floats and the flotation material used in them shall be fire resistant. Any float

which is within 40 feet of a line carrying fuel shall be 100% impervious to water and fuel. The use of new or recycled plastic or metal drums or non-compartmentalized air containers for encasement or floats is prohibited. Existing floats are authorized until it or its flotation material is no longer serviceable, at which time it shall be replaced with a float that meets the conditions listed above. For any floats installed after the effective date of this specification, repair or replacement shall be required when it or its flotation material no longer performs its designated function or it fails to meet the specifications for which it was originally warranted. Adequate flotation must be provided to maintain the substructure a minimum of eight (8) inches above the water surface.

19. Floating facilities shall be securely attached to the shore in accordance with the approved plans by means of moorings which do not obstruct general public use of the shoreline or adversely affect the natural terrain or vegetation. Anchoring to vegetation is prohibited.

20. The permit/license display tag shall be posted on the permitted facility and/or on the land areas covered by the permit/license so that it can be visually checked with ease in accordance with instructions provided by the resource manager.

21. No vegetation other than that prescribed in the permit/license will be damaged, destroyed or removed. In no event will vegetation be disturbed to the extent the right-of-way will be subject to erosion or natural beauty destroyed. All disturbed areas shall be seeded, replanted, or given some type of equivalent protection against subsequent erosion. No change in landform such as grading, excavation or filling is authorized by this permit/license. No vegetation planting of any kind may be done, other than that specifically prescribed.

22. When vegetation modification is approved to be accomplished by chemical means, the program will be in accordance with appropriate Federal, state and local laws, rules and regulations. When vegetation modification is allowed, the permittee will delineate the government property line in a clear, but unobtrusive manner approved by the resource manager and in accordance with the project Shoreline Management Plan.

23. The permittee shall comply with all applicable Federal, state, county, municipal laws, ordinances and regulations wherein the premises are located, including, but not limited to, the provisions of the latest edition of the National Electrical Safety Code (NESC), Engineer Regulation 1110-2-4401, Clearances for Electric Power Supply Lines and Communication Lines over Reservoirs, dated May 30, 1997, and the Environmental Protection Agency regulations on Polychlorinated Biphenyls (PCB's). Failure to abide by these applicable laws and regulations may be cause for revocation of the permit/license.

24. a. Within the limits of their respective legal powers, the parties hereto shall protect the premises against pollution of its air, ground, and water. The permittee shall promptly comply with any laws, regulations, conditions or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the premises is strictly prohibited. Such regulations, conditions, or instructions in effect or prescribed by the said Environmental Protection Agency or any Federal, state, interstate or local governmental agency are

hereby made a condition of this Shoreline Use Permit/License. The permittee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The use of any pesticides or herbicides within the premises shall be in conformance with all applicable Federal, state and local laws and regulations. The permittee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the premises.

c. The permittee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from the permittee's activities, the permittee shall be liable to restore the damaged resources.

25. The permittee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the premises, the permittee shall immediately notify said officer and protect the site and material from further disturbance until said officer gives clearance to proceed.

26. If permitted facilities are removed for storage or extensive maintenance, the resource manager may require portions of the facility be removed from the public property.

27. The permittee shall remove a permitted facility within 30 days, at his/her expense, and restore the waterway and lands to a condition accepted by the resource manager upon termination or revocation of this permit/license or if the permittee ceases to use, operate or maintain a permitted facility and/or activity. If the permittee fails to comply to the satisfaction of the resource manager, the district commander may remove the facility by contract or otherwise and the permittee agrees to pay all costs incurred thereof. The permittee shall have no claim for damages against the United States for such action and no refund by the United States of any fee theretofore paid shall be made.

28. By 30 days written notice, mailed to the permittee by certified letter, the district commander may revoke this permit/license whenever the public interest necessitates such revocation or when the permittee fails to comply with any permit/license condition or term. The revocation notice shall specify the reasons for such action. If the permittee requests a hearing in writing to the district commander through the resource manager within the 30 day period, the district commander shall grant such hearing at the earliest opportunity. In no event shall the hearing date be more than 60 days from the date of the hearing request. Following the hearing, a written decision will be rendered and a copy mailed to the permittee by certified letter.

29. Notwithstanding the condition cited in condition 28 above, if in the opinion of the district commander, emergency circumstances dictate otherwise, the district commander may summarily revoke the permit./license.

30. The permittee shall not discriminate against any person or persons because of race, color, age, sex, handicap, national origin, or religion in the conduct of operations on the premises.

31. On or before the expiration or termination of this Shoreline Use Permit/License, the permittee shall, without expense to the United States, and within such time as said officer may indicate, remove said facilities and restore the premises to the satisfaction of said officer. In the event the permittee shall fail to remove said facilities and restore the premises, the United States shall have the option to take over said facilities without compensation, or to remove said facilities and perform the restoration at the expense of the permittee, and the permittee shall have no claim for damages against the United States or its officers or agents for such action.

32. The permittee agrees that if subsequent operations by the United States require an alteration in the location of a permitted facility and/or activity and if in the opinion of the district commander a permitted facility and/or activity shall cause unreasonable obstruction to navigation or that the public interest so requires, the permittee shall be required, upon written notice from the district commander, to remove, alter, or relocate the permitted facility, without expense to the Government.

33. The United States shall in no case be liable for any damage or injury to a permitted facility which may be caused by or result from subsequent operations undertaken by the Government for the improvement of navigation or for other lawful purposes, and no claims or right to compensation shall accrue from any such damage. This includes any damage that may occur to private property if a facility is removed for noncompliance with the conditions of the permit/license.

34. This instrument is effective only insofar as the rights of the United States in the property are concerned, and the permittee shall obtain such permission as may be required on account of any other existing rights. It is understood that the granting of this Shoreline Use Permit/License does not eliminate the necessity of obtaining any Department of the Army permit which may be required pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. @ 403), Section 404 of the Clean Water Act (33 U.S.C. @ 1344) or any other permit or Shoreline Use Permit/License which may be required by Federal, state or local statute in connection with use of the premises.

35. The permittee shall take all necessary action and provide all necessary facilities to maintain the area in a clean and sanitary manner, removing promptly and regularly trash and garbage from the said area. Construction materials and refuse are to be removed from the premises immediately upon completion of construction.

36. If a water line is authorized for withdrawal of water, the permittee shall register the taking of water from the reservoir with the appropriate state agency and shall save the United States harmless from any and all claims for damages by riparian owners arising out of taking water therefrom. Further, in the event of federal and/or state legislation providing for charges for the taking of water, the permittee agrees to enter into a water contract with the appropriate agency and pay such charges. It is understood and agreed that any water taken from the reservoir will not be used for human consumption or other domestic purposes, irrigation for the production of crops, or for a commercial purpose. A submersible water pump, along with associated electrical components, is not authorized on Federal property.

37. If a water line is authorized for a geothermal closed loop system, the solution to be circulated in the closed loop system shall be non-toxic, non-contaminating, and at minimal risk of imposing any type of environmental hazard. In the event of accidental spill, the grantee shall be solely responsible for clean-up and/or restoration of the damaged resources.

38. a. It has been determined this contract is not subject to Executive Order 13658 or the regulations issued by the Secretary of Labor in 29 CFR part 10 pursuant to the Executive Order, and the following provisions.

b. If a duly authorized representative of the United States discovers or determines, whether before or subsequent to executing this contract, that an erroneous determination regarding the applicability of Executive Order 13658 was made, contractor, to the extent permitted by law, agrees to indemnify and hold harmless the United States, its officers, agents, and employees, for and from any and all liabilities, losses, claims, expenses, suits, fines, penalties, judgments, demands or actions, costs, fees, and damages directly or indirectly arising out of, caused by, related to, resulting from or in any way predicated upon, in whole or in part, the erroneous Executive Order 13658 determination. This includes contractor releasing any claim or entitlement it would otherwise have to an equitable adjustment to the contract and indemnifying and holding harmless the United States from the claims of subcontractors and contractor employees.

THIS SHORELINE USE PERMIT/LICENSE is not subject to Title 10, United States Code, Section 2262, as amended.

EXHIBIT C: SHORELINE EROSION CONTROL

1. Purpose. This appendix establishes policy and provides guidance whereby individuals may perform bank stabilization to protect the shoreline of a US Army Corps of Engineers project from further erosion.
2. Applicability. This regulation applies to all Little Rock District Civil Works projects.
3. Policy. When bank erosion occurs on US Army Corps of Engineers lakes that are managed by the Little Rock District, certain measures may be approved by the District Engineer or his authorized representative to prevent further erosion. This appendix establishes district shoreline management policies regarding bank stabilization. Federally funded erosion control is limited to protecting the Government's investment in the project, such as the dam, overflow structure, or the shoreline of a park or other public use areas. Private bank stabilization has previously been limited to the protection of commercial marinas and the shoreline within the commercial lease area using breakwaters and/or stabilizing structures made from wood, rock, or concrete.
4. General. The water level of a lake fluctuates because of the various requirements of flood control, hydropower, water supply, and recreation. Shoreline erosion is recognized as a natural process in the ecological cycle of a lake. Plate 1 is a typical cross section of a bank stabilization project. Any fill material placed below the ordinary high water mark requires a permit pursuant to Section 404 of the Clean Water Act. Information on Nationwide Permit Conditions for bank stabilization is available at the Beaver Lake Project Office.
5. Review, Approval, and Appeal Process. Requests and plans for bank stabilization will be submitted to the Operations Project Manager for review. Requests denied by the Operations Project Manager may be appealed for reconsideration at the District level. The Operations Project Manager will forward the appeal and the reasons for denial at the project level to the Chief, Operations Division for reconsideration. Requests denied by the Chief, Operations Division may be appealed to the District Engineer. Determinations by the District Engineer are final and may not be appealed.

Permit Requirements

The extent and type of corrective measures are site specific and may vary. Shoreline protection allowed by this regulation is for bank stabilization and erosion control of the existing shoreline only to prevent further erosion. Shoreline protection for the purposes of restoring the shoreline to a previous location, landscaping, or beautification of the area will be denied. The proposed project shall be submitted to the District Engineer for Section 404 Permit evaluation if fill material will be placed below the ordinary high water mark of a specific lake. A representative of the Regulatory Branch should be contacted concerning the elevation of the ordinary high water mark.

1. General.

a. A right-of-entry from Real Estate Division may be required to obtain land-based access to the work site. For construction of a retaining wall, a Real Estate easement must be obtained prior to any work being done.

b. All bank stabilization structures will follow the existing shoreline and blend uniformly with the natural contour of the existing bank. No restoration of the shoreline to a previously existing condition will be allowed.

2. Riprap.

a. Riprap is the preferred method of bank stabilization. The stone gradation shall be equivalent to quarry-run stone with 50% of the individual stones by weight being comprised of individual stones weighing more than 25 lbs. Broken cinder blocks, bricks, asphalt, or other debris shall not be authorized.

b. Filter fabric should be used where appropriate.

4. Retaining Walls.

Generally, retaining walls will not be considered. Retaining walls may be considered on a case by case basis for unusual and compelling circumstances.

5. Construction.

a. Site preparation will be limited to obtain proper slope and stability for the structure with every effort being made not to damage shoreline vegetation. Disturbed slopes landward of the bank stabilization structure will be stabilized immediately upon completion of work and in no case more than 7 days after completion of work.

b. Removal of any trees on public lands must be approved by the Operations Project

Manager and is limited to obtain access to the work site. Replacement trees may be required for some or all trees removed at a ratio determined by the Beaver Project Office.

c. Damages resulting from the activity will be restored to the satisfaction of the U.S. Army Corps of Engineers. Violations of the terms and conditions of this permit may result in the issuance of a Violation Notice requiring the payment of a fine or appearance before the U.S. Magistrate, restitution, restoration of the site, and/or revocation of all or part of the individual's Shoreline Use Permit.

d. Sloping or grading of the shoreline before placement of material is permitted only to the extent necessary to place the materials.

6. Special Conditions.

a. No material will be placed in special aquatic sites, including wetlands, nor will it be placed to impair surface water flow into and out of any wetland area. Wetlands are defined as areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances support a prevalence of vegetation typically adapted for life in saturated conditions. Wetlands generally include swamps, marshes, bogs, fens, and similar areas.

b. If any materials or sites of cultural, historical, or archeological significance are discovered within the project boundaries at any time preceding or during construction, the Operations Project Manager will be immediately notified and work will cease until further notice.

c. Work may not be authorized within the known habitat of a threatened or endangered species (Federal or State listed) as identified under the Endangered Species Act.

Plate 1 Typical Cross Section for Bank Stabilization

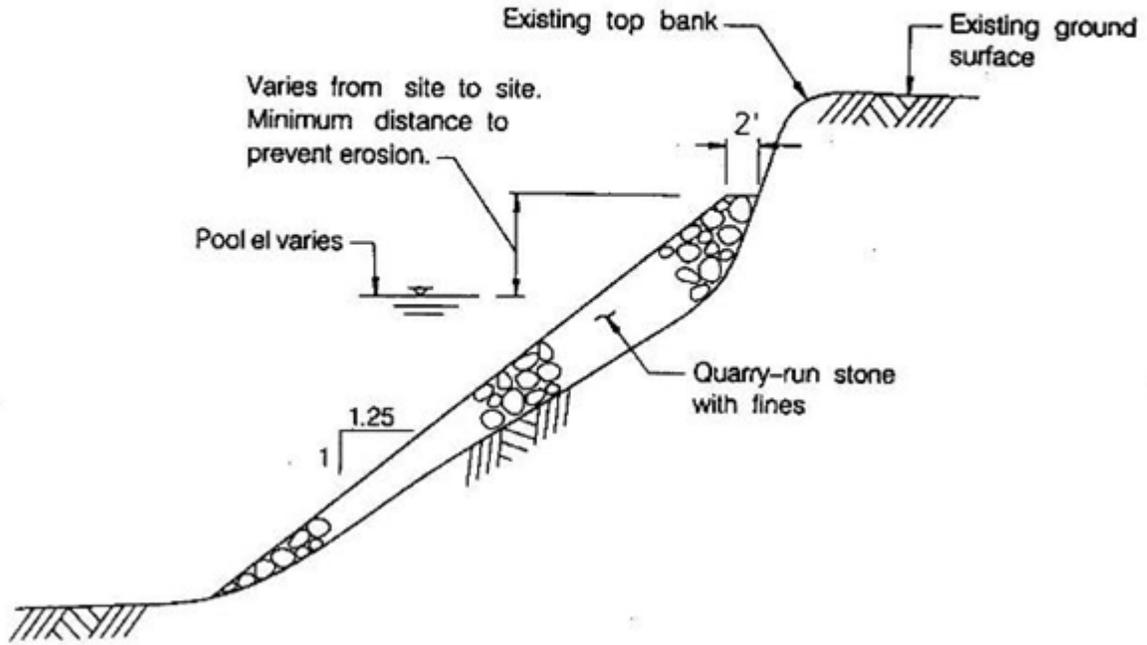


EXHIBIT D – SECTION 1134 OF THE WATER RESOURCES DEVELOPMENT ACT OF 1986 (P.L. 99-662)

SEC. 1134. CABIN SITE LEASES.

(a) On and after December 31, 1989, the Secretary shall continue in effect any lease or assignment thereof to which this section applies, until such time as such lease is terminated by the leaseholder, any successors or assigns of the leaseholder, or by the Secretary under subsection (b) of this section. Any such continuation beyond the date of expiration of such lease as in effect on December 31, 1989, shall be at fair market rentals and on such other reasonable terms and conditions not inconsistent with this section as the Secretary deems necessary. No continuation shall be made beyond such date unless the leaseholder agrees (1) to hold the United States harmless from any claim for damages or injury to persons or property arising from occupancy of or through the use of the property subject to such lease, and (2) to not unreasonably expand existing improvements.

(b)(1) On and after December 31, 1989, the Secretary and any other officer or employee of the United States shall not terminate a lease to which this section applies, except as provided in paragraph (2) of this subsection.

(2) On and after December 31, 1989, the Secretary may terminate a lease to which this section applies only if--

(A) the property covered by the lease is needed for immediate use for public park purposes or other higher public use or for a navigation or flood control project; or

(B) the leaseholder substantially violates a provision of such lease.

(c) Subsections (a) and (b) of this section apply to (1) any cottage site lease of property, which lease was entered into by the Secretary of the Army pursuant to section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 889; 16 U.S.C. 460d), and is in effect on December 31, 1989, and (2) any assignment of such a lease.

(d) On and after December 31, 1989, no houseboat, boathouse, floating cabin, sleeping facilities at marinas, or lawfully installed dock or appurtenant structures shall be required to be removed from any Federal water resources reservoir or lake project administered by the Secretary on which it was located on the date of enactment of this Act, if (1) such property is maintained in usable and safe condition, (2) such property does not occasion a threat to life or property, and (3) the holder of the lease, permit, or license is in substantial compliance with the existing lease or license, except where necessary for immediate use for public purposes or other higher public use or for a navigation or flood control project.

(e) In any case in which a person holds a lease of property at Clarks Hill Reservoir, Georgia, which is terminated under this section on or after December 31, 1989, the Secretary shall offer for sale to such person real property at Clarks Hill Reservoir which is owned by the United States and is not needed for the project (if there is any such property). The property offered for sale shall be approximately equal in size to the property that was subject to such lease. The Secretary shall offer any such property for sale at the fair market value of the property, as determined by the Secretary. Each offer under this subsection shall be made on or before the date on which the lease is

terminated and shall be open to such person for 18 months from the time the offer is made. As a condition to a sale under this subsection, the leaseholder shall restore the property subject to the terminated lease to a condition acceptable to the Secretary.