



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, LITTLE ROCK DISTRICT
P.O. BOX 867
LITTLE ROCK, ARKANSAS 72203-0867

9 September 2020

CESWL-DE

Dr. Tamera Jahnke, Chairperson
Table Rock Lake Oversight Committee
115 East Darby Place
Springfield, MO 65810

Dear Dr. Jahnke:

This letter is in reply to the Table Rock Lake Oversight Committee (“TRLOC” or “Committee”) recommendations provided on July 16, 2020, as required by Public Law and the Committee Charter. The TRLOC process has become a part of the Table Rock Lake Shoreline Management Plan (SMP) update; and the recommendations of the committee accepted by the District have become a part of the final 2020 Table Rock Lake SMP.

Operation and management of a multi-purpose lake, like Table Rock Lake, is a difficult balancing act with many competing interests. I appreciate the committee’s diligent and conscientious considerations during this process. The TRLOC has demonstrated how a Federal Advisory Committee with a transparent process can highlight the issues of these competing interests and work toward solutions that benefit the entire lake.

The Little Rock District has carefully evaluated each of the eight (8) recommendations of the TRLOC. In the following paragraphs, I will address each of the recommendations – those that the District accepted and integrated into the final SMP; and those that we cannot accept. For those that we could not accept, I will attempt to explain our justifications for why we could not accept those recommendations.

The first two TRLOC recommendations address the pending limited resort lease for Serenity Shores. The TRLOC was asked by the District Commander to review the pending limited resort lease for Serenity Shores under the authority of Section 1185(c)(2)(A) of the Water Resources Development Act of 2016, “...to review any permit to be issued under the existing Table Rock Lake Master Plan at the recommendation of the District Engineer”. The first recommendation was for the District Commander to approve the limited resort lease for Serenity Shores. The District concurs; the requested lease includes a path and dock located near the back of a cove and within an existing LDA (#511), and it meets all other physical requirements of dock placement. The lease process will move forward. The second recommendation was for

the District Commander to place a limitation in the limited resort lease to restrict Serenity Shores from using more than 50% of its slips for watercraft rental. The District does not concur. The lease applicant verbally indicated they would only have 2-3 slips for watercraft rental, no other resort lease has this condition, and the District must remain consistent in its Real Estate lease applications. In addition, any further action on this lease will follow U.S. Army Corps of Engineers Real Estate regulations because leases do not fall under the scope of a SMP.

The third TRLOC recommendation was for the District Commander to continue the Commercial Remote Service Dock (CRSD) Program. The CRSD program was a U.S. Army Corps of Engineers (USACE) pilot program initiated in the 1990's for Table Rock Lake only. The District considered ending the program based on negative public comments received prior to the start of the SMP revision process. Those negative comments included objectionable vehicular and pedestrian traffic in communities adjacent to the lake; that the Table Rock CRSD program is the only one in the nation; and that only one (1) new CRSD has been placed on Table Rock Lake since 2007 indicating no public need. However, due to additional public comments in favor of the program received during the SMP update process and the TRLOC process, the District will not eliminate the CRSD program at Table Rock Lake at this time. The CRSD program is considered a separate program outside of the purview of the SMP. Thus, the program will not be administered through the SMP. The District updated the CRSD reference in the SMP under the "Special Topics Section" to reflect that the program does not require a Shoreline Use Permit and will not be administered by the 2020 Table Rock Lake SMP.

The fourth TRLOC recommendation was for the District Commander to revise vegetation modification permits to allow for a waiver of permit requirements on a case-by-case basis. The recommendation included a provision that the Commander should determine appropriate criteria to qualify for said waiver. The District does not concur with the recommendation. The Table Rock Lake SMP provides necessary objectivity in enforcing rules equitably. To include waivers on vegetation modification permits gives way to subjectivity, which exposes the USACE to accusations of being arbitrary and capricious. Further, it would be imprudent to issue waivers due to inadequate development planning and construction of an individual or community residence that sits on or close to a property line. The District wants to avoid setting a precedent that by building up to the Government boundary line one could force the Corps to allow vegetation modification within an Environmentally Sensitive Area or an area that is not classified for vegetation modification. In addition, both the 2014 Table Rock Lake Master Plan and the 2020 Table Rock Lake Shoreline Management Plan revisions implemented the National Environmental Policy Act (NEPA) process, which allowed numerous opportunities for public outreach, review, and comment on establishing, managing, and protecting these areas. By allowing a waiver on permit requirements, this action would circumvent and negate the NEPA process. The District will continue to implement the committee's recommendation in the following ways: The Table Rock Lake SMP Section on Dead Trees and Limb Hazards; the Table Rock Lake SMP

Section on Invasive Species Removal; and the Table Rock Lake SMP Section on Appeal Process.

The fifth TRLOC recommendation was for the District Commander to allow the District to explore partnerships with relevant state agencies to provide field support and forestry expertise in developing vegetation management waivers. The District concurs with idea of exploring further partnerships; however, the District does not concur with changing vegetation modification permits to include waivers (see #4 TRLOC recommendation). The District has added the following "Partnerships" paragraph to the "Special Topics Section" of the final Table Rock Lake SMP: "To ensure best management practices regarding Shoreline Management, USACE staff at the District and Project levels will engage regularly with other Federal, State and local government agencies that have jurisdiction and/or expertise in areas covered by provisions of this SMP, including but not limited to USGS, USFS, USFWS, MDNR, MDC, MSHP, etc."

The sixth TRLOC recommendation focused on the Little Rock District 2003 policy, SWLR 1130-2-48, on Rezoning Requests. The recommendation was to rescind the 2003 policy that prohibits rezoning requests. The recommendation further stated that all future rezoning requests should be evaluated for possible inclusion in future master plan and shoreline management plan revisions. The District does not concur. In accordance with SWLR 1130-2-48, zoning requests, including rezoning, will only be considered when the existing zoning is full to the maximum extent allowed by Title 36, and only then during the SMP revision process to include public involvement. During an SMP revision, shoreline allocations will not be changed unless a unique situation exists. SWLR 1130-2-48 was vetted through all of Little Rock District lakes with shoreline management plans.

The seventh TRLOC recommendation was for the District Commander to continue evaluation of communication plans to the public and seek excellence in all communication. The District concurs and will continue to evaluate our communication plans and update as necessary.

The eighth TRLOC recommendation was for the District Commander to look for alternatives to address the disparity between revenue generated from a private boat dock program versus the cost of operating the program. The District concurs, however, does not have the authority to make changes to the fee structure currently in Title 36. Section 1185(c)(4)(A)(B)(C) of WRDA 2016 allows for a study, "...on the need to revise permit fees relating to Table Rock Lake to better reflect the cost of issuing those permits and achieve cost savings"; "...submit to Congress a report on the results of the study described in subparagraph"; and, "...begin implementation of a new permit fee structure based on the findings of the study described in subparagraph (A)." The USACE has initiated a national study to address the TRLOC recommendation as this has implications not only to Table Rock Lake, but to all USACE lakes across the Nation. I will ensure this recommendation is elevated appropriately.

Thank you and the other TRLOC members for your service and efforts throughout this process in making Table Rock Lake an incredible resource for this region. Corps staff will be presenting this information, along with highlighting final points of the 2020 Table Rock Lake Shoreline Management Plan, during the TRLOC Meeting #4, which is also the final TRLOC meeting, on September 23, 2020, at the Dewey Short Visitor Center in Branson, MO. As this is the conclusion of the TRLOC, further instructions on how the committee termination process and procedures will also be discussed during Meeting #4.

Sincerely,

Eric M. Noe, PMP
Colonel, US Army
District Engineer

CF:

Mr. Ryan Benefield, TRLOC Vice-Chairperson
Ms. Sheila Thomas, TRLOC Secretary
Mr. Pat Cox, TRLOC Member
Ms. Twilia Harrison, TRLOC Member
Mr. Rob Hunt, TRLOC Member