



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

Bull Shoals Lake Shoreline Management Plan

Appendix A To
Operational Management Plan
April 2006

WHITE RIVER WATERSHED
WHITE RIVER
BULL SHOALS DAM AND LAKE

OPERATIONAL MANAGEMENT PLAN
FOR BULL SHOALS LAKE

APPENDIX A
SHORELINE MANAGEMENT PLAN

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EXHIBIT I	36 CFR 327.30
EXHIBIT II	SWLR 1130-2-48, Shoreline Management at Civil Works Projects
EXHIBIT III	Grandfathered Docks
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WHITE RIVER WATERSHED
ARKANSAS AND MISSOURI
BULL SHOALS DAM AND LAKE

UPDATED MASTER PLAN FOR
DEVELOPMENT AND MANAGEMENT
BULL SHOALS LAKE
APPENDIX A
SHORELINE MANAGEMENT PLAN

SECTION I

INTRODUCTION

1-01. Project Authorization. The Bull Shoals Dam and Lake project was authorized by the Flood Control Act of 28 June 1938 (Public Law 761, 75th Congress, 3rd Session), as modified by the Flood Control Act approved 18 August 1941 (Public Law 228, 77th Congress, 1st Session), to include the authorization of the project for flood control and generation of hydro-electric power. Section 4 of the Flood Control Act approved 22 December 1944, as amended by Section 4 of the Flood Control Act approved 24 July 1946, as amended by Section 209 of the Flood Control Act of 1962, as amended by Section 2 of the Land and Water Conservation Fund Act of 1965, and as further amended by Section 210 of the Rivers and harbors Flood Control Act of 1968, authorized the Department of the Army to provide for recreational use of the lakes under its control.

1-02. Purpose. The Shoreline Management Plan establishes policy and furnished guidelines for the protection and preservation of the desirable environmental characteristics of the Bull Shoals Lake shoreline while maintaining a balance of private shoreline uses. The plan also considers means of restoration of the shoreline where degradation has occurred because of private exclusive use.

1-03. Authority. This Appendix was prepared in accordance with the requirements of 36 CFR 327.30 dated 1 July 2001 (Exhibit I), ER 1130-2-406 dated 31 October 1990, and SWLR 1130-2-48 dated 6 January 2003 (Exhibit II).

1-04. References.

- a. 36 CFR 327.30, dated 1 July 2001, Shoreline Management at Water Resources Development Projects Administered by the Chief of Engineers.
- b. ER 1130-2-406, dated 31 October 1990, Shoreline Management at Civil Works Projects.
- c. SWLR 1130-2-48, dated 6 January 2003, Shoreline Management at Civil Works Projects.
- d. Bull Shoals Lake Shoreline Management Plan Environmental Assessment, dated 30 March 2001.

1-05. Private Recreation Facilities. Private recreation facilities as discussed in this plan include boat moorage facilities, including mooring buoys, private and community boat docks. Private floating facilities used for boat mooring will not exceed the minimum size required to moor the owners' boat or boats plus a minimum area for storage of oars, life preservers, and other items essential to the operation of the watercraft. Private floating facilities will not be used for human habitation with the exception of floating cabins authorized under a Real Estate permit.

1-06. Other Private Shoreline Uses. Individuals may apply for permits to make minor alterations to vegetation around habitable structures for land-based private uses including vegetation modification for fire protection, footpath construction and maintenance, planting, and erosion control.

1-07. Natural Resources Mission Statement.

The U.S. Army Corps of Engineers (USACE) is the steward of the lands and waters at USACE water resources projects. The Corps' Natural Resources Management Mission is to manage and conserve those natural resources, consistent with ecosystem management principles, while providing quality public outdoor recreation experiences to serve the needs of present and future generations. In all aspects of natural and cultural resources management, the USACE promotes awareness of environmental values and adheres to sound environmental stewardship, protection, compliance, and restoration practices. The USACE manages for long-term public access to, and the use of, the natural resources in cooperation with other federal, state, and local agencies as well as the private sector. The USACE integrates the management of diverse natural resource components such as fish, wildlife, forests, grasslands, soil, air, and water with the provisions of public recreation opportunities. The USACE conserves natural resources and provides public recreation opportunities that contribute to the quality of American life.

1-08. Operational Management Plan. Upon approval, this updated Appendix will become a part of the Updated Operational Management Plan for Bull Shoals Lake.

1-09. Future Legislation, Regulations and Policies. This plan will incorporate any future legislation, regulations, policies, etc., pertinent to Corps of Engineers Civil Works projects and/or Bull Shoals Lake. Changes of this type will be considered an administrative change and will be incorporated without additional review.

SECTION II

OBJECTIVES OF THE PLAN

2-01. General. Experience has shown that management is necessary to prevent large sections and possibly all of the shoreline from becoming congested with private floating facilities and land based private uses thereby lost for public use and enjoyment. Management of the shoreline will provide and opportunity for optimum recreational experiences for the maximum number of people and assure compatibility between the recreating public, the environment, and project resources.

a. The objectives of this plan are to manage and protect the shoreline, to establish and maintain acceptable fish and wildlife habitat, aesthetic quality and natural environmental conditions, and to promote the safe and healthful use of the lake and shoreline for recreational purposes by all citizens.

b. Boat owners will be encouraged to moor their boats at commercial marinas, utilize dry storage facilities off project lands, or trailer their boats to public launching ramps located within the Corps parks or to one of the launching complexes developed by the county, state, or city governments.

c. Activities associated with any vegetation modification on public lands require prior approval and a shoreline use permit from the Operations Project Manager (OPM) at Bull Shoals Lake.

2-02. Commercial Concessions. Floating facilities used in connection with commercial concessions located in the parks are not affected by the shoreline allocations presented in this plan. These commercial operations are effectively controlled under existing Real Estate regulations. The services and storage facilities provided by these commercial operations will reduce the need for numerous individually owned docks along the shoreline.

2-03. Limited Motels/Resorts/Campgrounds.

Floating facilities used in connection with limited motel/resort/campground leases and boat with cabin license operations are subject to the shoreline allocations presented in this plan. Due to the economic impact on existing motel/resorts that already have docks for bona fide guests, these leases and boat with cabin licenses may be renewed to the present owner or transferred to the next owner, and the floating facilities serving these operations may remain moored at their present locations even though they may not be in areas currently designated for limited development. Expansion or major repairs of existing docks serving these motel and resort leases in areas not approved for limited development will be considered on a case by case basis. Many small motel/resorts are located near the lake specifically for those desiring to use lake waters and if these operations did not have docks to accommodate their guests, they would possibly be out of business.

2-04. Private Exclusive Use. Definition: “Any action, within the context of this rule (36 CFR 327.30), which gives special privilege to an family household or group of family households on land or water at a Corps project, that precludes use of those lands or waters by the general public, is considered private exclusive shoreline use.” Ownership of private land does not convey any exclusive rights to the use of the adjoining public lands. It is the objective of this plan to control private exclusive use of public property to the degree necessary to gain maximum benefit for the general public. The issuance of a private shoreline use permit does not convey any real estate, personal property rights, or exclusive use rights to the permit holder. The public's right of access and their use of the permit area must be maintained and preserved.

2-05. Background.

a. Development of a preliminary shoreline management plan for Bull Shoals Lake included an inspection of the entire shoreline, review of photographs and discussions with family households, groups and real estate agencies. The initial plan was approved in 1973 with an approved revision in 1982. This plan was reviewed again and updated with additional public involvement in 1988. The most recent Lakeshore Management Plan for Bull Shoals Lake was approved by the Division Engineer, Southwestern, in October 1988.

b. Revision of 36 CFR 327.30 in 1990 required the Little Rock District to convert its currently approved lakeshore management plans to shoreline management plans. The District's draft operating policy for shoreline management was discussed at a series of public workshops held at Forsyth, Missouri, 4 June 1991; Diamond City, Arkansas, 5 June 1991; and Mountain Home, Arkansas, 6 June 1991. The provisions of the finalized policy, SWLOM 1130-2-33, and the shoreline allocations contained in the most recent approved lakeshore management plan have been included in this Shoreline Management Plan for Bull Shoals Lake. The Shoreline Management Plan was approved by the Southwestern Division Office on 1 April 1993.

c. In 1994, an update was conducted to recommendation changes in shoreline allocations at 18 scattered locations around the lake. A public workshop was held at the Mountain Home Project Office on 23 May 1994 and at Forsyth Missouri on 24 May 1994 to notify the public of the Shoreline Management Plan review. The Mountain Home Project Office evaluated 28 rezoning request resulting in the approval of 18 requests. The plan was approved on 19 August 1994.

2-06. Plan Conversion. After the development of the preliminary plan, a public meeting was held on 29 November 1972 at Mountain Home, Arkansas. Recommendations and objections were received from the public at the meeting and by mail for 30 days following the meeting. In response to these public comments, a number of shoreline areas were reinspected and reevaluated and a revised plan was developed and furnished to the District Office for final review and was approved by the District Engineer on 17 January 1974. At that time, applications were once again accepted, preference was given to community mooring facilities over family household-owned docks proposed in allocated areas approaching the maximum density of development. Another public meeting was held in Mountain Home on 20 March 1974 to present the final plan and answer questions from the public. Subsequent issuance of ER 1130-2-406 required approval by the Division Engineer prior to implementation of the plan as presented in the Appendix.

2-07. Current Review and Update. During the update of this plan, a public workshop was held on 26 October 1999, announcing the plan update and the process that would be followed. Applications for boat dock rezoning were accepted until 1 December 1999. This information was provided via news releases, paid legal notices, and posting on the Internet. There were 65 rezoning requests received and evaluated, 32 were approved.

Other public workshops were held on 8, 9, 10 February 2000 to begin collecting issues from the public regarding any changes desired in the Bull Shoals Shoreline Management Plan. The written comment period closed on 11 March 2000. Public comments strongly recommended change in the following areas:

- (1) Opposed to elimination factors
- (2) In support of original request or additional information
- (3) Irrelevant to SMP review

These comments were used to prepare the draft SMP. Changes to the Bull Shoals Lake Master Plan require that an Environmental Assessment (EA) be prepared to comply with the National Environmental Policy Act. Since the draft SMP included changes, a contract was issued to have an EA prepared to study the alternatives recommended as a result of the public comment period.

A second series of public workshops were held in Mountain Home and Leadhill, Arkansas and Gainesville, Missouri on 23, 24, 25 January 2001. The Operations Manager and Park Manager presented the draft Shoreline Management Plan and draft Environmental Assessment. Three options were presented for public comment. The deadline for written comments to the SMP and EA was 26 February 2001. A total of 83 persons attended and submitted 49 written comments. Overwhelming support for option 3 was the result of the comments.

The following plan implements the required administrative changes to the Bull Shoals plan. These changes bring it in line with other Shoreline Management Plans in the Little Rock District. It is also responsive to those family households who requested a limited development area during this review and would force development of the remaining 79 miles of shoreline already identified for Private Floating Facilities before we set aside additional area.

The plan as presented in this Appendix reflects the best use of the shoreline based on current public use and needs.

2-08. Five-Year Review.

a. 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. The plan may be supplemented more frequently should regulations, project operations, project conditions, or management objectives change significantly. The District Engineer may approve minor administrative revisions to the plan when the revisions are consistent with ER 1130-2-406 or 36 CFR 327.30. The addition or deletion of limited development areas is not considered a minor

revision. Revisions of this nature will require public involvement and approval by the Division Commander.

b. Rezoning requests will only be considered or accepted in future updates when all the current Limited Development Areas are utilized to the maximum extent permitted by 36 CFR 327.30, dated 27 July 1990 or future updates thereof.

SECTION III

DESCRIPTION OF THE SHORELINE

3-01. General. Bull Shoals Lake is one of a series of five lakes in the Upper White River Basin in northern Arkansas and southern Missouri. The area is generally wooded and rugged with interesting geological formations overlooking the winding White River. The lake has an irregular shape with numerous arms and coves, and varies topographically from steep bluffs to gently sloping points. Much of the shoreline in the upper reaches of the lake, because of its gentle slope, is subject to rapid dewatering when the pool elevation reduces.

3-02. Land Acquisition Policy. The real property fee acquisition line for Bull Shoals Lake, as a general rule, was blocked out along regular land subdivision or property ownership lines to include all lands below elevation 695 m.s.l. (mean sea level) or to include the lands required for public access areas.

3-03. Shoreline/Boundary Line. At top of mean conservation pool, EL 654, the shoreline of the lake has a total length of 740 miles. As the pool rises to the top of flood control pool, EL 695, the shoreline length increases to 1,050 miles.

3-04. Present Land Use. The Bull Shoals project area contains 101,196 acres; 100,090 acres owned in fee and 1,106 acres are managed by flowage easement. The 71,240 acres below the Flood Control Pool elevation and 75 acres required for the dam and appurtenant works are allocated for Project Operations. There are 9,505 acres allocated for recreation-intensive use and 22,718 acres for wildlife management, which includes areas located below the Flood Control Pool elevation. The areas below the Flood Control Pool elevation are dually allocated.

3-05. Private Development. The area around Bull Shoals Lake is a popular vacation and retirement area. This is evident by the increase in visitation to the lake, from 422,000 in 1952, to almost 3.8 million in 1992. Subdivision development and home building are both at all-time highs in and around Bull Shoals Lake as is evidenced by the tremendous increase in taxable property in all five counties where the lake is located.

3-06. Existing Access. The waters of Bull Shoals Lake are easily accessible to the recreational boaters and the adjoining property owners alike. In addition to the 41 launching lanes located in the parks, numerous severed roads around the lake are also used by residents and sportsmen.

3-07. Prior Commitment. Private docks have been permitted on Bull Shoals Lake since its impoundment began in January 1952. The number of private floating facilities on the lake has continued to increase since that time. There are 16 docks on Bull Shoals Lake that are considered prior commitments and are located in unzoned areas of the shoreline. These grand-fathered facilities are listed in Exhibit III by permit number and location.

3-08. Historical/Archeological/Cultural. The U.S. Army Corps of Engineers is charged by law (P.L. 96-515 Section 110) and regulation ER 1130-2-540 with the responsibility and efficient

management of all Historic Properties on lands under its control. ER 1130-2-540 defines the term "Historic Properties" as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

3-09. Indian Lands. There are no Indian lands within the boundaries of the Bull Shoals Lake project.

3-10. Joint Jurisdiction. No other Federal agencies have jurisdiction over administration of the shoreline covered by this plan.

SECTION IV

WATER QUALITY

4-01. General. Water quality management is a complex and challenging task due largely to the extensive and varied human activity both in and around the lake. The broad goal of this management responsibility is to promote water quality adequate for safe and healthy public use as well as conservation of wildlife, fish, and other beneficial aquatic life.

4-02. Water Intake Structures. Currently the Marion County Water District is the only commercial water customer that uses Bull Shoals Lake for public water supply. The shoreline allocation around this area is designated as Prohibited and is shown in blue on the allocation maps.

4-03. Importance. Bull Shoals Lake continues to provide a safe and dependable public drinking and industrial water supply, as well as aquatic habitat, and recreational opportunities. Safeguarding the water quality of the lake is of utmost importance. The cooperation of all family households, federal, state, and local agencies is necessary in this effort.

4-04. Marine Sanitation Devices.

a. All permanently installed boat toilets must have a U.S. Coast Guard certified Marine Sanitation Devices (MSDs). The use for any type MSD other than a U.S. Coast guard approved "no discharge" type is prohibited. Proof of state certification must be displayed on the vessel.

b. The discharge of any type of effluent in the waters of Little Rock District lakes is prohibited.

c. Only approved marine pumpout locations may be used.

SECTION V

SHORELINE ALLOCATION

5-01. General. Increased development of adjoining private land increases the demand for private floating facilities; therefore, it is readily apparent that a plan for systematic development of the shoreline is essential. This approach is intended to protect the natural beauty of the shoreline and to balance shoreline uses to maximize the benefits for the most users.

5-02. Allocations. A comprehensive study of the entire shoreline, involving public participation, resulted in development of a shoreline management plan for Bull Shoals which establishes the following shoreline allocations:

a. Limited Developments Areas. Approximately 90 miles of the shoreline is allocated for limited development. These areas are shown in red on the shoreline allocation maps. Private floating facilities, (docks), and vegetation modification (meandering footpath and fire protection only) are permitted in areas designated for limited development. Generally, the number of docks that will be permitted in an area will be limited by spacing a minimum of 100 feet apart in ideal shoreline conditions.

(1) 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 conservation pool. Density will be determined by measuring linear feet of shoreline in the zone and comparing it to the width of the facilities in the water plus associated moorage arrangements (anchorage) which restrict the full unobstructed use of that portion of the shoreline. The Operations Project Manager will assess conditions and consider designating the zone for community docks only when the number of docks in a given zone reaches 50 percent of the estimated capacity of that zone (at conservation pool elevation) or when development and/or growth patterns indicate high demand potential for mooring facilities. Compatibility with existing docks and adequacy of access roads and parking facilities will be considered before designating a zone for community docks only.

(2) All United States citizens have an equal opportunity to moor a dock in a limited development area provided the area has not reached the maximum density of development. The applicant must have legal access to the shoreline either by public road, ownership of adjoining property, or right of access across adjoining property. Legal access to the shoreline is considered to be within 200 feet of the location of the facility from the government boundary line or an approved designated parking area. Public roads will constitute legal access when applying for a permit within 200 feet of an existing designated parking area. Approved designated parking areas have been identified and are shown on the official shoreline allocation map located at the Mountain Home Project Office. In the event that the individual(s) do not own the land adjacent to the facility, then a recorded lease or easement for the access must be provided that allows all current and any future owners of the dock the right of ingress and egress, for at least the duration in which the facility is present. The holder of the permit must provide the Operations Project Manager proof of legal access, a plat of the adjoining land that describes the subdivision and access area, as well as, a

proposal for parking on private property. All dock owners who are not permanent residents of the area must designate a local party who will be responsible for surveillance over the dock on a 24-hour basis.

(3) Location on the lake, fluctuation of water level, and other criteria will be the determining factors in approval or disapproval of a request in these areas. Designation as a limited development area does not guarantee the approval of dock placement, nor that adequate water depth is available at all times.

(4) Docks will be spaced a minimum of 100 feet apart in ideal shoreline conditions. Compatibility with existing docks and adequacy of access roads and parking facilities will be considered before approving additional private floating facilities. Placement should not be made that would produce a cross-over situation; meaning that an applicant's facilities (including electric service and anchor cables) should not go beyond existing neighboring facilities. Cross-over situations cause community discord and therefore, should be avoided. Only under the most unusual situations may cross-overs be approved by the Operations Project Manager.

b. Public Recreation Areas. Approximately 140 miles of the shoreline is allocated for parks and buffer areas. These areas are shown in green on the shoreline allocation maps. Private floating facilities are not permitted within or adjacent to developed or future parks or from the vista of the park. Family households or groups are not permitted to make any modification of the land form or vegetative characteristics of lands under this allocation. Commercial boat docks and concessions are permitted in public recreation and buffer areas.

c. Protected Shoreline Areas. Approximately 507 miles of the shoreline is allocated for protected areas. These areas are not represented by color code on the shoreline allocation maps. A majority of the shoreline on Bull Shoals Lake is designated as protected area. Private floating facilities are not permitted in protected shoreline areas. These areas were designated to protect aesthetic, environmental, and fish and wildlife values. Other reaches of the shoreline were included under this allocation for physical protection, reasons including shallow areas and reaches of the shoreline subject to exposure to winds or currents. Land access and boating are permitted along the shoreline with these allocations as long as aesthetic, environmental and natural resource values are not damaged or destroyed. Modification of the land form or vegetation may be permitted after consideration of the effects on the environmental and physical characteristics of the area by the Operations Project Manager. Rights of way for launching complexes across shoreline allocated as protected areas will be considered on a case by case basis. Shoreline not designated under another allocation on the enclosed maps is considered protected shoreline area.

d. Prohibited Access Areas. These blue areas are not represented by a color on the shoreline allocation maps. Private floating facilities and other shoreline uses are prohibited in areas adjacent to the dam and the Marion County Regional Water District Intake Structure. There is approximately 1 mile allocated as prohibited access areas.

5-03. Shoreline Allocation Maps. A master map of the shoreline is on display at Mountain Home Project Office at Mountain Home, Arkansas. The master map shows further designations within the protected and prohibited shoreline areas; i.e. scenic, shallow, natural, etc.

SECTION VI

PRIVATE FLOATING FACILITIES AND CONDITIONS

6-01. General. The following guidance is provided to assure the most effective use of the limited amount of shoreline set aside for the mooring of private floating facilities and other private shoreline uses.

a. A separate family household may have a maximum of two slips in any dock and may not own an interest in more than one facility. Valid state boat registration will be necessary to verify slip needs. A family household is defined as family households living at the same address. A family household may have only one of the two following items to preclude usurpation of the shoreline. The applicant may have either:

(1) A permit for a private floating facility.

(2) Ownership of slips in a community dock.

b. The Operations Project Manager will approve the size, configuration, and anchoring plan for docks. The maximum size of private floating facilities will be 20 slips for safety reasons and to assure maneuverability of the dock during periods of pool fluctuation. Existing docks larger than 20 slips will be grand-fathered if safely maintained and shoreline is not needed for a higher purpose.

c. Docks may not extend out from the shore more than one-third of the cove width at seasonal conservation pool level.

d. Private floating facilities will not exceed the minimum size required to moor the owner's boat(s) (not to exceed three feet beyond vessel length) plus a small storage locker for items essential to watercraft operation, i.e., pfd's, water ski's, inner tubes, etc. Floating facilities will not be used for human habitation. Docks must be constructed with open sides.

e. Current valid state boat registrations will be required with the permit application to support boat ownership and the need for mooring space. This requirement is necessary to preclude commercial activity on the floating facility. Personal watercraft are classified as vessels and will be considered vessels that can be moored in a dock.

f. All Class 2 and Class 3 boats and/or boats with marine sanitation devices, shall be moored at commercial marina concessionaire locations. Private docks, community docks, floating cabins, or mooring buoys which currently moor Class 2 or Class 3 boats will be "grand-fathered" and allowed to continue to moor these vessels.

g. The permit for a community dock will be issued to the person designated as the authorized representative for the slip owners in the dock. 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 registered electrical engineer, certified master electrician or electrical contractor must certify the electric service conforms to the National Electric Code.

h. A permit for a community dock does not give the members any exclusive rights with regard to the use of public land. The permit does not give the owners the right to remove vegetation, construct breakwaters, or install buoys to restrict the speed of passing boats. Parking and/or vehicular access is allowed only on authorized public roads.

i. Requests to expand a community dock will be subject to prior approval by the other owners with an interest in the dock and the Operations Project Manager.

j. Upper decks are prohibited on new floating facilities.

6-02. Existing Docks under Permit. 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 of 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 commercial facilities nearby.

6-03. Facilities Existing Under Special Condition(Grandfathered).

Private floating facilities moored in areas where allocations made by this plan that do not allow docks, will be permitted to remain in their present locations providing the structures are maintained to the following guidelines (Section 1134 (d) of P.L. 99-662):

a. On and after 31 December 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 higher public use or for a navigation or flood control project.

b. Existing fully enclosed docks will be allowed to remain in the present location. Additional guidance on the management of grandfathered docks can be referenced in SWLR 1130 - 2-48, Appendix H.

6-04. Permits, Where Required. Revocable shoreline use permits will be granted for private floating facilities, duck blinds, ski jumps, and for vegetative modification (meandering footpath and fire protection only), where such activities conform to the Shoreline Management Plan and/or to land use allocations of the project Master Plan.

6-05. Permits, Authority to Issue. Operations Project Managers are authorized to issue shoreline use permits. ENG Form 4264-R, Application for Shoreline Use Permit, with permit conditions attached will be used to issue the permit. Construction may proceed upon receipt of written approval of the plans by the Operations Project Manager.

6-06. Permit, Administration Charge. A charge will be made for shoreline use permits to help defray expenses associated with issuance and administration of the permits. The administration charge for each permit and annual inspection fees for private floating facilities will be collected initially at the time of permit issuance rather than on a piece meal annual basis. Charges currently in effect are subject to changes in future years. There will be no inspection fee for duck blind or vegetative modification permits. Multiple uses can be included on the same permit at no additional cost.

6-07. Permit Term. Shoreline use permits are issued for a period of time not to exceed 5 years but are subject to revocation by the District Engineer whenever he determines that the public interest requires such revocation or the permittee fails to comply with the conditions of the permit. Permits for duck blinds will be issued for a lesser period of time to assure their timely removal.

6-08. Posting of Permit Number. Two printed display permit tags 6" x 8" will be furnished each permittee for posting on boat docks. Tags will 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. Grand-fathered facilities are identified with either a green permit tag, or an "X" preceding the permit number.

6-09. Design of Private Floating Facilities. All floating recreation facilities will be designed and constructed in accordance with plans and specifications shown in SWLR 1130-2-48, Minimum Construction and Maintenance Requirements for Private Floating Facilities, Appendix F. The plans and specifications will be approved by the Operations Project Manager or his authorized representative. The use of boat mooring facilities will be limited to the mooring of boats owned by and registered to the permittee (or member in the case of community docks) and the storage of gear essential to the operation of the water craft. Vessels shall be moored within an approved stall/slip to prevent boats from being permanently tied-on to the sides of the private and community boat docks. The installation of accommodations and facilities conducive to human habitation is prohibited. Swim docks or attached platforms shall not exceed 200 square feet and be configured to minimize limited development area occupancy. Walkways which connect the dock and shoreline cannot exceed 60 feet in length.

a. Boat Docks. Two sets of plans must be submitted for shoreline use permit applications and they must conform to the specifications shown in SWLR 1130-2-48, Minimum Construction and Maintenance Requirements for Private Floating Facilities, Appendix F. Two sets of plans and specifications plans stamped by a certified engineer must be submitted along with the Shoreline

Use Application to Mountain Home Project Office, 324 West 7th street, Mountain Home, Arkansas 72654. These plans and those submitted for expansion, structural modification, or installation of electrical facilities on any private floating facility must be and approved in writing by the Operations Project Manager prior to commencement of the work. Electrical service to and on private docks will require certification by an electrical contractor or certified electrician as listed in SWLR 1130-2-48, Certificate of Electrical Inspection, Appendix D. The Little Rock District encourages the use of community boat docks as a means of limiting the proliferation of family household docks on the project. The following items will be considered when granting permits for community boat docks:

(1) The permit for a community dock will be issued to the person designated in an association agreement, or similar document, as the authorized representative for the slip owners in the dock.

(2) Valid boat registration certificates will be used to verify slip occupancy and ownership.

b. Duck Blinds. A seasonal duck blind is defined as a structure fabricated from metal, lumber, wire, and other identifiable building material placed on a project for seasonal use. A permit is not required of those who hunt from the concealment of natural shoreline vegetation or portable blinds placed and removed on a daily basis.

(1) A map will be maintained in the Project Office showing the location of each permitted blind and shall be referred to while processing applications to avoid conflicts in location. The applicant should be advised that the permit does not convey exclusive or protected hunting rights to any segment of the lake or shoreline.

(2) The applicant should be advised that the Corps of Engineers has no authority to protect the structure from use and trespass by the public.

(3) The expiration date of the permit will correspond with the closing of the waterfowl hunting season. The permittee will be required to remove the structure within 30 calendar days after expiration of the permit.

6-10. Collection of Fees. Payment may be made by check (personal, certified, cashiers, etc.) or money order made payable to the Finance and Accounting Office, U.S. Army, Little Rock District. Payment may also be made in cash. Cash collections will be acknowledged by issuance of a receipt. Revenue from the issuance of shoreline use permits will be collected by employees authorized to collect for petty cash sales. Collections will be sent to the USACE Finance Center, Millington, TN. using ENG Form 3313, Remittance Register. Collections identified as “shoreline use permits” may be listed on the same schedules as Lake Maps, folder maps, etc.

Renewal Procedures. When a permit for a private floating facility is renewed in the name of the present owner, the applicant will receive the following:

(1) Year of expiration sticker (two copies).

(2) Signed copy of the permit, ENG 4264-R, including a statement of total fee paid signed by the person authorized to collect for petty cash sales. The administration and inspection fee will be collected for renewed permits.

6-11. Refund of Fees. Fees for shoreline use permits are nonrefundable.

6-12. 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. Conditions must be carefully and completely documented with copies of certified correspondence to the permittee, dated photographs and detailed inspection reports when recommending permit revocation to the District Engineer. The permittee notification process is outlined in permit condition 21. Termination of shoreline use permits (ENG Form 4262-R) for floating facilities shall follow the guidelines established in Title 36.

6-13. Request for Waiver of Provisions.

a. This plan is subject to Federal laws and regulations requiring reasonable accommodations for people with qualifying disabilities. A request to waive any provision for the purpose of accommodating a person with a disability or limiting health condition should be forwarded in writing to:

Operations Project Manager, Mountain Home Project Office
U.S. Army Corps of Engineers
324 West 7th Street
Mountain Home, AR 72654

b. The Operations Project Manager will review waiver requests on a case-by-case basis. The request should fully explain the disability or limiting health condition, the family household and local situation, and the specifics of the waiver, accompanied by supporting documentation (letter, copies of handicapped parking placards, doctor's letters, maps, diagrams, etc.)

6-14. Appeals Process. Appeals may be made in accordance with SWLR 1130-2-48, Shoreline Management Plans, Reviews and Revisions, Appendix E.

SECTION VII

CONSTRUCTION AND MAINTENANCE REQUIREMENTS FOR PRIVATE FLOATING FACILITIES

7-01. Minimum Design Standards. Private floating facilities will meet or exceed the minimum design and maintenance standards as listed in SWLR 1130-2-48, Minimum Construction and Maintenance Requirements for Private Floating Facilities, Appendix F. A site inspection for any floating facility must be performed prior to the submittal of plans, application, etc. Plans and specifications for the dock must accompany the application for a private floating facility. Plans and specifications will be subject to the approval of the Operations Project Manager at Mountain Home.

7-02. Electrical Service.

a. A power line license must be obtained if electrical service crosses public land and/or water or terminates on public land.

b. Electric service installation and maintenance will be in accordance with the requirements described in SWLR 1130-2-48, Certificate of Electrical Inspection, Appendix D, and Appendix F. All electrical work shall meet the requirements of this directive as well as all local and state codes and the National Electric Code. Particular attention should be given to Article 555 of the National Electric Code. A copy of the electrical certification form must be provided to the Operations Project Manager at Bull Shoals Lake before a shoreline use permit will be issued or renewed.

c. All new electric lines will require a separate real estate instrument for a license for a power line. On existing docks that have electrical service, no license will be required until the dock permit is renewed, the dock is sold or transferred to another party, or repairs to or replacement of the electrical facilities is required, whichever comes first. The Real Estate Branch will issue all power line licenses.

d. Electrical lighting and equipment - Electrical equipment, including the service for a private dock or shoreline lights, may be permitted upon the approval of the Operations Project Manager, provided the installation of such equipment does not pose a safety hazard or conflict with other recreational use. Electrical facilities on public property shall be approved only to provide shoreline lighting that will not detract from natural surroundings, for security or power for a permitted dock. Applicants must be adjacent property owners who hold a valid permit for a private moorage facility. The Operations Project Manager will approve the location and plans of all electrical poles or lights on public land. Electrical lines, fixtures or lights cannot be affixed to trees on public property.

7-03. Inspections. Initial and subsequent renewal inspections will be performed to assure dock is maintained in accordance with approved plans and conditions of the permit.

7-04. Flotation. Flotation for private boat docks at Bull Shoals Lake must conform to specifications listed in 36 CFR 327.30 and SWLR 1130-2-48, Appendix F. No beaded foam flotation (expanded polystyrene) is allowed at Bull Shoals Lake unless it is encased in an approved

protective covering. The substructure of any private dock must be at least 8 inches above the water surface.

SECTION VIII

OTHER SHORELINE USES BY FAMILY HOUSEHOLDS

8-01. Private Use of the Shoreline. Adjacent landowners must obtain a permit from the Operations Project Manager prior to modification of vegetative characteristics of the area. Permits will not be granted to family households for use of lands allocated as public recreation areas, including their buffers, or lands allocated as prohibited access areas. Restoration of the shoreline where degradation has occurred because of private exclusive use will be accomplished through a cooperative effort of the adjacent landowner and the appropriate local, state and federal agencies.

8-02. Vegetation Modification.

a. The limits of vegetation modification permits (meandering footpath and fire protection only) are dependent on the proximity of habitable structures to the project boundary. The maximum allowable limit of vegetation modification is 200 feet, measured from the foundation of the habitable structure. An analysis of wildfire hazard will be conducted before issuing vegetation modification permits for fire protection. This hazard analysis rating process is adapted from the National Fire Protection Agency (NFPA) standard 299. The Wildfire Hazard Analysis Rating Form Checklist is included in this plan as Exhibit IV. The actual limits of vegetation modification in each case will be determined by the Operations Project Manager, or his representative, and defined on the shoreline use permit. Additional guidance is located in SWLR 1130-2-48, Appendix C.

b. There are other reaches of the shoreline that are popular areas for public use or have potential public use. Many of these areas have been kept mowed by the adjacent landowners and it is considered to be in the best interest of the general public to allow this practice to continue at those locations where substantial public use is made possible in part by the clearing and mowing. Each case has to be considered on a family household basis. All clearing and mowing activities will be covered by a permit, ENG Form 4264-R, and contain an added condition that "all lands covered by this permit will remain open at all times for use by the general public." The permittee will delineate the government property line in a clear, but unobtrusive manner approved by the Operations Project Manager and in accordance with SWLR 1130-2-48.

c. Use of Chemicals. Due to Bull Shoals Lake being a water supply reservoir, use of chemicals for vegetation modification by the public is not allowed.

d. Limbing and Trimming. Trimming, cutting, limbing or topping of trees is prohibited.

e. Removal of Natural Vegetation. Burning of limbs, driftwood, trash or debris is not allowed on public lands. This is in accordance with the fire codes of the Arkansas Department of Environmental Quality. Removal of leaf litter is prohibited except where authorized under a shoreline use permit. Only dead or diseased trees that pose a hazard to private dwellings and have been previously inspected and marked by the Operations Project Manager or authorized representative may be cut. Felled trees shall remain on project lands for wildlife habitat.

8-03. Access Paths. Pedestrian access paths approximately 6 feet or less in width may be constructed to the shoreline. The path must follow a meandering route to prevent erosion and to avoid the need for removal of the trees and vegetation. The use permit does not convey the right to construct any structure (steps, bridges, etc.) in connection with the path.

8-04. Landscaping. Requests for this type of shoreline improvement must be accompanied by a detailed or well described landscape plan. The plan will provide for better management of the area for the enhancement of wildlife propagation, preservation of the aesthetics, and prevention of erosion.

8-05. Conditions. Construction of paths and other shoreline improvements will be subject to the following requirements:

a. Only hand operated tools may be used. The use of heavy equipment such as tractors and bulldozers is not permitted.

b. Only dead or diseased trees, previously inspected by the Operations Project Manager or his representative, may be cut. Any felled trees shall remain from Government owned land for disposal. No burning by family households will be allowed on project lands.

c. Flowering trees or shrubs such as Dogwood, Redbud, etc., may not be cut, regardless of size.

d. Healthy trees, larger than 2 inches in diameter (measured at chest height), may not be cut. In certain cases, the Operations Project Manager may restrict the cutting of trees less than 2 inches in diameter if it is determined that it would create an erosion problem or similar adverse impact.

e. Trimming of trees to obtain a view is prohibited.

8-06. Erosion Control. All erosion control measures must be in accordance U.S. Army Corps of Engineers policy and the guidance as contained in SWLR 1130-2-48, Shoreline Erosion Control, Appendix J.

8-07. Boundary Line and Encroachments.

a. The boundary line of Bull Shoals Lake has been established and marked by the U.S. Army Corps of Engineers in accordance with the standard survey techniques using licensed surveyors. In areas where the distances between corners or witness trees is such that monuments or pins are not visible, white metal posts and monuments may have been placed by the U.S. Army Corps of Engineers to witness the boundary line. The painting over of witness trees on public property or the removal of witness posts or monuments is a violation of 36 CFR, Ch III, part 327.14. Violations of this nature will result in the issuance of a citation requiring appearance before a U.S. Magistrate.

b. Every year, subject to budget availability, the U.S. Army Corps of Engineers repaints witness trees and cuts back undergrowth along sections of the boundary line. The intent is to maintain a defined, recognizable line between private and government property around the project. However, due to the number of monuments and corner pins along the boundary line and the possibility they may have been disturbed or removed, the U.S. Army Corps of Engineers cannot guarantee the accuracy of these monuments. If a private need arises for the exact location of the common government/private property line, the adjacent property owner (at their own expense) should use licensed surveyors.

c. Adjoining property owners are encouraged to build permanent structures a sufficient distance back from the boundary line to allow for maintenance of the structure and reduce the possibility of an encroachment by the subsequent addition of decks, porches, steps, patios, extension of landscaping or backyard appearance, etc. Adjoining property owners should check deed restrictions and county ordinances for any building setback requirements.

d. Other than pedestrian access or general public recreation activities, any activity on public property not authorized by a Permit/Outgrant will be considered an encroachment, trespass, or degradation of public property and is a violation of the Rules and Regulations contained in 36 CFR, 327.14. Examples of these encroachments include, but are not limited to: unauthorized vegetation modification, limbing and cutting of trees, gardens, landscaping, etc.

8-08. Prohibited Facilities and Activities. The following facilities and activities are prohibited:

a. Any type of fixed pier or platform, either on the land or extending into the water from the shoreline.

b. Any type of piling or post driven into the lake bottom for the purpose of mooring or tying boats.

c. Any type of sewage or outfall structure.

d. Any type of channel, ditch, canal, or excavation, unless the excavation is done in conjunction with an approved erosion control structure or other approved facility.

e. Gardens and any type of lawn or landscape planting unless written approval has been received from the Operations Project Manager.

f. Burning on Government property without prior approval of the Operations Project Manager.

g. Any type of land form modification, construction, or other activity that changes the original or present condition of the land. This includes, but is not limited to beach construction, channel construction, bank terracing, cuts and fills, or road and trail construction. Erosion control structures authorized by a Department of the Army Permit and those activities covered under a Real Estate instrument are exempt.

h. Accumulation of garbage, trash, refuse, litter, or other similar personal items or materials.

i. Storage of boats, travel trailers, wood piles, or placement of other private items on public land are strictly prohibited. These items are subject to removal and impoundment by U.S. Army Corps of Engineers personnel.

8-9. Fees. An administration fee of \$10 will be made for shoreline use permits issued for vegetation modification (meandering footpath and fire protection only). The permits will be issued for a term of five years. No annual inspection fees will be charged for these permits. Fees collected for vegetation modification permits are non-refundable.

SECTION IX

PERMITS

9-01. Shoreline Use Permits. Shoreline use permits are issued for private floating recreation facilities, access paths, vegetation modification, and landscaping activities which do not in any way involve a disruption to or change in land form. All of these permits will be nontransferable. Upon sale or other transfer of the permitted facility or death of the permittee, the permit is null and void. A new permit may be issued to the new owner after an application has been made and administrative charges and inspection fees, when applicable, have been paid.

9-02. Department of the Army Permits. Activities such as dredging, construction of fixed structures, including fill and combination fixed floating structures, and the discharge of dredged or fill material in navigation waters will be permitted under conditions specified in permits issued under authority of Section 10, River and Harbor Act of 3 March 1899 (33 USC 403) and Section 404 of the Federal Water Pollution Control Act (33 USC 1344). Shoreline use permits will not be used under these circumstances.

9-03. Real Estate Instruments. All commercial development activities and all activities by family households which are not covered above and involve grade, cuts, fills, other changes in land form, or appropriate land based support facilities required for private floating facilities such as roads, drives, power line right of ways will be covered by a lease, license, or other outgrant.

SECTION X

OTHER LAND USES

10-01. Project Lands. Sanitary facilities within the developed parks consist of restrooms with masonry vault holding tanks, septic tanks and disposal fields, or sewage treatment plants. Marine sanitary dump stations with holding tanks are provided at five of the commercial docks on the lake. Sewage disposal methods and facility designs are in accordance with applicable State Department of Health and Environmental Protection Agency requirements. There are no sanitary landfills on the Bull Shoals Lake project.

10-02. Adjoining Lands. Septic tanks and other sanitary facilities constructed on adjoining private land are subject to inspection and approval by representatives of the appropriate State Department of Health. Any evidence that these facilities are not functioning properly is reported to the appropriate State Department of Health for investigation and corrective action.

SECTION XI

CONCLUSIONS AND RECOMMENDATION

11-01. Matters Not Addressed. Requests for activities not specifically addressed in the Shoreline Management Plan will be sent to the Chief, Operations Division, for review, coordination, approval, or referral to higher headquarters.

11-02. Conclusions. The shoreline management plan presented in this Appendix is considered to provide the greatest recreational benefit to all the public and to balance bona fide recreational needs against the physical limitations and aesthetic qualities of the lake and surrounding lands. The plan has taken into consideration both the present and anticipated recreational needs of the area.

11-03. Review. The Shoreline Management Plan presented in this Appendix is a flexible and working document. The Operations Project Manager will continually monitor the needs of the recreational users of the lake and recommend revisions that will minimize conflicts between various interests. Additional public meetings will be held in advance of recommending any major revision to this plan.

11-04. Recommendation. Approval of this plan is recommended.

CODE OF FEDERAL REGULATIONS

[Revised as of July 1, 1999]

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

Sec. 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 reserved. 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 Sec. 327.30(h).

(3) A Shoreline Management Plan, as described in Sec. 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 Sec. 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 Sec. 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 Sec. 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 Sec. 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 broad-based 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 Sec. 327.30(c)(1). The fee schedule will be published separately.

Appendix A to Sec. 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-R-E, 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 one-time 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 5" x 8" 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 Sec. 327.30--Application for Shoreline Use Permit

[Reserved]

Appendix C to Sec. 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 .
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 Sec. 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 Sec. 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 Sec. 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:

Sec. 327.**30** Shoreline Management on Civil Works Projects.

* * * * *

Regulation No.
1130-2-48

6 January 2003

Project Operations
SHORELINE MANAGEMENT AT CIVIL WORKS PROJECTS

1. Purpose. This regulation provides specific policies and procedures regarding shoreline management activities required on projects in the Little Rock District. Some project Shoreline Management Plans (SMP) may be inconsistent with this guidance; however those inconsistencies shall be corrected at the next project's SMP review/update.
2. Applicability. This regulation applies to all water resource development projects in the Little Rock District with approved Shoreline Management Plans. Additional guidance may be contained in the project's approved Shoreline Management Plan.
3. References.
 - a. Regulation, HQUSACE, CECW-OP-ON, May 2002, Title 36, Parks, Forest, and Public Property, Chapter III – US Army Corps of Engineers Part 327 – Rule and Regulations Governing Public Use of Water Resources Development Projects Administered by the Chief of Engineers.
 - b. Regulation, HQUSACE, CECW-OP-ON, 1 July 2001, 36 CFR 327.30, Shoreline Management on Civil Works Projects and listed as Appendix A.
 - c. Regulation, HQUSACE, CECW-OP-ON, 28 May 1999, ER 1130-2-406, Shoreline Management on Civil Works Projects, and listed as Appendix B.
 - d. Memorandum, 10 December 2001, Consolidated License/Permit Process, and listed as Appendix I.
 - e. Local Regulation, SWLR, 14 October 1999, SWLR 1130-2-43, Shoreline Erosion Control, and listed as Appendix J.

This regulation supersedes SWLDM 1130-2-33, dated 15 September 1992, and changes 1, 2, and 3, SWLDM 1130-2-35 dated 8 September 1993 and change 1 dated 29 May 1998, SWLR 1130-2-38, dated 22 September 1995, and change 1 dated 29 January 1999, SWLR 1130-2-43, dated 14 October 1999.

4. Policy.

a. Operations Managers will protect and manage the shoreline of the water resource development projects under their jurisdiction. They will promote the safe and healthful use of the shoreline by the public, while maintaining environmental safeguards to ensure a quality resource for future public use.

b. Shoreline Management Plans will be developed for Beaver, Bull Shoals, Dardanelle, Greers Ferry, Millwood, Norfolk, and Table Rock Lakes.

c. Current policy statements for Blue Mountain, Clearwater, DeQueen, Dierks, Gillham, Nimrod, and Ozark Lakes will be reviewed and any authorized shoreline uses addressed. Since there were no private floating facilities (boat docks) on these lakes as of 13 December 1974, none will be permitted in the future.

d. Policy statements will be developed for Navigation Pools 1, 2, 3, 4, 5, 6, 7, 8, 9, and 13 on the McClellan-Kerr Arkansas River Navigation System. Private shoreline uses will not be permitted on any of the lands owned in fee on these projects. Private uses of other portions of the shoreline of these projects may require a Section 10 or Section 404 Department of the Army Permit.

e. A family household may have a maximum of two slips in any boat dock (private or community) and may not own interest in more than one boat dock facility. A family household is defined as individuals living at the same address. Valid state boat registration will be necessary to verify slip needs. A family household may have only one of the five following items:

- (1) A permit for a private boat dock (single owner).
- (2) A permit for a mooring buoy.
- (3) Ownership of a slip(s) in a community dock (multiple owners).
- (4) A Real Estate license for a tramway.
- (5) A Real Estate outgrant for embayments.

f. The size, configuration, and anchoring plan for boat docks will be approved by the Operations Manager. The maximum size for boat docks will be 20 slips for safety reasons and to

assure maneuverability of the dock during periods of pool fluctuation. The maximum slip size in any dock shall not exceed 14 feet in width by 30 feet in length. Docks will be spaced a minimum of 100 feet apart. Existing docks larger than 20 slips will be grandfathered if safely maintained and shoreline is not needed for a higher purpose. The permit for a community dock will be issued to the person designated in an ownership register or similar document as the authorized representative for the slip owners of the dock. Valid boat registrations will be used to verify slip occupancy/ownership.

(1) Personal watercraft lifts and ride-on moorage devices shall be attached to the leeward (adjacent to the shoreline) side of the dock.

(2) Houseboats/vessels with marine sanitation devices (MSD) must be moored at commercial marinas. (MSDS have been required for vessels with installed toilets since 1980).

(3) Each Operations Manager shall identify areas and times for assembly, maintenance and dismantling of boat docks. Instructions shall be given to boat dock builders to use and clean those areas. Activities of this type will not interfere with the general public's use of these areas.

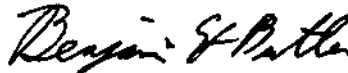
g. Adjacent landowners at Beaver, Bull Shoals, Lake Dardanelle, Greers Ferry, Millwood, Norfolk and Table Rock Lakes must obtain a permit from the Operations Manager prior to modifying the vegetative characteristics of project lands. Specific guidance is contained in the project's Shoreline Management Plan and listed in Conditions of Permit for Shoreline Improvements and Vegetation Modifications on Project Lands by Adjacent Landowners in the Little Rock District (Appendix C).

h. A Real Estate instrument must be obtained prior to installing electrical service on public property. All electrical facilities must meet the National Electrical Code (NEC), state and local codes. Underground electrical service is required; however, due to rocky terrain, soil conditions, and pool fluctuations this requirement may be impractical and other types of service may be permitted on a case-by-case basis. A certified electrician must sign and date two sets of plans indicating compliance with NEC, state and local codes. Once the service is installed, a certified electrician must complete the Electrical Certification Form (Appendix D). In those states where electricians are licensed, registered, or otherwise certified electrical facilities must be inspected and, a copy of the electrical certification (Appendix D) must be provided to the Operations Manager before a Shoreline Use Permit can be issued or renewed. In states where electricians are not licensed, registered, or otherwise certified, an electrical contractor may furnish the electrical certification form.

5. Shoreline Management Plans, Reviews and Revisions (Reference Appendix E)

6 Jan 03

6. Minimum Construction and Maintenance Requirements for Private Floating Facilities. (Reference Appendix F)
7. Roadways, Vehicular Paths, Turnarounds, Pedestrian Access, Parking Areas and Launching Ramps on Project Lands. (Reference Appendix G)
8. Management of Grandfathered Docks on Little Rock District Projects. (Reference Appendix H)
9. Consolidated License/Permit Process. (Reference Appendix I)
10. Shoreline Erosion Control. (Reference Appendix J)



BENJAMIN H. BUTLER

Colonel, EN

Commanding

10 Appendices

1. App A - 36 CFR 327.30 Shoreline Management on Civil Works Projects, revised 1 July 2001.
2. App B - ER 1130-2-406, Shoreline Management on Civil Works Projects, dated 31 October 1990, and change 1 dated 14 September 1992, and change 2 dated 28 May 1999.
3. App C - Conditions of Permit for Shoreline Improvements and Vegetation Modifications on Project Lands by Adjacent Landowners in the Little Rock District
4. App D - Electrical Certification - Sample Form
5. App E - Shoreline Management Plans, Review and Revisions
6. App F - Construction and Maintenance Requirements for Private Floating Facilities
7. App G - Roadways, Vehicular Paths, Turnarounds, Pedestrian Access, Parking Areas and Launching Ramps on Project Lands
8. App H - Grandfathered Dock Guidance
9. App I - Consolidated License/Permit Process
10. App J - SWLR 1130-2-43, Shoreline Erosion Control, 14 October 1999.

DISTRIBUTION A

APPENDIX A

Code of Federal Regulations
Title 36, Volume 3

[Code of Federal Regulations]
[Title 36, Volume 3]
[Revised as of July 1, 2001]
From the U.S. Government Printing
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[CITE: 36CFR327.30]

[Page 15-24]

TITLE 36--PARKS, FORESTS, AND
PUBLIC PROPERTY

CHAPTER III--CORPS OF
ENGINEERS, DEPARTMENT OF THE
ARMY

PART 327--RULES AND
REGULATIONS GOVERNING
PUBLIC USE OF WATER
RESOURCE DEVELOPMENT
PROJECTS ADMINISTERED BY THE
CHIEF OF ENGINEERS--Table of
Contents

**Sec. 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 Sec. 327.30(h).

(3) A Shoreline Management Plan, as described in Sec. 327.30(c), 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 Sec. 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 moorage 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 moorage 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.

6 Jan 03

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 Sec. 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 Sec. 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 Sec. 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 broad-based 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

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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 Sec. 327.30(c)(1). The fee schedule will be published separately.

Appendix A to Sec. 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-R-E, 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 one-time 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 5" x 8" 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 Sec. 327.30--
Application for Shoreline Use Permit
[Reserved]

Appendix C to Sec. 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

CECW-ON

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
Washington, D.C. 203 14-1000ER 1130-2-406
Change 2Regulation
No. 1130-2-406

28 May 1999

Project Operation
SHORELINE MANAGEMENT AT CIVIL WORKS PROJECTS


1. This change 2 to ER 1130-2-406, 3 1 October 1990, and change 1, 14 September 1992, revises the guidelines for special conditions on permits, Guideline 2.c.(9) of Appendix A and corrects dock and mooring buoy flotation standards, Condition 14 of Appendix C.

2. Substitute pages indicated below:

Appendix	Remove pages	Insert pages
A	A-3, A-4 and A-5	A-3 and A-4
C	C-3 and C-4	C-3 and C-4

3. File this change sheet in front of the publication for reference purposes.

FOR THE COMMANDER:



RUSSELL L. FUHRMAN
Major General, USA
Chief of Staff

CECW-ON

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
Washington, D. C. 20324-1000

ER 1130-2-406
Change 1

Regulation
No. 1130-2-406

14 September 1992

Project Operation
SHORELINE MANAGEMENT AT CIVIL WORKS PROJECTS

1. This change 1 to ER 1130-2-406, 31 October 1990, corrects dock and mooring buoy floatation standards, Condition 14 of Appendix C.

2. Substitute pages indicated below:

Appendix	Remove pages	Insert pages
C	C-3 and C-4	C-3 and C-4

3. File this change sheet in front of the publication for reference purposes.

FOR THE COMMANDER:


MILTON HUNTER
Colonel, Corps of Engineers
Chief of Staff

6 Jan 03

CECW-ON

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
Washington, D. C. 20314-1000

ER 1130-2-406

Regulation
No. 1130-2-406

31 October 1990

Project Operation
SHORELINE MANAGEMENT AT CIVIL WORKS PROJECTS

1. 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.
2. Applicability. This regulation is applicable to HQUSACE/OCE elements, major subordinate commands, districts, laboratories, and all field operating activities (FOA) with Civil Works responsibilities except when such application would result in an impingement upon existing Indian rights.
3. References.
 - a. Section 4, 1944 Flood Control Act, as amended (16 USC 460d).
 - b. The Rivers and Harbors Act of 1894, as amended and supplemented (33 USC 1).
 - c. Section 10, River and Harbor Act of 1899 (33 USC 403).
 - d. National Historic Preservation Act of 1966 (P.L. 89-665; 80 Stat. 915) as amended (16 U.S.C. 470 et seq.).
 - e. The National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.).
 - f. The Clean Water Act (33 U.S.C. 1344, et seq.).
 - g. The Water Resources Development Act of 1986 (P.L. 99-662).
 - h. 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."
 - i. Executive Order 12088 (13 Oct 78).
 - j. 33 CFR 320-330, "Regulatory Programs of the Corps of Engineers."
 - k. ER 1130-2-400, "Management of Natural Resources and Outdoor Recreation at Civil Works Water Resource Projects."

This Regulation Supersedes ER 1130-2-406 dated 13 Dec 74

6 Jan 03

ER 1130-2-406

31 Oct 90

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

4. Policy.

a. 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.

b. 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 paragraph 8.

c. A Shoreline Management Plan, as described in paragraph 5, 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 affects 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 paragraph 5f. Except to honor written commitments made prior to 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.

d. 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.

e. 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.

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

5. Shoreline Management Plan.

a. General. The policies outlined in paragraph 4 will be implemented through preparation of Shoreline Management Plans, where private shoreline use is allowed.

b. 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.

c. 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.

d. Scope and Format. The Shoreline Management Plan will consist of a map showing the shoreline allocated to the uses listed in paragraph 5.e., related rules and regulations, a

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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.

e. Shoreline Allocation. The entire shoreline will be allocated within the classifications below and delineated on a map. Any action, within the context of this regulation, 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 compliment, 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.

(1) Limited Development Areas. Limited Development Areas are those areas in which private facilities and/or activities may be allowed consistent with paragraph 8 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.

(2) 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"

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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.

(3) 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 affect on water quality will also be considered.

(4) 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.

f. 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 broad-based 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

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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.

g. **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.

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

a. **Shoreline Use Permits.**

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

(2) 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.

(3) 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.

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

(5) 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.

(6) 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.

b. 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.

c. 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.

7. 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.

8. 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.

a. Section 6 of Public Law 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.

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b. In accordance with Section 1134(d) of Public Law 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:

(1) such property is maintained in a usable and safe condition;

(2) such property does not occasion a threat to life or property;

(3) and, the holder of the permit is in substantial compliance with the existing permit.

c. 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.

9. 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.

10. Density of Development. The density of private floating 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 facilities 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

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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.

11. Permit Fees. Fees associated with the Shoreline Use Permits shall be paid prior to issuing the permit in accordance with the provisions of Section 4 of the 1944 Flood Control Act. The fee schedule will be published separately.

FOR THE COMMANDER:

4 APPENDICES

- APP A - Guidelines for Granting
Shoreline Use Permits
- APP B - Application for Shoreline
Use Permit
- APP C - Shoreline Use Permit
Conditions
- APP D - Permit (Sample)



ALBERT J. GENETTI, JR.
Colonel, Corps of Engineers
Chief of Staff

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APPENDIX A

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

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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 also shall 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-R-E, 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 for 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, are allowed only in those areas designated as Limited Development Areas or Protected Shoreline Areas. An existing (as of February 1, 1989) 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.

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(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 one-time 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 effect 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 Part 327.20.

5. Posting of Permit Number. Each district will procure 5" x 8" 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 them apart from other facilities or activities.

APPENDIX B

APPLICATION FOR SHORELINE USE PERMIT	
(ER 1130-2-406)	
(See reverse side for Privacy Act Statement)	
Print or type information requested below. Submit two completed and original signed copies of this application with two complete/sets of plans and specifications to the Resource Manager.	
PROJECT	DATE OF APPLICATION
NAME OF APPLICANT (and Spouse if applicable)	TELEPHONE, AREA CODE AND NUMBER
STREET	CITY, STATE, ZIP CODE
TYPE OF FACILITY (Check one or more blocks as appropriate) <input type="checkbox"/> NEW <input type="checkbox"/> RENEWAL <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p style="text-align: center;"><u>WATER-BASE</u></p> <p><input type="checkbox"/> SINGLE-OWNER DOCK <input type="checkbox"/> SKI JUMP</p> <p><input type="checkbox"/> COMMUNITY DOCK <input type="checkbox"/> SKI COURSE</p> <p><input type="checkbox"/> MOORING BUOY <input type="checkbox"/> SWIM FLOAT</p> <p><input type="checkbox"/> MOORING POST <input type="checkbox"/> DUCK BLIND</p> <p><input type="checkbox"/> OTHER (Describe) _____</p> </div> <div style="width: 45%;"> <p style="text-align: center;"><u>LAND-BASE</u></p> <p><input type="checkbox"/> UNDERBRUSHING <input type="checkbox"/> MOWING</p> <p><input type="checkbox"/> PLANT / LANDSCAPING <input type="checkbox"/> FOOT PATH</p> <p><input type="checkbox"/> EROSION CONTROL</p> </div> </div>	
BRIEF DESCRIPTION OF FACILITY LOCATION, STATE LICENSE NUMBER(S) OF BOAT(S) TO BE DUCKED (if this application is for a boat mooring facility) OR DEVELOPMENT (if this application is for land use): <div style="text-align: center; padding: 20px;"> <p>FOR ILLUSTRATION PURPOSES ONLY</p> <p>(Local reproduction authorized - blank masters available from local FMO)</p> </div>	
THE FOLLOWING ALTERNATE PARTY WILL BE READILY AVAILABLE ON SHORT-NOTICE CALL AND RESPONSIBLE FOR PROVIDING ANY NEEDED SURVEILLANCE OF THE STRUCTURE IN MY ABSENCE.	
NAME	TELEPHONE, AREA CODE AND NUMBER
STREET	CITY, STATE, ZIP CODE
I UNDERSTAND AND AGREE TO THE CONDITIONS OF THE PERMIT FOR SHORELINE USE. TWO COMPLETE SETS OF THE PLANS AND SPECIFICATIONS, INCLUDING SITE LOCATION AND LAYOUT PLAN, FOR THE PROPOSED ACTIVITY, STRUCTURE OR ANCHORAGE SYSTEM ARE ENCLOSED.	
_____ (Date)	_____ (Signature of Applicant)
_____ (Date)	_____ (Signature of Witness)
(DO NOT WRITE BELOW THIS LINE)	
PERMIT	
SHORELINE PERMIT NO.	DATE ISSUED
	DATE EXPIRES (Date)
THE APPLICANT IS HEREBY GRANTED A PERMIT TO CONSTRUCT AND/OR MAINTAIN AND USE A FLOATING RECREATION FACILITY OR OTHER DEVELOPMENT AS SHOWN ON THE ATTACHED PLANS SUBJECT TO THE RULES AND REGULATIONS OF THE CORPS OF ENGINEERS ON WATERS UNDER THE CONTROL OF THE U.S. ARMY, CORPS OF ENGINEERS. THE PERMITTEE SHALL ADHERE TO THE CONDITIONS FOR SHORELINE USE SET FORTH IN APPENDIX C OF ER 1130-2-406.	
_____ (Date)	_____ (Signature of Resource Manager)

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY	The Rivers and Harbors Act of 1894 as amended and supplemented (33 U.S.C. 1)
PRINCIPAL PURPOSE	Provide the Corps of Engineers with information for contact of the responsible person applying for and/or receiving a Shoreline Management permit. The description of the activity is needed to assure conditions of the permit requirements are met.
ROUTINE USES	The information on this application is used in considering the issuance of shoreline management permits on Corps of Engineers projects. This information is collected and maintained at project offices and is used a basis for issuing permits. It provides auditing information for this program which has financial involvement.
DISCLOSURE	Disclosure of information is voluntary. However, failure to provide the requested information will preclude the issuance of a Shoreline Management permit.

APPENDIX C
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

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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 permitter 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

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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 condition 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 permitter 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
Permit (Sample)

Permit 01234 Expires 30 Nov. 1987

**This Permit is Non-Transferrable
and May be Revoked at Any Time**



**US Army Corps
of Engineers**

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APPENDIX C

CONDITIONS OF PERMIT FOR SHORELINE IMPROVEMENTS AND VEGETATION MODIFICATION ON PROJECT LANDS BY ADJACENT LANDOWNERS

1. **Purpose.** This appendix provides specific guidance and conditions of shoreline use permits for shoreline improvements and vegetation modifications on project lands by adjacent landowners in the Little Rock District.
2. **Applicability.** This appendix applies to all projects administering the provisions of approved Shoreline Management Plans in the Little Rock District.
3. **General Requirements.** Adjacent landowners must obtain a Shoreline Use Permit from the Operations Manager prior to removing vegetation, planting native trees or shrubs, underbrushing, mowing or making any other alterations to public lands. Permits of any type will not be granted to individuals for use of lands allocated as public recreation areas, including their buffers, or on lands allocated as prohibited access areas. No work will be performed outside the limits of the permit area as shown on the drawing attached to Shoreline Use Permit (ENG FORM 4264-R).
4. **Conditions of Permit.** The following conditions will apply to all requests from adjacent landowners to perform shoreline improvements or vegetation modifications on public land adjoining their private property. The purpose of these conditions are to preserve the protective vegetative buffer between private property and project waters, enhance wildlife propagation, conserve the aesthetic value, prevent erosion, and degradation of the public shoreline.
 - a. **General Shoreline Use Permit Conditions.** The following conditions are applicable to all shoreline use permits in the Little Rock District:
 1. The permittee shall avoid creating the appearance of private exclusive use of public property. All lands covered by this permit will remain open at all times for use by the general public. The placement of personal property on public lands is prohibited without written permission from the Operations Manager.
 2. The permittee will delineate the Government property line in a clear but unobtrusive manner and be approved by the Operations Manager. Methods of delineation may include wooden stakes, fencing, 4x4 timbers, rocks or approved plantings. Failure to comply with the delineation will be grounds for immediate revocation of the permit and forfeiture of any paid fees.
 3. The permittee may use only hand-operated tools and non-commercial lawnmowers. The use of heavy equipment, such as tractors and bulldozers, is not permitted.

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4. The permittee may only cut dead or diseased trees previously inspected and marked by the Operations Manager. These trees must pose a threat to personal property or create a safety hazard to be considered for removal. Felled trees shall remain on project lands for wildlife habitat unless approved by the Operations Manager for removal.

5. No burning will be allowed on project lands by adjacent landowners.

6. Flowering trees or shrubs, such as dogwood and redbud, may not be cut regardless of size.

7. Trees larger than two inches in diameter at chest height (4.5') may not be cut. The Operations Manager may restrict the cutting of trees less than two inches. Seedlings may be protected to assure future regeneration of canopy trees.

8. Trimming, cutting, limbing, or topping of trees is prohibited.

9. Written requests regarding natural resource management activities for the shoreline must be accompanied by a detailed and well-described plan utilizing native vegetation. It is recommended that a plan be prepared by a natural resources professional. If the Operations Manager approves the plan, a shoreline use permit may be issued using ENG FORM 4264-R.

b. Paths and Shoreline Improvements. Construction of paths and other shoreline improvements will be subject to the following conditions:

(1) Pedestrian access paths shall not exceed six feet in width and will be authorized only for foot traffic. The path must follow a meandering route to prevent erosion and avoid the need for removal of trees and vegetation. Drawings of the path by a park ranger will serve to illustrate the beginning and the end of the path.

(2) Gravel or natural materials may be used on the pathway only to prevent or control erosion.

(3) The permit does not convey the right to construct any structures (steps, bridges, landscape lighting, light poles, etc.) in connection with the path.

c. Vegetation Modification. Vegetation modifications will be subject to the following conditions:

(1) The limits of mowing or underbrushing will be dependant upon the proximity of habitable structures to the Government boundary and other private boundaries. Mowing limits will be measured from the foundation of the habitable structure. Decks, porches, or outbuildings are not considered a part of the habitable structure. The actual limits of any vegetation

modification will be determined by the Operations Manager and clearly defined and illustrated on a drawing by a park ranger and attached to ENG FORM 4264-R.

(2) The maximum allowable limits for vegetation modification are contained in the project's approved Shoreline Management Plan. The Operations Manager may restrict the maximum limit if adverse impacts may result.

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APPENDIX D

CERTIFICATE OF ELECTRICAL INSPECTION
(SAMPLE)

This is to certify that the electrical facilities on and in conjunction with dock number _____ on _____ Lake were inspected this _____ day of _____, 20____, and to the best of my knowledge, they are in compliance with the current requirements of the National Electrical Code. This inspection is solely for the Little Rock District, Corps of Engineers, PO Box 867, Little Rock, Arkansas 72203-0867.

This inspection is not applicable to any electrical changes (additions or deletions) to the above facilities after the date of this inspection.

RESULTS OF INSPECTION:

DESCRIPTION OF REPAIRS MADE:

Name of Electrician or
Electrical Contractor (print)

Inspector's Name (print)

Telephone Number

Inspector's License Number

Inspector's Signature

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APPENDIX E

SHORELINE MANAGEMENT PLANS, REVIEWS AND REVISIONS

1. Purpose. This appendix provides specific guidance and procedures for periodic reviews and updates of Shoreline Management Plans for Little Rock District projects.

2. Applicability. This appendix applies to all projects administering the provisions of approved Shoreline Management Plans in the Little Rock District.

3. Shoreline Management Plan.

a. Preparation and Approval. A Shoreline Management Plan will be prepared for each project where private floating facilities (boat docks) and/or other private shoreline uses are permitted. The plan will be prepared as a separate document, and it will become a part of the Operational Management Plan (OMP) after approval by the Commander, Southwestern Division. 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.

b. 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.

c. Matters Not Addressed. Requests for activities not specifically addressed in the Shoreline Management Plan will be sent to the Chief, Operations Division, for review, coordination, approval, or referral to higher headquarters.

d. Shoreline Allocation. 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. The classifications will be delineated on the "official project master map" conspicuously displayed or readily available for viewing at the project office. No changes will be made to the official project master map, except through the formal updating process. The entire shoreline will be allocated within one of the following classifications:

(1) Limited Development Areas. These areas are shown in red on the shoreline allocation maps. Boat docks and/or activities including vegetation modification and foot-path construction are allowed in these areas.

(2) Public Recreation Areas. Public recreation areas and adjoining buffer areas are shown in green on the shoreline allocation maps. Private shoreline use facilities and/or activities are not

permitted within designated or recreation areas or adjoining buffer areas.

(3) Protected Shoreline Areas. The shoreline allocation maps do not designate these areas with a color code. Shoreline Use Permits will not be issued for boat docks in these areas. Vegetation modification and foot-path construction may be permitted in these areas. The Operations Manager must determine that the requested land use will not adversely impact the environment or physical characteristics of the area prior to issuing the shoreline use permit. Additional areas may be designated for aesthetics values as "Very High Scenic Integrity Protected Areas" which prohibit the placement of boat docks. These areas are shown in light purple on the shoreline allocation maps.

(4) Prohibited Access Areas. Prohibited access areas are shown in blue on the shoreline allocation maps. No shoreline use permits will be issued in Prohibited Access Areas. These areas typically include hazardous zones near dams, spillways, hydroelectric power stations, or water intake structures. Public access is not allowed in these areas for health, safety or security reasons.

e. Public Participation in Plan Formulation. Public participation will be an integral part of the development and updating process for Shoreline Management Plans.

f. 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. The Operation Managers will budget for review/update. Complete reviews/updates may be subject to the availability of funding. The District Engineer may approve minor administrative revisions to the plan when the revisions are consistent with 36 CFR 327.30 or ER 1130-2-406. Addition and/or deletion of limited development areas are not minor revisions. Revisions of this nature require public involvement and approval by the Commander, Southwestern Division.

(1) The Operations Manager will annually assess the need to revise or update the shoreline management plan. This review will generally be scheduled in January or February and may serve as the 5-year review/update. The assessment will consider any revision to the District's operating policy on shoreline management, changes in recreational use patterns on the project, amount of available Limited Development Areas, and other pertinent shoreline factors.

(2) Proposals and schedules for reviewing shoreline management plans will be maintained by the Chief, Natural Resources Management Section.

(3) Boat dock rezoning requests for additional Limited Development Areas (LDA) will not be considered or accepted until all current LDA's at that project are utilized to the maximum extent permitted by 36 CFR 327.30. These requests will only be considered or accepted during shoreline management plan updates/reviews. Any project that had previously accepted boat dock rezoning requests, prior to the implementation of this policy, will be allowed to review

those requests at the next update unless prohibited by current SMP. Any approval of these requests will require formal updating of the approved plan. Boat dock rezoning requests will not be permitted to accommodate developers/real estate speculative property owners, but rather geared towards individual or group owned (community docks) needs. A request for rezoning based on a developers intent to enhance the value of existing property including speculation is not based on existing individual needs and, accordingly, is not in the best interest of the public. Boat dock rezoning requests will not be permitted for the sole purpose of removing a boat from a commercial marina. The formal updating process including public involvement and approval by the Commander, Southwestern Division will be required to implement these requests. There may be a moratorium on accepting or processing other shoreline use permit applications during these processes. An individual may submit only ONE rezoning request for consideration during a shoreline management plan review. The rezoning applicant must meet the criteria for obtaining a boat dock and have legal access to the shoreline prior to requesting rezoning. If changes of shoreline allocations are proposed as a part of the review, an Environmental Assessment (EA) will be required as a minimum to comply with National Environmental Policy Act (NEPA) documentation.

(4) The relocation of existing Limited Development Areas (LDA) may be considered only when a family household has ownership of the contiguous adjacent private property, and the request for relocation is within the same boundaries of said property. The LDA may not be relocated to an area on the project outside of the contiguous property identified by the Operation Manager (i.e., if a adjacent landowner has ownership of private property that adjoins a cove (cove a), and ownership of another parcel of private property at a different cove (cove b) on the project, the relocation of the LDA cannot be moved from (cove a) to an area in (cove b). The requested LDA cannot be increased/decreased from the original length of shoreline allocated as LDA as indicated on the project shoreline allocations map. The relocated LDA must be move in its entirety, no portions of a zone may be relocated. The applicant will be required to have an Environmental Assessment (EA) conducted in accordance with National Environmental Policy Act (NEPA) guidance to determine environmental impacts. Also, the applicant will be responsible for funding costs and coordination with the Planning, Environmental, and Regulatory Division to assure adequate environmental documentation. If any adverse impacts are identified in the EA, the request will be denied. This type of request may be accepted outside the formal review/update. It must be coordinated and approved by the Chief, Operations Division.

(5) Purported errors or mistakes in shoreline allocations or plan provisions will be investigated and resolved promptly by the Operations Manager. Based on the findings and recommendations of the Operations Manager, the District's Natural Resources Management Section staff will correct the situation by submitting a supplement to the Commander, Southwestern Division for approval, and notify applicants in writing of the findings of the investigation and final decision.

(6) The Operations Manager may deny any shoreline use requests without further investigation that are clearly outside the scope and intent of 36 CFR 327.30 or ER 1130-2-406

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(Examples could include rezoning prohibited areas for private shoreline uses or designating a limited development area within a park or park buffer area).

(7) Shoreline use decisions may be appealed based on evidence of an administrative error to supervisory levels above that of the original decision. The appeal process will be afforded to individuals petitioning for shoreline use. Appeals may be forwarded to the Chief, Operations Division for a final decision. To request such an administrative review, an individual must submit a written request for action within ninety (90) days of the decision. The request should be accompanied by appropriate supporting documentation (letter, maps, diagrams, copies of correspondence, doctor's letters, etc., and mailed to Commander, Little Rock District, U.S. Army Corps of Engineers, ATTN: Chief, Operations Division, P.O. Box 867, Little Rock, Arkansas 72203-0867.

4. Opportunities for Public Participation. The District Engineer will ensure public participation to the maximum practicable extent in the Shoreline Management Plan formulation, preparation and subsequent revisions. The Operations Manager will solicit public input by hosting public meetings, group workshops, or open houses at the project office or at convenient locations in the vicinity of the project.

a. The Operations Manager will make necessary arrangements and will provide personnel necessary to conduct the workshops and/or open houses. These events should be scheduled mid-week and extend over several convenient hours to maximize opportunities for public participation. Representatives of the District Office will be invited to attend and participate.

b. The more formal setting of a public meeting may be required for consideration of more controversial issues. The Operations Manager will make necessary arrangements for the meeting place, and the meeting would be conducted by the District Engineer or a member of his staff. Special rules of procedure are applicable to public meetings.

c. Public involvement opportunities will also allow for a 30-day period for receiving written public comments regarding the plan or its revisions.

5. Public Notification Responsibilities.

a. The District Engineer or his authorized representative will invite congressional representatives to participate in public involvement sessions during the review and update. These invitations will precede any notice made through the media to the general public.

b. The media will be used extensively to notify the public of opportunities to participate in the shoreline management plan review and updating process. Public Affairs Office will notify the general public through media releases to applicable state-wide and local newspaper, television and radio outlets. All media releases on the subject will be coordinated with Public

Affairs Office, Chief, Operations Division, and the Chief, Natural Resources Management Section.

6. Submittal and Approval Procedures.

a. The Operations Manager will prepare the updated shoreline management plan. The updated plan and supporting documentation will be sent to the Chief, Operations Division, for review and coordination with Natural Resources Management, Office of Counsel, and Planning, Environmental, and Regulatory elements of the District.

b. The District Engineer or his authorized representative will submit the updated plan to the Commander, Southwestern Division for review and approval.

c. Upon approval of the plan, the general public will be notified. No additional public involvement will be required unless major changes were made as a result of the approval process.

7. Timeline for Reviewing and Updating.

T-90 (days)	Submit update request and schedule for approval.
T-80	Receive District Office approval.
T-15	Notify Congressional interests of review/update.
T-10	Notify general public through media.
T	Begin review process and public comments on shoreline management plan for the project.
T+30	Announce public workshop opportunity and comment period.
T+90	Close public comment period.
T+120	Evaluate comments, formulate updated plan and submit recommendation to District Office staff for review and approval.
T+210	Prepare Environment Assessment and supporting Environmental Documentation (if applicable)
T+280	Complete District Office coordination and submit updated plan or supplement to SWD for review and approval.

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- T+300 Receive SWD approval or special instructions for implementation.
- T+320 Notify Congressional interests of approval.
- T+340 Notify general public of approval.
- T+360 Fully implement provisions of approved updated plan or supplement.

APPENDIX F

MINIMUM CONSTRUCTION AND MAINTENANCE REQUIREMENTS FOR PRIVATE FLOATING FACILITIES

1. General. This appendix is designed to assist the applicant and dock permittee in constructing a safe, well-maintained private dock on projects within the Little Rock District.

2. General Requirements.

a. The mooring location for a boat dock must be approved by the Operations Manager prior to the construction. Each applicant must furnish two sets of plans for the dock, drawn to an appropriate scale, for review and approval by the Operations Manager prior to starting work. The plans must be stamped and signed by a registered Professional Engineer stating that the plans and specifications meet or exceed the minimum construction and maintenance requirements for private floating facilities.

b. The facility will be subject to periodic inspection by the Operations Manager during construction and/or assembly. No deviation or changes from approved plans will be permitted without prior written approval of the Operations Manager. Upon completion, all docks placed or operated on the project are subject to periodic inspection by the Operations Manager. If the inspection reveals conditions that make the dock unsafe from a safety, navigation, or other standpoint, such conditions must be corrected within the time period specified by the Operations Manager.

c. Additional requirements may be specified on the (ENG FORM 4264-R) and/or in the Shoreline Management Plan for the project.

3. Design Criteria.

a. 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.

b. Flotation.

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

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

(3) Adequate flotation must be provided to maintain the substructure a minimum of 8 inches above the water's surface.

c. 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.

d. Anchorage. An anchorage system shall provide secure mooring of the private floating facility. Anchorage system utilizing 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. Minimum requirements for anchor cables: 3/8 inch steel cable. Galvanized and/or stainless steel cable of same size or larger may be used.

e. Main Dock Structure and Walkways (access to main dock structure). Main walkways shall be a minimum of 3 feet and a maximum of 6 feet in width.

f. Construction Materials.

(1) The entire dock 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.

g. Handrails.

(1) Handrails will be provided on at least one side of the walkway leading to the dock and perimeter areas of the dock. Gates or safety chains may be used in areas on the perimeter of the dock where frequent loading/unloading takes place. No gaps wider than 4 feet should be present.

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

(3) Hand rails 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.

h. Electrical.

(1) A Real Estate instrument must be obtained prior to installing service on public property. All electrical facilities must meet the National Electrical Code (NEC), state and local codes. Underground electrical service is required; however, due to rocky terrain, soil conditions, and pool fluctuations this requirement may be impractical and other types of service may be permitted on a case-by-case basis. A certified electrician must sign and date two sets of plans indicating compliance with NEC, state and local codes. Once the service is installed, a certified electrician must complete the Electrical Certification Form (Appendix D). In those states where electricians are licensed, registered, or otherwise certified, electrical facilities must be inspected, and a copy of the electrical certification (Appendix D) must be provided to the Operations Manager before a Shoreline Use Permit can be issued or renewed. In states where electricians are not licensed, registered, or otherwise certified, an electrical contractor may furnish the electrical certification form.

(2) Temporary Power Service Requirements. During the construction or assembly of the dock, three wire grounding extension cords may be used to provide temporary electrical service to the dock-mooring site. Extension cords will be kept out of reach of pedestrian traffic, and they will be removed when not in use or fully supervised by the dock owner/builder. Extension cords may not be used on the dock or as a source of electricity for docks once constructed and installed.

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APPENDIX G

ROADWAYS, VEHICULAR PATHS, TURNAROUNDS, PEDESTRIAN ACCESS, PARKING AREAS AND LAUNCHING RAMPS ON PROJECT LANDS

1. **General.** The purpose of this appendix is to establish consistent, district-wide policy for evaluating non-concessionaire requests for roads, vehicular paths, turnarounds, pedestrian access, parking and launching ramps on public lands. This does not include facilities in leased areas.
2. **Conditions.** The following are conditions for all facilities constructed on public lands:
 - a. Prior to approval of any facility, the applicant must furnish complete plans of construction details indicating a layout and material quantities equal to the approved minimum design standards, if any.
 - b. Also required is a statement that the use of the facilities will be open to the general public without charge.
 - c. A real estate instrument (if required) must be obtained prior to construction.
3. **Policy for Roads, Turnarounds, and Parking Areas.**
 - a. Use of Park Roads. Road access into the interior road system of a park for any purpose is prohibited.
 - b. Construction of roads, turnarounds, and parking areas on fee-owned Civil Works lands will be considered only when:
 - (1) Requested by a Government entity, and,
 - (2) No other alternative exists on privately owned lands, and,
 - (3) The use will not interfere with project purposes and is compatible with the "limited development area" designation in the shoreline management plan, and,
 - (4) The use is considered an integral part of a boat-launching ramp or fulfills a critical public need such as access across public lands for roads and highways, and,
 - (5) The road is routed to minimize impacts to the natural and cultural resources. This includes minimizing cut and fill, avoiding removal of 3-inch or greater trees (diameter measured at chest height – 4.5 feet), and consideration of other scenic or cultural resources. All

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construction activities will be contained within the road right-of-way. If additional area is needed for material or equipment storage, private property will be used. If the above condition cannot be met, the applicant may be requested to prepare an environmental assessment of the activity. In all cases, a vegetative plan will be provided. Other restoration or mitigation plans may be required on a case-by-case basis, and,

(6) Public lands are not severed and isolated rendering them too small for beneficial uses.

4. Policy for Launch Ramps. In addition to the policy above, request for launch ramps on public lands will be considered only when:

- a. Requested by a Government entity, and,
- b. Access to the facility is by public road or is guaranteed by legally dedicated right of access through private property, and,
- c. Geographic location is determined by the Operations Manager and will be no less than 3 shoreline miles from the nearest public ramp at conservation pool, and,
- d. The launch ramp is constructed as a part of the completed complex including road and parking.
- e. Consideration may be made to allow a launch ramp less than 3 shoreline miles from the nearest public ramp providing the activity is for a dry storage facility and will not have any adverse environmental impacts or result in the reduction of limited development areas.

5. Policy for Vehicular Paths. Requests for vehicular paths permitting the limited use by non-street legal, motorized and wheeled devices and equipment for personal transportation will be considered for individuals with limiting health conditions on a case-by-case basis. All such "limiting health conditions" waivers are non-transferable and subject to cancellation because of misuse or environmental abuse.

6. Policy for Pedestrian Access for Stairs/Steps. The standards of the shoreline management plan for meandering footpaths will apply to all aspects of shoreline access.

- a. Request for stairs/steps on public lands will be considered only when:
 - (1) They are required to provide access to a private/community dock or over steep and/or rocky terrain with slopes exceeding 20 percent, and,
 - (2) No other access is available within 100 feet of the closest point to the requested location.

b. Stairs/Steps on public lands.

(1) The top of the steps should be a minimum of 10 inches in length, a maximum of 6 feet wide, and risers should be between 5-8 inches high.

(2) Stairs will only be permitted in existing limited development areas to provide access to private or community docks when the terrain is too steep or unstable for the placement of steps or walkways. Stairs must blend in with the natural environment to be minimally intrusive (this could require staining and/or painting). Brightly painted or otherwise visually conspicuous facilities will not be permitted.

(3) Stairs shall be securely anchored and made of wood, metal, or native materials. Ladders may be permitted as a means of temporary access while stairs are under construction (maximum of 30 days after approval to install the stairs).

(4) Handrails are required on stairs, and may be allowed on steps. Handrails if constructed, shall have a top rail at 42 inches in height and a guardrail located 22 inches in height below the top rail. Handrails must be structurally sound, maintained in a state of good repairs and must withstand a load of at least 200 pounds applied in any direction at any point with a minimum of deflection.

7. Liability Disclaimer. The Corps of Engineers, the US Army, and the Federal Government refuse all liability and under no conditions assume any responsibility whatsoever for the use of stairs, steps or meandering pathways placed on Federal lands by private individuals. Said use will be solely at the discretion and risk of the individual.

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APPENDIX H

MANAGEMENT OF GRANDFATHERED DOCKS ON LITTLE ROCK DISTRICT PROJECTS

1. General. This appendix establishes district-wide operational procedures involving the management of grandfathered docks in the Little Rock District.

2. Policy for Grandfathered Docks.

a. Definition. A grandfathered dock is a private floating facility that has once been authorized by a Lakeshore or Shoreline Management Use Permit or otherwise a prior written US Army Corps of Engineers commitment.

b. Policy.

(1) Section 6 of Public Law 97-140 provides that no lawfully installed docks or appurtenant structures shall be required to be removed prior to 31 December 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 29 December 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 Public Law 99-662, any houseboat, boathouse, floating cabin, or lawfully installed dock or appurtenant structures in place under a valid Shoreline Use Permit as of 17 November 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 31 December 1989, if it meets the following conditions:

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

(b) such property does not occasion a threat to life or property, and

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

c. If the dock does not meet the above three conditions, it must be removed from the lake. Special provisions also apply to the removal of these facilities lawfully installed and under permit as of 29 December 1981, or 17 November 1986. Procedures regarding removal of these facilities as provided for in PL 97-140 and PL 99-662 are outlined in paragraph 8 of ER 1130-2-406.

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d. Grandfathered docks are permitted under special provisions and will be identified in a manner that sets them apart from other dock facilities. All such grandfathered docks will be identified with a green permit tag or an "X" preceding the permit number on regular permits to designate being allowed under special conditions.

e. These grandfathered dock permits are non-transferable. A new permit will be issued upon change in ownership.

f. Deviations or changes from original approved boat dock plans may be considered and are subject to the same conditions of all other permitted boat docks, with the exception of:

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

(2) Boat dock slips may be enlarged to accommodate the current permittees boat. However, the enlargement cannot exceed a maximum width of 14 feet per slip and length of 30 feet. Boat dock slips may not be enlarged for the sole purpose of removing a boat from an approved commercial marina slip.

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

g. Anytime structural changes of the dock are required, the dock plans must be brought up to current standards and approved by the Operations Manager.

h. Permitted grandfathered docks that are damaged or destroyed due to fire, wind, ice, snow or other natural causes may be replaced in kind. Boat dock plans must be approved by the Operations Manager.

APPENDIX I

CONSOLIDATED LICENSE/PERMIT PROCESS

1. **Purpose.** The purpose of this standard operating procedure (SOP) is to provide consolidated permit processing related to shoreline residential amenities within the authority of the project's approved Shoreline Management Plan (SMP).
2. **Applicability.** This SOP applies to all lake projects in the Little Rock District having approved shoreline management plans under Title 36 CFR.
3. **References:**
 - a. SWLOM 1130-2-33 dated 15 Sep 92, subject: Shoreline Management at Civil Works Projects.
 - b. SWLOM 1130-2-35 dated 19 May 98, subject: Shoreline Management Plan Review and Revisions.
 - c. SWLR 1130-2-38, dated 22 Sep 95 with change one dated 29 Jan 99, subject: Roadways, Vehicular Paths, Turnarounds, Pedestrian Access, Parking Areas and Launching Ramps on Project Lands.
 - d. Section 10, River and Harbors Act of 1899.
 - e. Section 404 of the Clean Water Act of 1972.
4. **Objective.** This process will provide for expediting permits/licenses and improved customer services. Shoreline use permits and new residential amenity requests are to be consolidated and processed at the project office.
5. **SOP for Consolidated Permit Process.**
 - a. **Guidance.** Requests for new residential amenities receiving positive consideration are limited to the following items as defined in reference 3c: stairs, steps, and paved pathways. Also included are water lines, and electric lines to private floating facilities and other electrical amenities. All other requests will be forwarded to the Chief, Operations Division, for review and coordination as described in reference 3c. Approved requests will adhere to environmental standards contained in reference 3a. A performance measure is established that requires one-stop permit actions to be completed in one visit after field investigations, forms preparation and other needed research is accomplished.

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b. Review Process. New requests for residential amenities will be received by the Operations Manager or authorized representative(s). Each request will be thoroughly reviewed for applicability to guidance and references. Approved requests will meet Real Estate and Regulatory criteria in preparation for issuance of license and permit. The applicant will fully understand license and permit conditions before signing documents. Funds will be collected.

c. Documentation Process.

(1) Shoreline Use Permits. A copy of ENG FORM 4264-R will be completed as shown in Appendix A. The requested facility/facilities or activities will be indicated on the form. Fees collected will be in accordance with the schedule contained in the appendix.

(2) Real Estate Instruments. Redelelegation of authority to issue licenses to Operations Managers and Lake Managers is contained in Appendix B. Delegations will be provided to each Operations Manager and Lake Manager by name. The delegation will be for issuing and executing new licenses only. Instruction for issuing licenses at the project office may also be found. Upon approval, an original executed copy of the issued licenses with payment will be transmitted daily to Chief, Real Estate Division, for data entry to the Real Estate Management Information System (REMIS) and Corps of Engineers Financial Management System (CEFMS) for collection of funds. The draft license document will be made available in a shared local area network file.

(3) Regulatory Permits. The project office procedure for issuing Regulatory General Permits for steps, stairs, paved pathways, and water lines should be as follows:

(a) A local numbering system will be developed, maintained and numbers will be affixed to documents provided to Chief, Regulatory Branch.

(b) Each approval for steps, stairs, paved paths or water lines will include the appropriate regulatory paragraphs as indicated in Appendix C in the transmittal letter that conveys the real estate license.

(c) Each approved request should have an exact location map (geographic information system or quadrangle map) and a copy of the applicable general permit.

(d) Chief, Regulatory Branch will be furnished a copy of the approved request with local number and attached maps as soon as the action is complete.

(e) Copies of the appropriate general permits are included in Appendix C.

6. Responsibilities. It is the responsibility of the Operations Manager to monitor the process for timeliness of response and applicability of environmental standards. Chief, Operations and

Chief, Planning, Environmental and Regulatory Division, will maintain oversight for issuance of applicable permits. Chief, Real Estate Division, will be responsible for administration of issued outgrants.

MICHAEL E. MILLER
Chief, Operations Division

MARK W. MOORE
Chief, Real Estate Division

KENNETH W. CARTER
Chief, Planning, Environmental and Regulatory Division

APPENDIX A – Natural Resource Documents
APPENDIX B – Real Estate Documents
APPENDIX C – Regulatory Documents

APPENDIX A

SCHEDULE OF SHORELINE USE FEES

<u>TYPE OF SHORELINE USE PERMIT</u>	<u>APPLICABLE FEES</u>
<u>WATER BASED PERMITS (5 Year Term)</u>	
Private Floating Facility	\$30
Community Floating Facility	
Mooring Buoy	
Swim Float	
Ski Jump	
Ski Course	
Mooring Post	
Duck Blind	
<u>LAND BASED PERMITS (5 Year Term)</u>	
Under Brushing	\$10
Plant/Landscaping	
Erosion Control	
Mowing	
Foot Path	

APPENDIX B

Real Estate Documents

AUTHORITY - The General Administrative Powers of the Secretary of the Army

LICENSES FOR MINOR RESIDENTIAL AMENITIES -

1. REPORT OF AVAILABILITY(ROA) - Master ROA for Project will be used. Notation will be made on file copy stating, "The ROA for this outgrant is found in the Master ROA file for project office lake."
2. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)/ENVIRONMENTAL REQUIREMENTS - No additional environmental requirements are needed.
3. REGULATORY REQUIREMENTS - No regulatory review is required for existing or new powerlines to private boat docks, buried or aerial, unless poles are installed in the water, or the lines cross a cove or portion of lake. All other licenses will require evaluation for needed permits.
4. TERM - Licenses shall have a term of no more than five-years to run concurrently with the boat dock permit. Licenses may not be transferred.
5. FEE - The fee for a new five-year term license is \$475.00 and consists of three parts. An Administrative Fee of \$345.00 is charged for all licenses and may not be prorated. Other charges include a \$70.00 Minimum Land Value and a \$50.00 Inspection Fee. If a license is being issued for a term less than five years, the \$70 Minimum Land Value may be prorated at \$15.00 for each year as well as the \$50.00 Inspection Fee at \$10.00 per year.
6. COMPLIANCE - Licenses are required to be inspected once every five years and/or prior to renewal of outgrant. Inspections will continue to be performed by the Project Office on all renewals.
7. AUTHORIZED/UNAUTHORIZED ACTIVITIES - This authority is only for minor residential amenities to include: walkways, improved paths, water pipeline/pumping facility and powerline licenses. No roads, parking, turnarounds, septic systems or water pipelines for cooling systems will be authorized under this delegation. Additional development or expansion of license area shall not occur. This would constitute a material breach of the license that would provide for immediate revocation.
8. LICENSE FORM - The format will be provided by Real Estate in a WORD document in the shared directory. The project office does not authorize deviations or other reproductions of the license form for use. Any changes required to this form, must be coordinated through Chief, Real Estate Division.
9. COPIES/DISTRIBUTION - Licensee and authorized individual at the project will sign two copies.

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One copy will be furnished to the licensee and the other mailed to the Chief, Real Estate Division, along with the required check, on date executed.

LICENSE PROCESSING INSTRUCTIONS
FOR DELEGATED MINOR RESIDENTIAL AMENITIES

1. Chief, Real Estate will assign a block of contract numbers to the project office. The project office will number and log in each contract in the format, DACW03-3-02-(contract number). The 02 identifies the fiscal year 2002. This process will begin with requests for new licenses for 2002, beginning October 1, 2001.
2. Real Estate Division will provide license format to each project office.
3. At this time, fees for a new five-year license will be \$475.00 for a new license and consists of three parts. An Administrative Fee of \$345.00 is charged for all licenses and may not be prorated. Other charges include a \$70.00 Minimum Land Value and a \$50.00 Inspection Fee. If a license is being issued for a term less than five years, the \$70 Minimum Land Value may be prorated at \$15.00 for each year as well as the \$50.00 Inspection Fee at \$10.00 per year. Fees will be collected at the project office, and a receipt will be issued or a photocopy of the check will be maintained in project files. The project office will forward the check for the license fee, along with an executed copy of the license, to Chief, Real Estate Division.
4. A license will be issued for each private/community dock having electrical facilities. Licenses may be issued to an individual or a dock association. In such instance where one power pole is serving multiple docks, a license will be issued for each boat dock permit issued. Multiple improvements (improved paths, walkways, waterlines, and powerlines to private docks and other electrical amenities) may be listed on one license.
5. The following information will be included on the license:
 - a. Name and address of grantee
 - b. Location identified by Tract No., Dock No. and County
 - c. Beginning and ending date of license (5-year term) to run concurrently with boat dock permit
 - d. Consideration amount
 - e. Contract number
 - f. Complete listing of all improvements authorized
6. After two originals of the license have been executed by the grantee and the authorized individual at

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the project (delegation attached), one copy will be furnished to the licensee and the other to the Chief, Real Estate Division, along with payment. Real Estate Division personnel will do the collection in CEFMS and REMIS entries.

**DELEGATION OF AUTHORITY
TO ISSUE, EXECUTE, MANAGE, RENEW, SUPPLEMENT OR REVOKE
LICENSES TO USE DEPARTMENT OF ARMY REAL PROPERTY**

On 9 January 1998, Commander, Southwestern Division, delegated authority with power of redelegation to District Chiefs of Real Estate to issue, execute, manage, renew, supplement, or revoke outgrants (licenses) authorizing the use of Army real property in accordance with AR 405-80, dated 10 December 1997.

As authorized by the delegation, authority is hereby redelegated to Operations Managers and Lake Mangers at the Beaver, Greers Ferry, Millwood, Mountain Home, Russellville, and Table Rock Project Offices to issue, execute, manage, or revoke licenses for minor residential amenities subject to the following stipulations:

1. This delegation of authority is for a five (5) year term, beginning December 1, 2001 and expiring November 30, 2006.
2. This delegation of authority can be terminated at will by the Chief, Real Estate Division, Little Rock District, U. S. Army Corps of Engineers.
3. This delegation of authority is applicable only to licenses for minor residential amenities, which do not require a formal estimate or appraisal of value.

MARK W. MOORE
Chief, Real Estate Division

APPENDIX C

Regulatory Documents

Steps/Stairs/Paved Paths - Pursuant to 33 Code of Federal Regulations (CFR) 325.5, the proposed activity is authorized by Department of the Army General Permit GS (copy enclosed), provided that the conditions therein, and the following added special condition (s), are met. You should become familiar with the conditions and maintain a copy of the permit at the worksite for ready reference. If changes are proposed in the design or location of the facilities, you should submit revised plans to this office for approval before construction of the change begins.

Special Condition: The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable water, the permittee will be required, upon due notice from the US Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

Water Lines - Pursuant to 33 Code of Federal Regulation (CFR) 325.5, the proposed activity is authorized by Department of the Army General Permit GF (copy enclosed), provided that the conditions therein are met. You should become familiar with the conditions and maintain a copy of the permit at the worksite for ready reference. If changes are proposed in the design or location of the facilities, you should submit revised plans to this office for approval before construction of the change begins.

You are hereby advised that it is unlawful for any person, firm, or corporation to withdraw in any manner any water from any public waters without first securely screening the intake pipe against the entry therein of any fish or to lower any body of water so as to endanger fish life. (See 32.20 Arkansas Game and Fish Commission Code.)

APPENDIX J

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. Enclosure 1 is a guide that describes bank stabilization methods that landowners may be allowed in preventing further bank erosion and a general discussion of the Nationwide Permit Conditions for Bank Stabilization, (Federal Register, Vol. 61, No. 241).
5. **Design and Construction.** Enclosure 1 includes all conditions required for bank stabilization. The project owner shall submit an application for Section 404 Permit processing if advised that a permit is necessary.
6. **Review, Approval, and Appeal Process.** Requests and plans for bank stabilization will be submitted to the Operations Manager for review. The Operations Manager will submit all requests recommended for approval and a completed Record of Environmental Consideration or Environmental Assessment to the Chief, Operations Division for consideration. Requests denied by the Operations Manager may be appealed for reconsideration at the District level. The Operations Manager will forward the appeal, the environmental consideration, 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. Nationwide Permit. The following subparagraphs describe the restrictions included in the Nationwide Permit addressed in this Appendix. Any fill material placed below the ordinary high water mark requires a permit pursuant to Section 404 of the Clean Water Act. If a project meets the requirements of a Nationwide Permit (listed below), the permit process can be expedited. Any deviations from these restrictions may require standard Section 404 Permit evaluation, typically requiring a minimum of 60 calendar days.

- a. The bank stabilization is less than 300 feet in length.
- b. The activity is necessary for erosion prevention.
- c. The activity will not exceed an average of one cubic yard per running foot placed along the bank below the ordinary high water mark.
- d. No material is placed in excess of the minimum needed for erosion prevention.
- e. No material is placed in any location or in any manner to impair surface water flow into or out of any wetland area.
- f. Only clean material that is free of waste, metal products, organic materials, unsightly debris, toxic pollutants, etc. may be used.
- g. The activity is a single and complete project.

2. General.

- a. A combination of riprap, vegetative control, and other structures may be approved. Examples of acceptable designs are shown on Plates 1 through 4.

b. A right-of-entry from Real Estate Division is 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.

c. 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.

3. 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. See Plate five for filter information requirements.

4. Retaining Walls.

a. Retaining walls will be considered on a site by site basis. The wall shall be constructed along the existing bank line and shall not be used to reclaim land, both horizontally and vertically. The top elevation shall not be higher than the existing top bank.

b. The wall shall be designed by a licensed Professional Engineer. The foundation shall be designed to account for potential erosion below the foundation.

c. Walls made of mortared walls, creosote crossties, creosote, or other treated lumber shall not be authorized. Materials must be specifically designed for erosion control purposes.

d. Backfill is allowed only behind retaining walls. It must be earthen fill without trash, organic materials, asphalt products, or other unsightly debris. Gravel is allowed with retaining walls per manufacturer's recommendations, however, the top layer must be earthen fill to allow for regeneration of native trees and other vegetation. The establishment of grass lawns or sandy beaches in the disturbed area is prohibited.

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 within 15 days of the completion of work.

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b. Removal of any trees on project lands must be approved by the Operations Manager and is limited to obtain access to the work site. Replacement trees may be required for some or all trees removed at a 2:1 ratio.

c. Damages resulting from the activity will be restored to the satisfaction of the US 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 US 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.

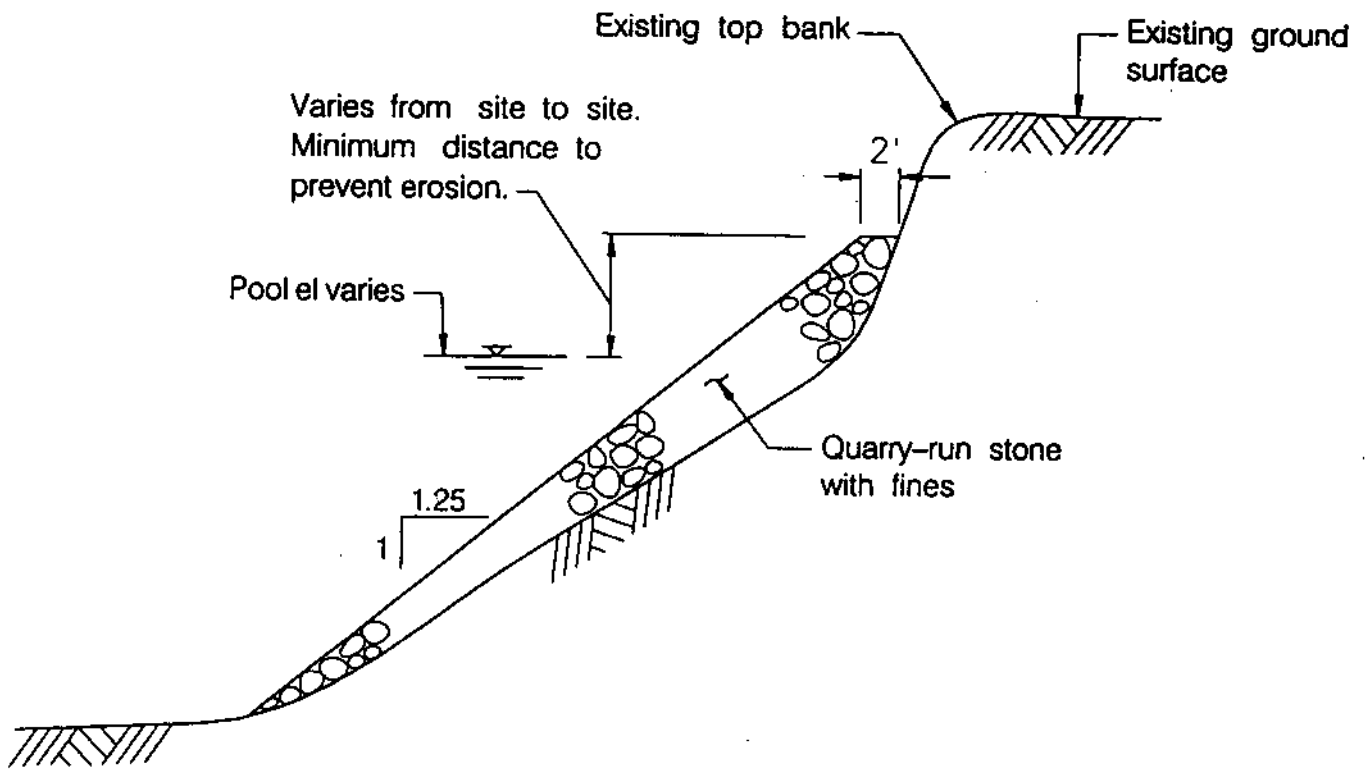
b. If any materials or sites of cultural, historical, or archeological significance are discovered within the project boundaries at any time preceding or during construction, the Operations Manager will be immediately notified and work will cease until further notice.

c. Work is not authorized within the known habitat of a threatened or endangered species as identified under the Endangered Species Act.

TABLE 1

LAKE	5-YEAR POOL ELEVATION, NGVD
Beaver	1130.00
Table Rock	921.20
Bull Shoals	676.80
Norfolk	570.40
Greers Ferry	472.00
Millwood	264.90
DeQueen	460.70
Dierks	551.25
Clearwater	532.10
Blue Mountain	409.00
Nimrod	368.00

**Critical Elevations
for fill in the Flood Pools of Lakes,
Little Rock District**

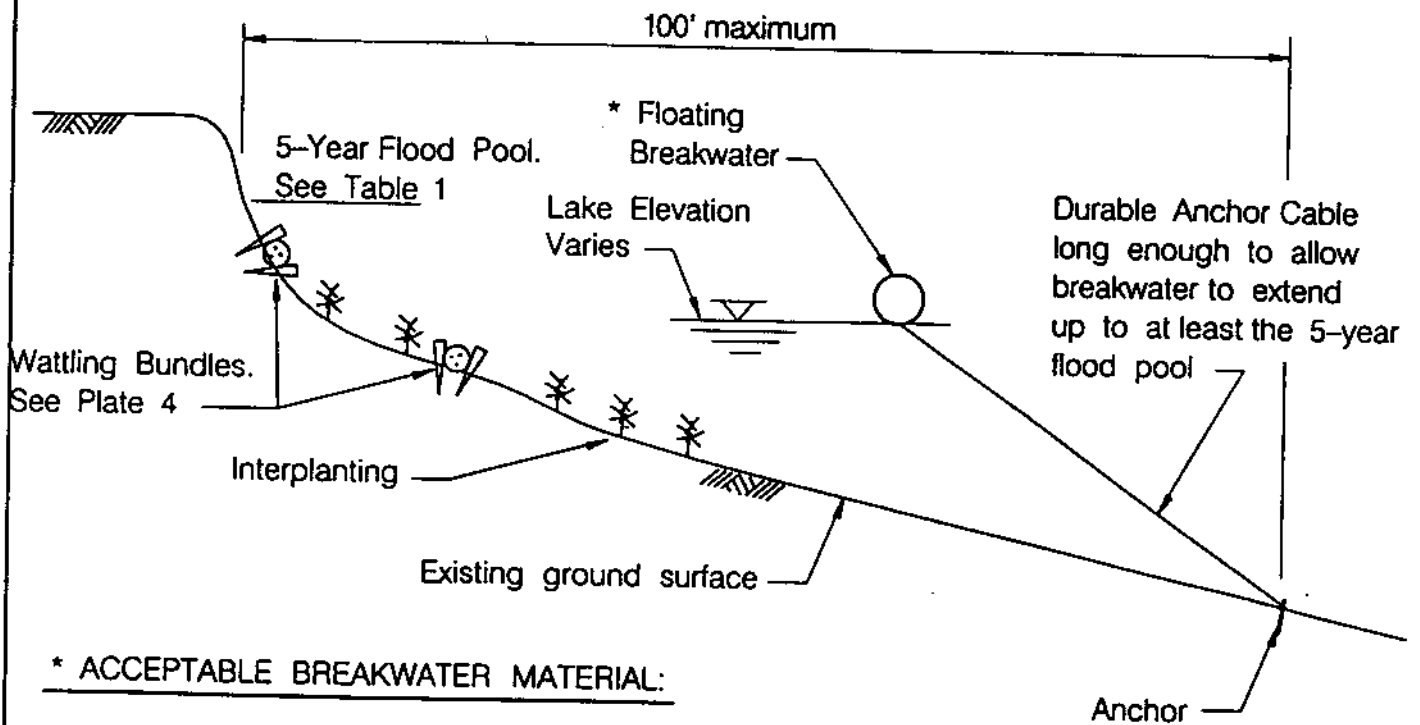
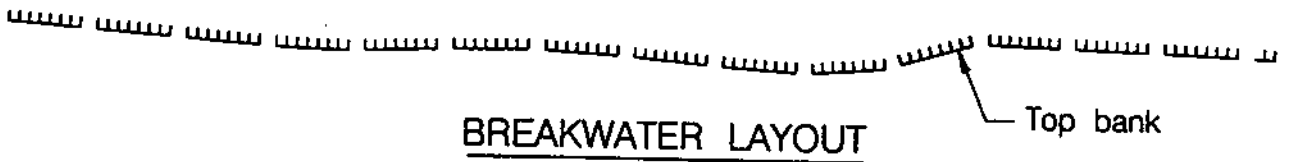
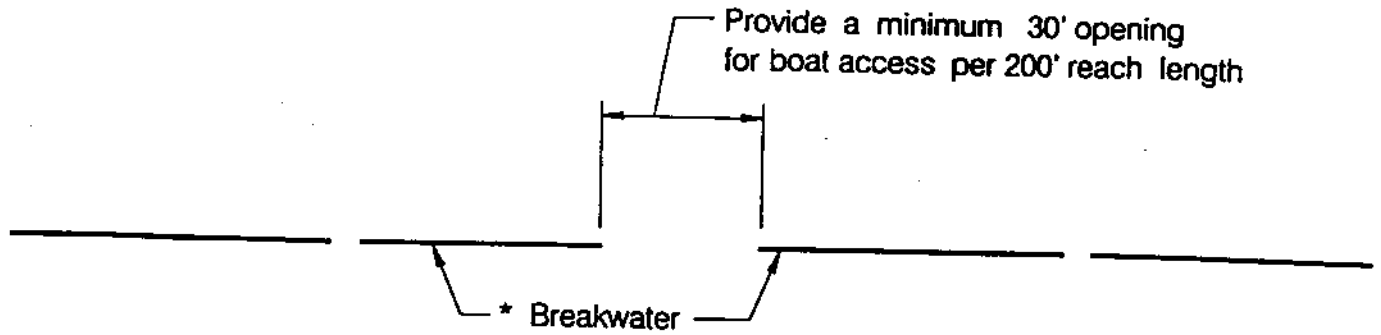


TYPICAL SECTION A
End-dumped stone

END-DUMPED STONE

Scale: 1" = 10'

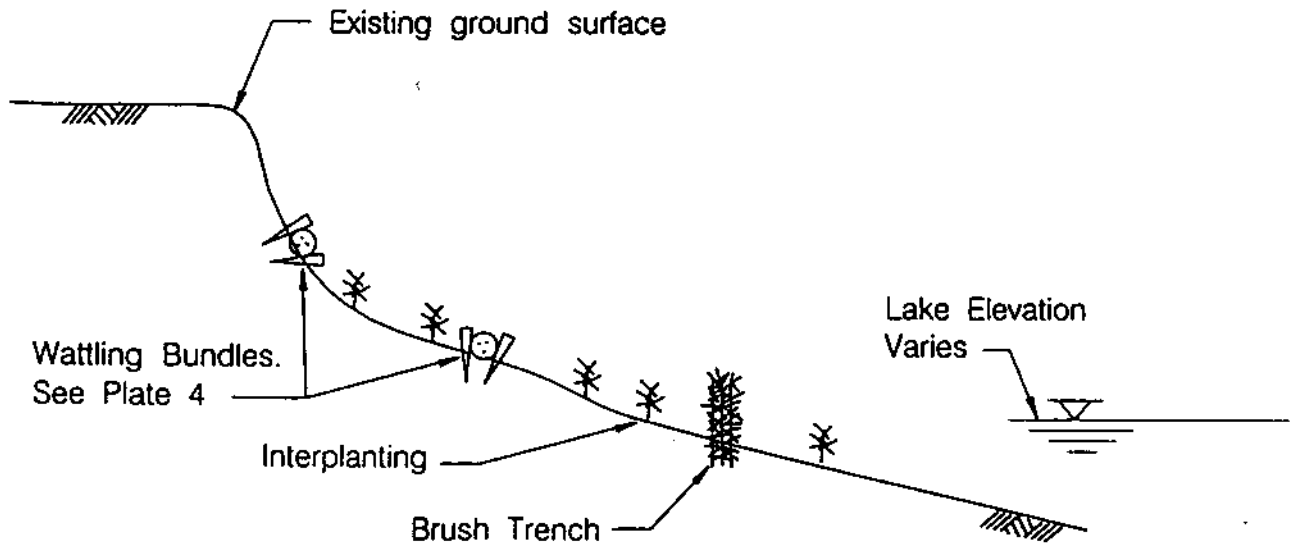
Plate 1



* ACCEPTABLE BREAKWATER MATERIAL:

- Log boom from fallen trees
- Telephone Poles
- Tires that are bound together
- Steel structure

TYPICAL SECTION



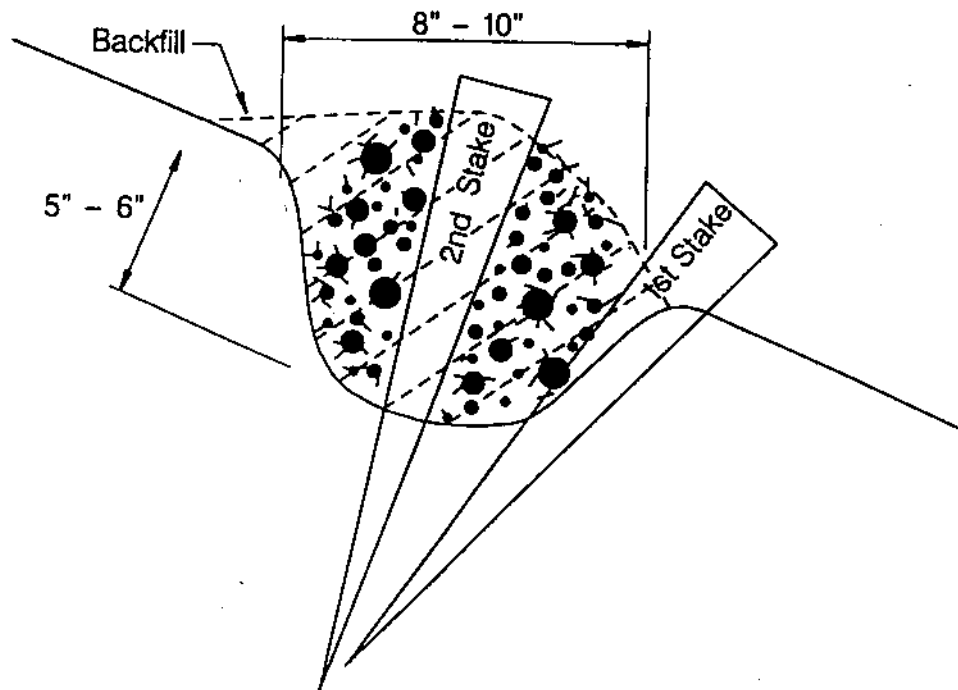
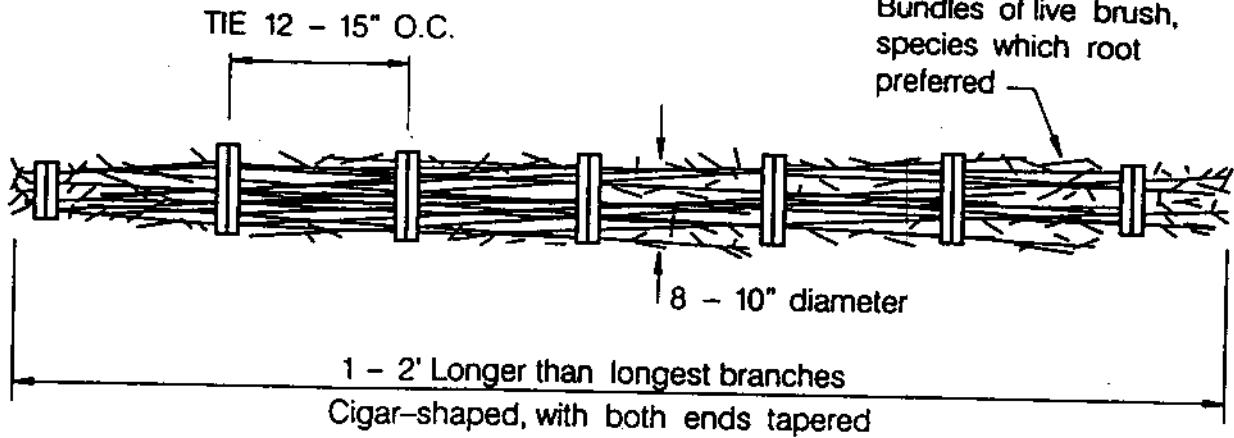
TYPICAL SECTION

VEGETATION, Low Energy Only

Not to Scale

Plate 3

6 Jan 03

Bundles of live brush,
species which root
preferredWATTLING INSTALLATION:

1. Place 1st Stake on contour, 3' - 4' O.C.
2. Excavate trench. Depth = $\frac{1}{2}$ - $\frac{2}{3}$ of Diameter.
3. Place wattling in trench
4. Place 2nd stake through wattling, 3' - 4' O.C.
5. Cover wattling promptly. Wattling to be approx. $\frac{1}{3}$ above grade and 10 - 20% left exposed.

WATTLING BUNDLES

Not to Scale

Plate 4

THE IMPORTANCE OF FILTERING

Inadequate filtering, or the absence of it, can eventually contribute to failure of the erosion control effort. Although filtering is one of the most important design details, it is probably the most neglected; and hence leads to many failures. In Figure 1, large rocks have been placed on an eroding slope without an adequate filter. As waves break on the slope, much of the water seeps into the soil and carries minute soil particles with it as it exits through the stone voids. Because the voids between the rocks are much larger than the coarsest soil particles, the particles pass unhindered through the stones. The bank then erodes behind the rocks as they settle into the slope.

Figure 2 shows two alternatives of filtering water through the bank. A properly selected stone gradation containing approximately 8% fines by weight will retard the flow path of water and absorb the wave action. A properly designed synthetic filter fabric will prevent soil particles from passing through the stone. A synthetic filter fabric (8 ounce mesh) can provide a uniform mesh with a consistent opening size which will allow water to pass but prevent the soil from passing back through, thereby halting the underlying erosion.

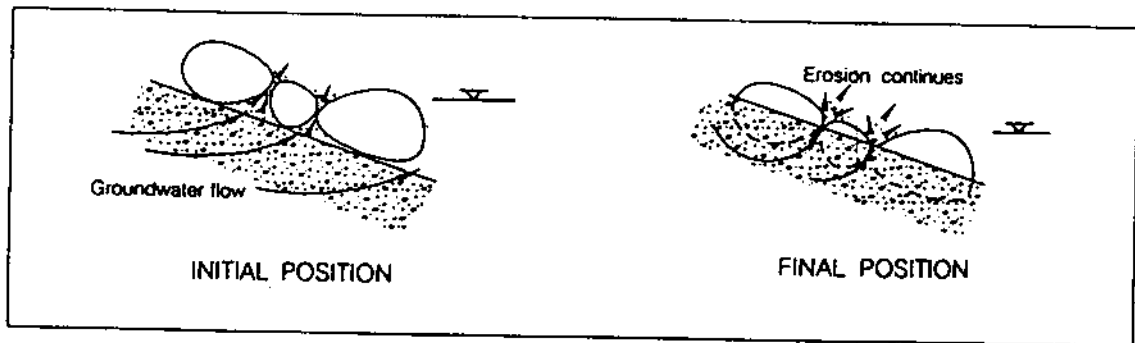


FIGURE 1 Inadequate or No Filtering

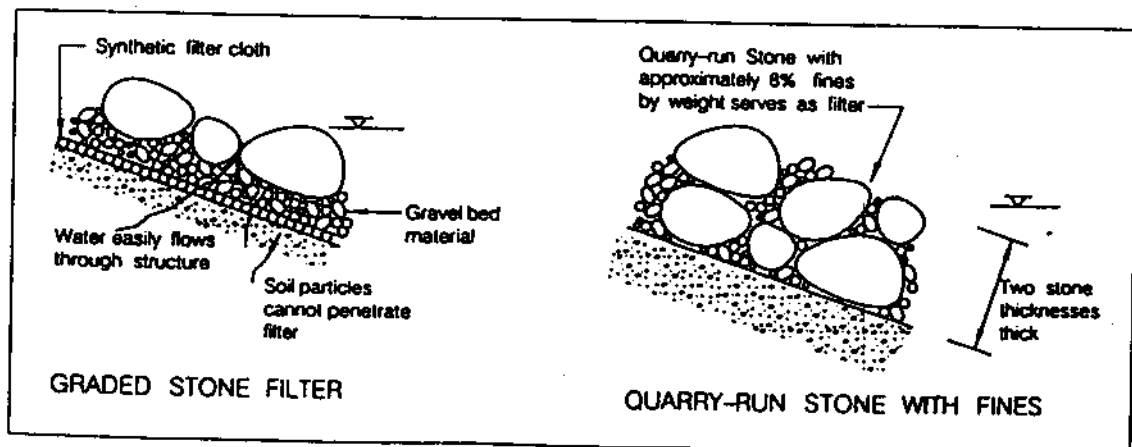


FIGURE 2 Proper Filter Design

Grandfathered Private Docks

<u>DOCK NUMBER</u>	<u>LOCATION</u>
2004	West Sugarloaf
2067	Lead Hill
2089	Trigger Creek
2103	Jimmie Creek
2124	West Sugarloaf
2141	Trigger Creek
2227	Dam Site Buffer Zone
2237	West Sugarloaf
2305	Moore Bend
2341	Big Creek
2373	West Sugarloaf
2382	Buck Creek
2471	Pontiac
2501	Trimble Creek
2527	West Sugarloaf
2556	Indian Meadows

Total Docks: 16
Total Buoys: 0

GRANDFATHERED RESORT DOCKS

DOCK NUMBER

2228

2502

LOCATION

Dam Site Buffer Zone

Trimble Creek

Total Resort Docks: 2

Shoreline Use Permit for Vegetation Modification - Fire Protection

Adapted from NFPA 299 "Standard for Protection of Life and Property from Wildfire" 1997

Wildfire Hazard Analysis Rating (WHAR)

Existing Defensible Space Measurements		Ht. to bottom of canopy	Basal Area	Duff condition: Depth (inches) Fuel size (dia.)	
Zone 1 1st 33 ft. Width of existing mowed lawn					
Zone 2 2nd 33 ft.					
Zone 3 3rd 33 ft.					
Zone 4 distance to natural area from residence					
Public boundary line (shortest distance to residence)					
Distance from crest of ridge or cliff					
A. Vegetation (Fuel Models)		Value	Point	D. Additional Rating Factors	
1. NFDRS FUEL MODELS			Score		Score
Light (grasses, forbs, sawgrassess) Fuel Models A,C,L,N, S, and T	1	_____		1. Rough topography that contain steep valleys	2
Medium (light brush and small trees) Fuel Models D, E, F, H, P, Q, and U	5	_____		2. Historical high fire occurrence areas due to situations such as heavy lightning, railroads, escaped debris burning, arson, etc	3
Heavy (dense brush, and hardwood timber) Fuel Models B, G, and O	10	_____		3. Area periodically exposed to unusually severe fire weather and strong dry winds	4
Slash (timber harvesting residue) Fuel models J, K, and L	10	_____			
2. Defensible space				E. Roofing Material	
More than 100 ft. of treatment from buildings	1	_____		1. Construction material	
30-70ft of treatment from buildings	5	_____		Class A roof	1
No defensible space treatment	10	_____		Class B roof	3
				Class C roof	5
				Nonrated	10
C. Topography		Value	Point	F. Existing Building Construction	
1. Slope			Score	1. Material (predominate)	
<9%	1	_____		Non combustible siding /deck	1
10-20%	4	_____		Non combustible siding /wood deck	5
21-30%	7	_____		Combustible siding and deck	10
31-40%	8	_____			
> 41%	10	_____			
2. Aspect				G. Available Fire Protection	
Northeast (330 degrees to 120 degrees)	1	_____		1. Water source availability (on site)	1
Southwest (120 degrees to 330 degrees)	5	_____		500gpm hydrants <1000' apart	
				Hydrants above or draft site	2
				No hydrants or draft site available	3
B. Subdivision Design		Value	Point	2. Water source availability (off site)	
1. Ingress and egress			Score	Sources within 20 min round-trip	
Two or more, primary roads	1	_____		Sources within 21-45 min round-trip	5
One road, primary route	3	_____		Sources > 46 min round-trip	10
One way in/out	5	_____			
2. Primary road width				H. Utilities (gas and electric)	
Minimum of 20 ft. (6.1m)	1	_____		1. Placement	
Less than 20ft. (6.1m)	3	_____		All underground utilities	1
3. Road accessibility				One underground, one aboveground	3
Smooth road, grade <5%	1	_____		All aboveground	5
Rough road, grade >5%	3	_____			
Other	5	_____			
4. Secondary road termius				I. Totals for Subdivision	
Loop roads, cul-de-sacs				(tally up all check-point totals.)	
Outside radius > 50ft.	1	_____		circle appropriate rating below	
Outside radius < 50ft.	3	_____		LOW HAZARD < 50 Points	
Cul-de-sac turnaround				MODERATE HAZARD 50-68 Points	
Dead-end roads <200 ft.	3	_____		HIGH HAZARD 69-83 Points	
Dead-end roads >200 ft.	5	_____		EXTREME HAZARD 84+ Points	
5. Average lot size					
More than 10 acres	1	_____			
Between 1 and 10 acres	3	_____			
Less than 1 acre	5	_____			
6. Street signs					
Present [min.4"size reflectorized]	1	_____			
No signs present	5	_____			

Shoreline Permit No. 1362-1
Sec.10 T20N R18W, Marion Co. AR

Lake

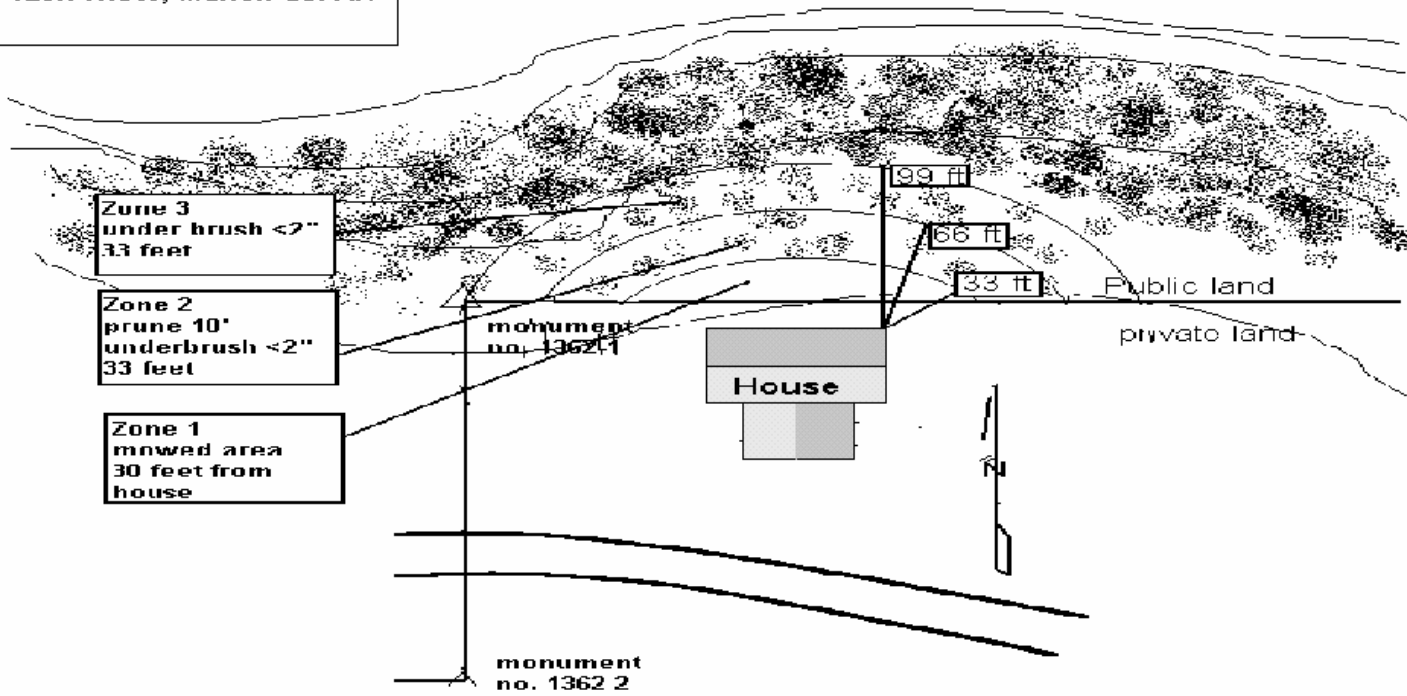


Exhibit IV