



**US Army Corps
of Engineers**
Pittsburgh District

Berlin Lake Shoreline Management Plan

Appendix P to the
Operational Management Plan

June 2008

**U.S. ARMY CORPS OF ENGINEERS
PITTSBURGH DISTRICT
BERLIN LAKE SHORELINE MANAGEMENT PLAN
APPENDIX P TO THE OPERATIONAL MANAGEMENT PLAN**

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I. INTRODUCTION

1. **Purpose.** This Shoreline Management Plan provides policies and guidelines for the effective long-term management of the shoreline resources of Berlin Lake. Recreational demands and development pressures increase each year, yet the total amount of public land and water areas remains fixed. Sound management is necessary to provide optimum use of finite project resources for present and future generations. This plan is an appendix to the project's Operational Management Plan.

2. **Authority.** Authority for preparation of this document is contained in ER-1130-2-406 (31 Oct 90).

3. **References.**

- a. Section 4, Flood Control Act of 1944, as amended, (16 USC 460d)
- b. Flood Control Act of 28 June 1938, P.L. 75-761
- c. The National Historic Preservation Act of 1966 (P.L. 89-665; 80 Stat. 915) as amended (16 U.S.C. 470 et seq.)
- d. The Clean Water Act (33 U.S.C. 1344, et seq.)
- e. The Water Resources Development Act of 1986 (P.L. 99-662)
- f. National Environmental Policy Act of 1969, as amended
- g. Title 36, Chap. III, Part 327, Code of Federal Regulations (CFR), Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers
- h. Executive Order 12088, "Federal Compliance with Pollution Control Standards", 13 Oct 78
- i. 33 CFR 320-330, "Regulatory Programs of the Corps of Engineers"
- j. Engineer Regulation (ER) 1130-2-540, "Environmental Stewardship Operations and Maintenance Policies" (15 Nov 96) and corresponding Engineer Pamphlet (EP) 1130-2-540, "Environmental Stewardship Operations and Maintenance Guidance and Procedures" (15 Nov 96)

k. ER 1130-2-550, "Recreation Operations and Maintenance Policies" (15 Nov 96) and corresponding EP 1130-2-550, "Recreation Operations and Maintenance Guidance and Procedures" (15 Nov 96)

l. Engineer Manual (EM) 385-1-1, "Safety and Health Requirements Manual" (3 Nov 03)

m. ER 1130-2-406, "Shoreline Management at Civil Works Projects", 31 Oct 90, and Change 1 (14 Sept 92) and Change 2 (28 May 99)

4. Applicability. This plan is applicable to all Berlin Lake project lands and water held under fee simple title by the U.S. Government (hereinafter referred to as the Government), exclusive of lands under lease, license or easement for various purposes, with the exception of shoreline real estate instruments. The terms of these agreements control the activities authorized there under. Activities upon easement lands will continue to be regulated by the original easement conditions. Floating facilities, such as boat docks, moored to easement lands require a Shoreline Use Permit from the Pittsburgh District, U.S. Army Corps of Engineers.

5. History of the Plan. Berlin Lake was authorized by Congress under the Flood Control Act of June 28, 1938 (P.L. 75-761). Construction of the dam began in 1941 and full operations of the project were accomplished by June 1943. Some private water-based recreation facilities and uses were developed at the project shortly thereafter. As this trend became more pronounced, permit procedures were implemented. Applicants were required to submit specifications and plans of their proposed facilities. If the structural criteria and site location were acceptable and the applicant had a residence adjacent to government property, a permit or license for the facility was then issued. In accordance with Engineer Regulation (ER) 1130-2-406, a Lakeshore Management Plan was drafted and placed in effect in September of 1977 and then revised and finalized as a Shoreline Management Plan in May of 1989. The plan's intent was to establish policies and guidelines for the protection and preservation of the desirable environmental characteristics of the Berlin Lake shoreline. Analysis of the effectiveness of this plan has indicated a need for revision of policies to more appropriately meet the intent of the regulation.

6. Description of the Lake. Berlin Lake is located on the Mahoning River in northeastern Ohio approximately 36 miles east of Akron; 20 miles southwest of Youngstown; 20 miles northeast of Canton; and 35 miles upstream from Warren. The project lands and water extend into portions of Mahoning, Portage and Stark Counties. The Berlin Lake drainage basin area is 249 square miles and covers portions of Columbiana, Mahoning, Portage, and Stark Counties with approximately half the dam site situated in Portage County and the other half in Mahoning County.

Berlin Lake has a conservation pool elevation of 1024.7 National Geodetic Vertical Datum (NGVD) which creates a pool of 3,590 acres. The lake has a total shoreline of 70 miles of which six miles are contained within flowage easements outside the fee

boundary. The lake is situated in an area of gently rolling to almost level land, dissected by meandering streams. The highest elevation within the project boundary is 1060 NGVD, located on the south shoreline near Smith-Northwest Road. This elevation is 35 feet above the maximum summer pool elevation. The shoreline is composed of several different and distinct visual characteristics that have resulted from both natural and man-made influences and can be divided into three physio-graphical categories: (1) steep banks/uplands, (2) gently to moderately sloping banks, and (3) flat/wetlands.

The gently to moderately sloping banks make up the largest percentage of the project shoreline, which for the most part are very stable and support vegetation types common to Beech-Maple association. This type of shoreline has predominately been utilized by the Corps of Engineers for recreation sites, by private boat clubs for docking facilities and by private individuals whose lake homes border the project lands.

7. Cultural Resources. Federal laws obligate the Corps of Engineers to protect significant cultural resources eligible for or listed on the National Register of Historic Places. This protection extends to potentially significant resources which are presently undiscovered or which have not been evaluated for National Register eligibility. A number of prehistoric and historic archeological sites have been discovered along the Berlin Lake shoreline, although only a small percentage of the shoreline has been archeologically surveyed. None of these sites have been evaluated for National Historic eligibility, but some are felt to be potentially eligible.

The presence of an archeological site does not preclude shoreline development; however, the effect of development on sites must be considered in the permitting process. The evaluation, along with coordination with the State Historic Preservation Officer, should take into consideration the significance of the site and the potential effect of development. Nondestructive activities, such as mowing, may be permitted regardless of site significance. Some selected destructive activities may be permitted at a significant site if appropriate mitigation is undertaken.

8. Boundary Line Surveillance and Encroachment Policy. The Berlin Lake boundary line does not uniformly follow a specific contour, but consists of straight lines between surveyed points. The boundary line has been established and marked by the U.S. Army Corps of Engineers in accordance with standard survey techniques. Local survey standards include painted blazes on witness trees. In open areas where distance between corners is such that monuments or pins are not visible, posts with signs may be placed by the Corps of Engineers to witness the line.

It is the responsibility of each adjoining land owner to know the exact location of their property lines and corners. Construction on, or alteration of, public property can be avoided by proper research and planning to prevent costly removal of private structures and/or after-the-fact restoration of public property. Removal or alteration of public property line markers or survey points is prohibited and is a violation of Title 36, Code of Federal Regulations, Part 327.

9. Regeneration of Open Areas. Open areas are defined as those areas of public land where a natural mixture of native plants does not exist at a maximum spacing of 15 feet on center. Most of these open areas are established grassed areas, which were permitted in the past; however, some may also be areas that have been stripped of vegetation through excessive under brushing and mowing.

Grassed areas currently authorized by an existing Shoreline Use Permit have been considered a “prior commitment” in the past and allowed to remain until the permit becomes null and void. At such time, in cooperation with the permittee, an evaluation will be done to assess the possible need for vegetative cover to enhance the environmental and recreational aspects of the area. If a determination is made that plantings need to be done, a plan will be developed for the area with a mixture of native trees/shrubs. If inspections of planted areas reveal that the plantings are not surviving, replanting may be redone by either the Corps or the permittee.

II. OBJECTIVES OF THE PLAN

1. General. The objectives of this plan are to balance private shoreline uses with the protection and restoration of the natural environmental conditions of Berlin Lake. In accordance with Corps of Engineer policies, primary goals of management of lake resources are to establish and maintain acceptable fish and wildlife habitat, preserve aesthetic qualities and promote the safe and healthful use of the lake and surrounding public lands by the general public.

In the absence of sound management, substantial portions of the shoreline could be cleared of natural vegetation and become congested with private mooring facilities and other structures. Public lands which are available to all the people could be converted to the appearance of private property of adjoining landowners. This plan contains definitive guidance which balances permitted private uses of public resources with providing natural environmental conditions for the use and enjoyment of the general public. The development of this plan has included full consideration of existing permitted private use facilities or privileges and prior commitments made regarding them.

2. Commercial Concessions. Boat owners are encouraged to moor their boats at commercial marinas, utilize dry storage facilities off project lands or trailer their boats to public launching ramps, which are provided by the Corps of Engineers and the State of Ohio.

3. Private Exclusive Use. Private exclusive use is the use of public lands or waters by a private individual or organization such that any benefit to be derived there from is in the predominate interest of that individual or organization. Private exclusive use is not authorized and the ownership of private land adjoining Government property does not convey any special rights or privileges on the adjoining public lands and waters. The public's right of access and use of the permit area must be maintained and preserved.

III. DESCRIPTION OF THE SHORELINE

1. **Flood Control.** The lake has a conservation pool elevation of 1024.7 NGVD which creates a pool of 3,590 acres. As the season progresses, the pool is drawn down and consequently the surface of the lake decreases.

2. **Present Land Use.** The Berlin Lake project contains 7,984.95 acres, of which 6,885.29 acres are owned in fee while the remaining 1,099.66 acres are flowage easements. Of the fee owned land, 73 acres are used for project operations; 189 acres are used for public use as Corps operated recreation areas; 367 acres are leased to the City of Alliance for the maintenance of a sub-impoundment water supply; and portions of the remaining fee title land are licensed to the Ohio Division of Wildlife, as wildlife and public hunting areas.

3. **Existing Public Access.** Public access to the project centers on one developed Corps recreation area (Mill Creek), two concessionaire areas and the Bonner Road ramp operated by the Ohio Department of Natural Resources. Public access to the majority of the shoreline is generally restricted by the private property surrounding Federal lands.

4. **Proprietary/Joint Jurisdiction.** No other Federal agency has land ownership or jurisdiction over the administration of the Berlin Lake Shoreline Management Plan. However, federal, state and local laws are applicable to all Berlin Lake lands and water. While the U.S. Army Corps of Engineers does not have the authority to enforce regulations prepared by other federal, state or local agencies which apply to project lands and waters, the U.S. Army Corps of Engineers does cooperate with these other agencies in their respective enforcement responsibilities specific to project lands and waters.

State jurisdiction exists with the Ohio Division of Wildlife, which maintains a license to manage 6,057 acres for fish and wildlife purposes and 11.5 acres for the Bonner Road boat launch access and field station. Local jurisdiction exists with the City of Alliance which retains a lease to maintain 367 acres for development of a sub-impoundment as a source for a municipal water supply.

IV. SHORELINE ALLOCATION

1. **Shoreline Allocation.** The shoreline of Berlin Lake is allocated as follows: Prohibited Access Areas, Public Recreation Areas, Protected Shoreline Areas and Limited Development Areas. Allocations are shown on a Shoreline Allocation Map at Appendix 3. of this document and on display at the Resource Manager's Office. A Public Notice will be issued describing any changes in the map resulting from updates of the Shoreline Management Policy.

(a) **Prohibited Access Areas.** These are areas which are established for the physical safety of the public. Shoreline use privileges are not allowed in these areas. The following areas are within this classification:

(1) The immediate area of the concrete dam including the posted danger areas upstream and downstream.

(2) The service base, including the government dwellings and the maintenance shop facilities at the dam site.

(3) The Division of Wildlife service area on Bonner Road.

(b) **Public Recreation Areas.** Public recreation areas include Corps recreation areas and launching ramps, state operated areas and public marinas. These areas have been developed around the lake in accordance with the project's Master Plan to provide for the recreational needs of the public. Berlin Lake's Master Plan and Operational Management Plan contain descriptions of these areas. Future recreation areas are also included in this classification. Shoreline use privileges are not permitted in these areas.

(c) **Protected Shoreline Areas.** Protected shoreline areas have been established to retain the natural, undeveloped character of the shoreline, maintain shoreline aesthetics, prevent erosion and to protect other environmental values of the lake. Fish and wildlife areas, scenic or cultural resource areas, areas impractical for moorage due to water depths, and areas of large public land holdings are included in this designation. Shoreline use privileges will not be granted in these areas.

(d) **Limited Development Areas.** Limited development areas are areas established through prior development, public use and management designation. Floating facilities and certain land based activities may be authorized in these areas, provided that all other conditions of eligibility outlined in this plan are met.

V. SHORELINE USE PERMITS

1. **Shoreline Use Permits.** The items mentioned in this section are approved by Shoreline Use Permits. All applications for Shoreline Use Permits shall be made through the Resource Manager. The issuance of a private Shoreline Use Permit does not convey any real estate, personal property rights or exclusive rights to the permit holder.

2. **Activities Requiring Shoreline Use Permits.** Shoreline Use Permits are issued for private dock facilities and land based activities other than those that require an outgrant on public property. Any alteration or modification of natural vegetation or land forms on public property is prohibited without a valid Shoreline Use Permit. **Shoreline Use Permits are non-transferable.** They become void upon sale or transfer of the property associated with the permit or the death of the permittee and his/her legal spouse. The Resource Manager will receive and process all applications for Shoreline Use Permits.

Shoreline Use Permits are issued and enforced in accordance with the provisions of Title 36 CFR, Chapter III, Part 327. Noncompliance with any of the terms and conditions, general or special, may result in the issuance of a Violation Notice, requiring the payment of a fine or appearance before the U.S. Magistrate, termination of the permit, and/or restitution. Severe cases of destruction of public property may also result in a moratorium being placed on the affected adjacent public property, preventing the issuance of any new permit for a minimum period of five years. Non-renewal or revocation will require removal of the permitted facilities or structures.

3. Duration of Shoreline Use Permits. Permits will normally be issued for a five-year period. Permits can be suspended or revoked by the Resource Manager at any time for non-compliance with permit conditions as outlined in the previous paragraph, or if it becomes necessary to protect the public interest or for project operations.

VI. PRIVATE DOCK FACILITIES

1. Government Access Across Private Property. A Shoreline Use Permit constitutes approval by the permittee for Government personnel, on official business, to cross their private property to gain access to public property.

2. Liability. The U.S. Army Corps of Engineers assumes no liability or responsibility for the safety of individuals using any facility authorized by a Shoreline Use Permit/License. The permittee assumes full liability and responsibility for the safe condition of the facility. Inspections by Corps personnel will be made to assure compliance with permit conditions. The Corps of Engineers assumes no liability or responsibility for any damage or accident associated with the facility.

3. Private Dock Facilities. Private dock facilities consist of individual docks or community docks. Permits for these facilities will be issued only in Limited Development Areas allocated for private docks. Applicants must submit a Shoreline Use Permit Application with a detailed plan of the proposed facility. Each application will be considered according to location, amount of lake frontage, pool fluctuation, shoreline characteristics, water depth, impact on public use and potential for interference with recreational boat traffic. The density of private docks allowed will depend on the criteria under 4(a), below. Docks are for the moorage of boats and shall not contain diving boards, slides, grills, sinks, household appliances, roof decks, furniture or similar facilities. A permanently attached bench up to five feet in length is permissible. The only utilities allowed on docks are electric lines, which are addressed in Section VIII, paragraph 1(a).

4. Individual Docks. Applicants for a private dock permit must own land adjacent to public land in a Limited Development Area and provide a recorded deed for the adjacent property. The private property and public property must share a common boundary at the proposed site of the dock structure and the private property must be eligible for local residential building permits.

No new permit applications will be accepted where access to public land is obtained through an easement granted by a private property owner. Public and private roads do not constitute legal access and cannot be used as access when applying for a new permit. “Grandfathered” privileges for those with existing permits are discussed in Section XIII.

Individuals currently holding a permit for a dock that was in place under a valid Shoreline Use Permit as of November 17, 1986 constitute a special category. In this case, the District’s interpretation of Public Law 99-662 and Paragraph 8 of Department of the Army Engineer Regulation 1130-2-406 is that such docks can be allowed to remain through successive owners provided that (1) the original dock structure is maintained in a safe and usable condition and has been under permit without interruption, (2) the dock does not occasion a threat to life or property, and (3) the holder of the permit is in substantial compliance with the existing permit. Proof that the dock was in place as of November 17, 1986 will be required to assure this consideration.

Only one dock will be permitted per household in association with a single parcel of adjacent land. Multiple persons listed on a deed will be considered as one adjacent landowner and therefore ineligible for new or multiple permits. Dock permits are for the purpose of mooring boats on the shoreline and not issued for speculative purposes, enhancement of private property or to persons renting private property. Two registered vessels are permitted per dock and vessel registrations will be provided to the Corps office.

Shoreline erosion may preclude the placement or permitting of a new dock at a specific location. Shoreline erosion control may be required prior to the granting of a permit to reduce the negative environmental impact the installation of dock facility may have. This requirement will not apply to existing permits at the time of renewal. The guidelines for shoreline erosion control are outlined in Section IX, paragraph 1(b) of this plan.

Boat dock permits are for the use of the permittee and the moorage of the permittee’s boats on the waters of Berlin Lake. Any failure to do place a dock structure on the waters of Berlin Lake within a contiguous period of 24 months may result in revocation of the shoreline use permit.

(a) **Location.** New individual private docks will be constructed within the limits of the shoreline defined by the shortest possible lines from the adjoining private property corners to the shoreline at normal pool elevation as determined by the Resource Manager. The dock must also be located at least 50 feet away from any other dock using the outer edge of the dock structure as a reference point for measuring. The Resource Manager or his/her representative will designate the exact location of the facility.

(b) **Density.** The density of dock facilities will not be more than 50% of the Limited Development Area in which they are located. Density will be measured by determining the linear feet of Limited Development Area shoreline identified on the allocation map as compared to the width of the facilities, plus associated

moorage arrangements which restrict the full and unobstructed use of that portion of the shoreline.

(c) **Size.** Docks including moored boats shall not extend more than 75 feet from the beginning of the walkway to the outer or back edge of the dock, in a direction perpendicular to the shoreline. If in a cove, the dock shall not exceed 75 feet in length or one-third the width of the cove, whichever is less. The maximum allowable width for individual private docks is 30 feet. The maximum allowable total surface area (overall length by width) is 500 square feet, including the slip(s) but excluding the access walkway. Circumstances requiring the dock size to be modified are as follows: navigational interest, space restrictions or public recreational use of the lake. A boat hoist may be allowed in conjunction with an approved dock; the space occupied by the lift will be counted toward the size limitation of the dock.

(d) **Construction Criteria.** Fixed piers, walkways or docks are prohibited. Floating docks must be properly constructed and firmly secured in place with shoreline anchors and/or spud poles.

Only encased materials that will not sink when punctured will be approved for flotation. Only good quality, closed cell (extruded) expanded polystyrene manufactured for marine use or bead board encased in a protective coating to prevent deterioration and the resultant loss of beads will be approved for dock flotation. The use of pontoons or barrels for flotation is prohibited. A list of approved flotation materials is maintained by the Resource Manager. Shoreline Use Permit Condition #14 specifically addresses dock flotation material. Steel, aluminum, concrete, fiberglass, pressure treated wood, or a combination of these are acceptable building materials for docks. These standards for dock flotation will be required for all new dock permit applications, renewal applications and when modifications are made to existing dock facilities.

Roofs may be authorized for the protection of the applicant's boat, but may not be used as a sun deck or storage area. A minimum requirement will be that dock roof will be of a commercially available design or material. Enclosed boathouses will not be permitted. Roof overhangs on docks shall not exceed three feet. Handrails may be installed on the dock and walkway. If the dock is painted, it will be an earth-tone color (such as green, brown, or tan) or white. Permit tags furnished by the Resource Manager must be displayed on each dock on both the water and land sides. The permittee must maintain the structure in a safe and structurally sound condition. See Section VIII, paragraph 1(a) for safety requirements concerning electrical installations associated with docks.

(e) **Dock Structural-Support Systems.** The permittee must repair, remove and/or replace any facility which is found to be in an unsafe condition in accordance with current standards. Permitted facilities and activities are subject to periodic inspection by authorized Corps representatives. The Resource

Manager will notify the permittee of any deficiencies and establish a reasonable schedule for their correction. No deviation or changes from approved plans will be allowed without prior written approval of the Resource Manager.

(f) **Boat Hoists.** Boat slips may contain floating or suspended hoists. Suspended boat hoists are only permitted when the applicant submits certified engineering drawings that guarantee the dock and lift capacity for the vessel being stored. Floating boat hoists must be attached to the dock substructure. All hoists and lifts must be constructed within the slip area with the exception of personal watercraft (PWC) floating hoists or lifts that allow the PWC to rest on the dock. A maximum of two hoists for PWC use outside of the slip may be authorized.

(g) **Dock Anchoring.** An anchorage system shall be provided which will ensure secure anchoring of the floating facility taking into consideration the water depth, exposure to wave action and wind. Shoreline trees or other natural features will not be used as anchors. To prevent stress, floating facilities will be anchored perpendicular to the shoreline. Anchor cables placed at 45-degree angles to the shoreline may be utilized. Anchor posts (spud poles) with sleeves resting on the lake bottom may be used. If spud poles are used, they must be long enough to allow for fluctuation of the lake to flood pool elevation. Spud poles should be driven to a depth to provide sufficient anchorage. Anchor cables may be secured to the shoreline with metal posts or screw augers placed so not to endanger visitors or damage vegetation. The dock must be either floating or resting on the ground at all times. Anchor cables may not obstruct the public's use of the shoreline or water surface. Floating facilities should not share the same anchor post.

(h) **Dock Storage Boxes/Ladders.** Enclosed storage on docks will be limited to a maximum of 50 cubic feet. Storage boxes may not interfere with walk space. Dock storage boxes are authorized for storage of water related recreation equipment only. Boat docks are not to be used for general storage. Dock storage boxes must be securely anchored to the dock surface. Additionally, ladders for entry and exiting from the water may be attached to the dock structure.

(i) **Furniture, Decorative Items, Garden Plants, Etc.** Due to wind and wave action, dock owners are encouraged not to bring furniture to the dock. Diving boards/structures of any type as well as sliding boards, hammocks and playground equipment are prohibited. Additionally, items such as indoor furniture or objects that denote habitation such as, but not limited to, couches, sinks, cabinets, appliances, satellite dishes, security cameras and permanent stereo systems are prohibited. House and garden plants, holiday decorations, decorative/festive lights, signs, banners and other similar decorative items are prohibited on public land and on private facilities located on public land.

5. Group Docks. Group docks are an attractive alternative to a proliferation of individual docks and can benefit both the resources at the lake and the individual

members of the group. A group dock can reduce the visual and physical impacts of a private development along the shoreline by replacing several individuals' docks with one centralized facility. Property owners who qualify for individual docks can benefit from participating in a group dock arrangement in several ways. Overall construction and maintenance costs per person are generally lower for a group dock than for a separate individual dock. Electrical installation, maintenance and inspection costs would also be lower per person in the case of a consolidated dock. The permit cost is reduced because only one facility, and consequently one Shoreline Use Permit, is needed to serve several eligible property owners. There are three primary types of group docks – Community Dock Associations, Associations of Multiple Family Developments and Boat Clubs. Each of these is discussed below:

(a) **Community Dock Associations.** A community dock is owned by the members of the community landowners association. The Association must be a legally incorporated non-profit organization. Individual slips may not be rented, leased or licensed, nor may any other commercial activity be associated with the operation of the facility. Community docks shall not extend more than 75 feet from the beginning of the walkway to the outer or back edge of the dock, in a direction perpendicular to the shoreline. The dock shall not extend more than one-third the distance across a cove. In order to equitably accommodate as many eligible individual property owners as possible in congested areas, the Resource Manager may determine that only community dock applications will be approved in certain areas. The Resource Manager may reduce or deny expansion of the dock, if it is determined that environmental, public safety or current policy and regulations requirements warrant the action. These include, but are not all inclusive of, issues such as dock density, shoreline erosion, or reservoir purposes. The construction requirements are similar to those of private individual docks. The total surface area of a community dock association slip shall not exceed 400 square feet per member. The community dock must be located within the limits of an area defined by the Resource Manager so that it is at least 50 feet from any other existing dock. Community docks shall be permitted only in shoreline areas allocated as Limited Development for private docks. Public lands will not be made available for parking. No offshore moorage will be approved. A new community dock cannot accommodate individuals who do not own property that is eligible for a residential building permit or is located outside the currently established subdivision or allotment. Existing community docks will continue to operate under their approved Corporate Charter and by-laws. Liability insurance may be required for a non-profit status.

(b) **Association of Multiple Family Developments.** A group dock permit may be issued to an association of property owners of a condominium, cluster home development or similar residential development with jointly owned property directly fronting a Limited Development Area allocated for private docks. Residential units must be owned by the individual occupants. This excludes apartments or rental units in which residents do not actually hold title to the property involved. Persons eligible to use the community dock will be

determined by the legally incorporated property owners association (see next section). Since the number of residents will generally exceed the number of slips available, association by-laws must clearly state the criteria for dock usage and turnover. Also, a property owners association shall qualify for a community dock permit only after the residential development is substantially completed, 50% of the units are owner occupied and the association officers are bona fide residents. The purpose of this requirement is to assure that the community dock is for the legitimate recreational use of actual residents and not a speculative venture by developers to enhance marketability.

For permitting and fee purposes, a community dock serving a multiple family development is defined as a single facility of up to 16 boat slips. The maximum number of slips allowed will be determined by allocating one slip per 65 linear feet of available shoreline suitable for placement of individual private docks (15-foot average dock width with a minimum clearance between docks of 50 feet). The total surface area of a multiple family development dock shall not exceed 400 square feet per slip. However, the maximum number of slips allowed in this type of community dock shall be 16. No other private dock will be allowed within the community area. Liability insurance may be required for a non-profit status.

(c) **Boat Clubs.** A boat club dock is owned by the members of a legally incorporated non-profit organization. The primary difference between a community association dock and a boat club dock is that while space on a community dock is tied into ownership of private adjacent land, boat club slips are tied into ownership or leasing of individual lots in campgrounds that are adjacent to government land. Individual slips may not be rented, leased or licensed, nor may any other commercial activity be associated with the operation of the facility. Boat Club docks shall not extend more than 75 feet from the beginning of the walkway to the outer or back edge of the dock, in a direction perpendicular to the shoreline. The dock shall not extend more than one-third the distance across a cove. The Resource Manager may reduce or deny expansion of the dock, if it is determined that environmental, public safety or current policy and regulations requirements warrant the action. These include, but are not all inclusive, issues such as dock density, shoreline erosion, or reservoir purposes. If a proposed expansion is approved, the dimensions of additional slips will match that of the existing ones. The construction requirements are similar to those for private individual docks. The boat club dock must be located within the limits of an area defined by the Resource Manager so that it is at least 50 feet from any other existing dock. The total surface area of boat club docks shall not exceed 400 square feet per member. Boat club docks shall be permitted only in shoreline areas allocated as Limited Development for private docks. Public lands will not be made available for parking. No offshore moorage will be approved. Existing boat club docks will continue to operate under their approved Corporate Charter and by-laws. Liability insurance may be required for a non-profit status.

6. Guidelines for Establishing a Non-Profit Corporation for Multiple Family Developments, Community Dock Associations and Boat Clubs. The applicant for a community dock for multi-family, community dock association development and boat clubs must be a legal non-profit corporation. Copies of the state certificate of incorporation, the corporate charter, corporate by-laws and a list of officers and members (names, addresses, phone numbers and subdivision lot numbers) must be submitted with the application. Boat registration numbers of vessels to be moored at the facility shall be made available to the Resource Manager upon request. The charter must state that, "The purpose for which the corporation is organized is to obtain a permit from the U. S. Army Corps of Engineers to construct and maintain a private boat dock facility, and not to engage in any activities which are inconsistent with local, state or federal laws."

a. The corporate by-laws must clearly state:

1. The qualifications for participation.
2. Evidence of membership on a non-discriminatory basis.
3. Procedures for utilization by members, routine maintenance and removal of inoperable or ineligible vessels and reassignment of slips.
4. The schedule for regular meetings and procedures to deal with problems occurring between scheduled meetings.
5. Individual slips cannot be rented, leased or licensed.

b. The corporation must submit a Shoreline Use Permit application with detailed plans showing the location of the facility on the shoreline and the type of construction. No deviation from the approved plans is allowed without the prior written approval of the Resource Manager.

c. The responsible corporate representative must sign a statement certifying that the rules and conditions covering the issuance of the permit have been read, understood and agreed to by all members.

VII. LAND BASED ACTIVITIES

1. General. In Limited Development Areas for mowing, adjoining private property owners may apply for a Shoreline Use Permit to mow and maintain the public property between their property and the lake. Dense undergrowth can be removed to make it possible to mow, but cutting trees greater than one inch in diameter is prohibited. The type of vegetation to be removed must be clearly specified on the individual's land use plan and approved by the Resource Manager before any work takes place. Limbs one inch diameter may be trimmed up to one third the height of the tree, but not to exceed seven feet. The use of bulldozers or graders of any type to clear vegetation on public land is strictly prohibited. The Resource Manager will specify the limits of clearing in areas previously unmowed. Applicants are encouraged to plant native species trees.

2. Mowing Permits. All previously issued mowing permits may be subject to reapplication upon inspection, compliance and implementation of this plan.

(a) **Mowing in Limited Development Areas.** Mowing permits may be issued by the Resource Manager for adjoining landowners to mow an area to the shoreline to the width of their individual lot. Upon the current permit expiration an evaluation will be done as outlined in Section I-9 of this plan.

(b) **Mowing in Restricted Areas.** New mowing permits will not be issued in protected areas, recreation areas, future recreation areas or areas which are designed for prohibited access. There may be a letter of permission issued to mow a four foot meandering path in protected areas. Permittees holding valid permits in protected or future recreation areas will be subject to reapplication only by the current permittee.

(c) **Unauthorized Mowing.** Mowing in violation of the area specified in the permit will be considered a trespass and could result in the revocation of dock and/or mowing permit.

3. Boundary Delineation. Permittees shall be required to mark the boundary line between their property and public property so the general public can determine the extent of public shoreline property. The permittee may accomplish this by one or a combination of the following methods:

a. Plant and maintain trees or shrubs on or near the private property corners and on 40-foot centers along the public property line.

b. Maintain a bird house or feeder attached to a four-inch by four-inch wooden post on or near the private property corners and on 40-foot centers along the public property line. A property line sign may be attached to selected posts designated by Corps personnel.

c. Plant and maintain a solid hedgerow along the public property line.

d. Install fence or wall on private property next to the public/private property line.

The Resource Manager must approve the method of delineation. In heavily wooded areas where the planting of additional vegetation is impractical, the boundary will be delineated with Corps of Engineers property line signs and/or yellow blazes painted on trees.

4. Other Activities Approved by the Resource Manager.

(a) **Unimproved Paths.** The Resource Manager may authorize a meandering path not to exceed four feet in width to improve pedestrian access to the lake. Tree cutting will not be allowed. The path must blend in with the natural terrain, and only a natural surface will be permitted. The use of natural material for stepping stones will be allowed if such material is placed flush with the ground and the resulting appearance is not that of a sidewalk. Access paths across public

lands will be restricted to pedestrian use only and will be available for the use of the general public. This does not include the construction of concrete, metal or wooden walkways or steps. These structures may require a Real Estate license or a Regulatory Permit if in a wetland or over a stream and are approved on a case-by-case basis in Limited Development Areas. In areas covered by easement agreements, a consent agreement may be required from the Corps of Engineers.

(b) **Hazardous Tree Removal.** Hazardous trees that endanger life or property may be cut/dropped and/or removed from public land upon completion of an on-site evaluation by Corps personnel and written approval of the Resource Manager. Trees that have fallen on private property causing damage may be removed immediately with documentation to include pictures sent to the Resource Manager.

(c) **Exotic Species.** Exotic species of vegetation not native to the area are not authorized. Flower and vegetable gardens are not authorized.

(d) **Chemical Agents.** Broad uses of chemical agents such as pesticides are not authorized. Chemical products such as pre-emergence, weed killers, fertilizers, growth retardant, etc. may not be used on public lands. However, some topical application to control noxious or non-native species may be allowed upon request to the Resource Manager. This activity must have prior approval from the Resource Manager and must meet all federal, state and local guidelines.

(e) **Fires.** Naturally occurring drift may be burned only on the exposed lake bottom in conjunction with local and state requirements.

(f) **Land Formations.** Land formations may not be modified without a permit.

(g) **Specified Acts.** The Resource Manager can authorize the removal of damaged trees, downed trees or selected standing trees, and the filling of holes and eroded drainage areas on public land if it is determined that such conditions constitute a bona-fide safety hazard. These activities will be considered on a case-by-case basis. When a standing tree is allowed to be removed, up to two suitable replacement trees must be planted in the proximity of the tree that is removed. The planting of native trees and shrubs and/or species beneficial to wildlife is encouraged on public land.

(h) **Special Events.** Special event permits are required for recreational use of the project when more than 25 persons or vessels are involved in a proposed activity. Generally speaking it is not the intent of this stipulation to deny use of the project. It is, however, necessary to insure that environmental issues are addressed, regulatory guidance is reviewed, public safety is considered, space is available, rights of others are not affected, and the activity in fact can be authorized. Permission from the Corps of Engineers does not relieve the permittee from obtaining similar local or state authorization, if required.

Examples of special events permits are sailing regattas, weddings, graduations, fishing tournaments, company or corporate outings, water ski demonstrations, etc.

(i). **Accessibility for Individuals with Disabilities.** Adjacent landowners and permittees are encouraged to use facilities in public recreation areas when the need to address accessibility concerns for individuals with disabilities arises. If direct access to the dock is required from adjoining property for a resident with physical disabilities, authorization for appropriate accommodations can be considered. Each case will be reviewed based upon its own merits. To qualify, one must provide a letter from a doctor that describes the disability in sufficient detail and describes the type of access medically necessary for continued use of the facilities. The letter should also include information as to whether the condition is permanent or temporary. Benches, handrails, or use of a motorized cart or similar vehicle may be authorized. Any motorized cart or similar conveyance will be identified by a placard or decal provided by the government. Authorization will be granted for the minimum improvements necessary to provide safe access. Temporary solutions will be considered for temporary disabilities. At renewal of the permit, this need must be re-established with a subsequent letter from the doctor. Because of the temporary nature of these permits, hardened surfaces such as gravel, asphalt, or concrete may not be authorized due to negative environmental impacts and the high cost of removal. Site conditions may limit the Corps' ability to accommodate every applicant.

VIII. ACTIVITIES REQUIRING REAL ESTATE INSTRUMENTS AND OUTGRANTS

1. **Real Estate Instruments and Outgrants.** Items which involve structures placed on public land or changes in land form are covered by a lease, license or other legal outgrant issued by the Corps' Real Estate Branch. All commercial development activities require a real estate outgrant instrument. Minor privileges such as electrical lines and steps are covered under a license. Licenses are non-transferable. Upon transfer of the adjoining private property, the new owner may apply for a license to continue use and maintenance of the structure.

(a) **Electrical Lighting and Equipment.** Electrical equipment, including service for a private dock or shoreline security light, may be permitted provided that 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 security lighting or power for a permitted private dock. The Resource Manager will approve the location of all security lights on public land. Electrical installations must meet all applicable codes. The electrical installation must be certified by the state electrical inspector and a copy of the electrical inspection certificate must be furnished to the Resource Manager before final approval. A copy of every subsequent re-certification (e.g., for rewiring or adding more outlets) shall also be furnished to the Resource Manager. The Resource Manager will require removal of any electrical equipment if the installation cannot be

certified due to the potential hazards of electrical shock. Overhead electrical lines will not be permitted unless the Resource Manager determines that natural conditions preclude underground installation. Electrical lines or fixtures cannot be affixed to trees on public property.

(b) **Steps and Walkways.** Licenses for steps or walkways may be granted when the Resource Manager deems such facilities are needed to provide safe access to permitted private moorage facilities. These licenses will be approved on a case-by-case basis in locations where terrain is steep or other conditions exist which make access difficult. Materials used to create these structures must be properly treated and environmentally friendly; no wood treated with arsenic will be authorized. All the materials to be used and overall design must be approved by the Resource Manager before installation.

IX. ACTIVITIES REQUIRING REGULATORY PERMITS

1. **Regulatory Permits.** Activities involving excavation of the lake bottom, dredging or fill material into the lake, installation of fish attractors, etc. require Regulatory approval. Some categories of work have previously been authorized under provisions of Nationwide Permits so that an individual Regulatory Permit is not required. The average processing time for non-controversial Individual Permit applications may take up to six months from the date a complete application is received in the Corps' Pittsburgh District Office. Because of the public notification process required, controversial applications which involve potentially adverse environmental impacts could take much longer and could ultimately be denied. Therefore, applications should be submitted to the Resource Manager as far in advance of the proposed work as possible.

(a) **Dredging.** Applications for dredging are accepted in Limited Development Areas allocated for boat dock privileges, to provide sufficient water depths for boat access. All spoil material must be disposed of off government property. Measures to control siltation and erosion of dredged material shall be outlined on the initial application.

(b) **Shoreline Erosion Control.** Shoreline erosion control is encouraged because it benefits public property as well as the adjacent private property owner. Biotechnical methods may be used to control shoreline erosion and is the preferred first option. The biotechnical approach (or vegetative approach) saves existing vegetation which alone is not strong enough to hold the slope or shoreline. These biotechnical methods are an alternative to rip rapping that combines mechanical and vegetative methods to stabilize a site by constructing living structures that control erosion and sediment. Vegetation used may include native woody species which root easily, such as willow, ash, dogwood, maples, birch, sycamore, locust and even forsythia. These methods promote a more natural shoreline appearance. As plants become established, they control erosion in several ways: leaves intercept raindrops which may cause erosion, stem

material catches sediment and roots stabilize soil conditions and can help protect against slope failure.

Placement of quarry-run stone (referred to as riprap) is another method which is used for shoreline erosion control. Normally stone less than six inches in diameter does not provide adequate erosion protection and will not be approved for use as riprap. R-4 riprap or larger stone must be used. However, if large stone is used and recreational access is desired across the riprap, a pedestrian access way can be prepared by top-dressing with a limited amount of fine stone material to fill voids and make access safe and easy. Small stone can also be approved for use as a filter blanket, provided it is topped with large stone. The Resource Manager will require a method of erosion control which will minimize destruction of vegetation along the shoreline.

Riprap will be placed along the existing shoreline and in a continuous manner without creating inlets, boat harbors or jetties. No land reclamation will be authorized. Public land disturbed by equipment used for riprapping must be leveled, seeded, mulched and replanted with trees (if required) to restore vegetative cover to the shoreline. Riprap placement requires a Real Estate license and an approval letter under the Regulatory Permit program. Bank stabilization activities in excess of 500 feet in length or greater than one cubic yard per running foot may be authorized upon notifying the Resource Manager and meeting Regulatory and Real Estate requirements.

Retaining or seawalls are more expensive to install and maintain than riprap, and they eliminate habitat for aquatic life. Experience has shown that many existing walls were not adequately constructed and are subject to cracking and undercutting. To be approved, a retaining wall must be built with proper footing, drainage behind the wall and use of tie-backs. Design and materials must be approved in advance by the Resource Manager. Retaining or seawalls constructed of railroad ties or telephone poles will not be approved.

Once shoreline erosion control is authorized in areas experiencing erosion and the Resource Manager determines erosion control is required, the applicant must control erosion on a portion or all of the shoreline covered by a Real Estate license. Applicants receiving Regulatory authorization pursuant to the conditions of a Nationwide Permit will be required to begin installation of the erosion control within two years of issuance of the permit. In addition, the associated Real Estate license will require completion of the installation within the five-year term of the initial license. Applicants receiving Regulatory authorization under an individual Department of the Army Regulatory Permit must complete installation of the erosion control within three years as required by the permit. Failure to meet the above time requirements, when such failure is due solely to the fault of the applicant, may result in the revocation of the Real Estate license.

(c) **Fish Attractors.** Fish attractors are man-made habitats for concentrating fish and their placement in Berlin Lake and must be approved by a Regulatory permit. Fish attractors meet the criteria for approval under the Nationwide Permit for fish and wildlife harvesting devices {33 CFR 330.5(a) (4)}.

X. FEES

1. **General.** A non-refundable administrative fee will be charged for Shoreline Use Permits. Real estate outgrants will be assessed a separate fee appropriate to the type of use granted. Fees that are associated with these instruments are subject to periodic change. The current fees for various types of permits and outgrants is available in the Berlin Project Office.

2. **Dock and Mowing Permits.** Shoreline Use Permit fees for floating facilities and vegetative management are set forth in the Code of Federal Regulations (36 CFR 327.31) and are applicable nationwide. These regulations are not part of this document and are published separately. They are subject to change as required.

3. **Corps of Engineers Outgrants.** There will be a fee associated with the issuance of an outgrant from the Corps of Engineers, Pittsburgh District, Real Estate Branch.

XI. PROHIBITED FACILITIES AND ACTIVITIES

1. **Prohibited Items.** Shoreline uses not specifically authorized above are prohibited. Prohibited items include, but are not limited to:

- a. Structures including patios, fences, sidewalks, buildings, sheds, barbecue grills, satellite dish antennas, playground equipment or planters.
- b. Gardens and orchards.
- c. The spreading of sand to construct a beach, gravel or any other material to construct a private access ramp.
- d. The storage of any object including firewood, boats, trash cans, scrap material, pet houses and pens, etc.
- e. The disposal of litter, leaves, trash, grass cuttings, tree limbs, waste oil or chemicals, or any other material in the lake and/or along the lakeshore is strictly prohibited.
- f. Signs on public lands.

All unauthorized structures and private items shall be removed from government property within 30 calendar days of written notice. Trash, litter, and debris shall be removed

immediately upon verbal or written notice. Prohibited items are subject to impoundment and removal by the Corps of Engineers at the owner's expense.

XII. ENVIRONMENTAL STEWARDSHIP

1. **Water Quality.** Because Berlin Lake provides aquatic habitat, recreational opportunities, and a dependable residential, municipal, and industrial water supply, safeguarding the water quality of the lake is of utmost importance. The cooperation of area residents and federal, state, and local agencies is necessary in this effort.

(a) **Trash, Refuse and Debris.** The disposal of household trash, grass cuttings, leaves, tree limbs, waste oil or chemicals, or any other material in the lake is strictly prohibited. Burning household trash or garbage on public land is also prohibited.

(b) **Privately Owned Sanitary Facilities on Adjoining Property.** Septic tanks, drain fields, and other sanitary facilities on adjoining private property are regulated by the Ohio Environmental Protection Agency (OEPA). The construction or installation of a septic tank, drain field, or holding tank on public land is not permitted.

(c) **Fill Material.** The Corps of Engineers regulates the discharge of dredged or fill material into any waterway or adjacent wetland, regardless of ownership. Copies of applicable regulations are available for review from the Resource Manager.

(d) **Non-Point Sources of Water Pollution.** The Ohio Department of Natural Resources, Ohio Environmental Protection Agency, local county Soil and Water Conservation District, and the Department of Health, are responsible for the prevention and control of stream bank dumping, unauthorized gravel dredging, siltation from unprotected construction sites, and other activities which occur off federal property in the tributaries of the lake and do not involve a direct discharge of fill material as described in paragraph c., above. Penalties for fish kills resulting from water pollution are assessed by the Ohio Department of Natural Resources.

(e) **Municipal and Industrial Discharges.** Industrial and municipal sewage treatment plants located adjacent to public property which have outfalls designed to discharge treated effluent directly into the lake are regulated and monitored by the Ohio Environmental Protection Agency and Ohio Department of Natural Resources, Department of Health and a license/easement from Pittsburgh District Real Estate section.

XIII. GRANDFATHERED PRIVILEGES

1. **Grandfathered Privileges.** The "grandfather clause" is a provision which allows existing land-based privileges of a type no longer permitted to continue to the individual who originally obtained the shoreline permit or real estate outgrant, provided he or she adheres to all terms and conditions of the permit or outgrant. Such permits or outgrants shall remain in affect until:

- a. The transfer of ownership of the individual's adjoining private property.
- b. The death of the individual and spouse.
- c. Permit or outgrant conditions are violated and not corrected upon reasonable notice.
- d. The individual or association voluntarily discontinues the private use covered by the grandfather clause.

When any of these events occur, the Shoreline Use Permit or outgrant becomes null and void. Any future private use on public property at that location must conform to current requirements of the Shoreline Management Plan. Grandfathering does not apply to outgrant costs.

2. **Special Privileges.** As described in Section VI-4 of this plan, grandfathered privileges will further extend to successive holders of permits for docks lawfully in place prior to November 17, 1986. New owners of these docks are eligible for permits provided all conditions as set forth in Public Law 99-662 are met.

XIV. APPEALS

1. **Appeals Process.** Most problems concerning shoreline management can be resolved at the local level through the Resource Manager. If a problem cannot be resolved at this level, documentation of the dispute may be forwarded to the District Engineer or his representative for review. The review will focus on any procedural deficiencies in the Resource Manager's decision, or conflicts with the decision and the Shoreline Management Plan. The decision of the District Engineer or his representative will be final.

XV. ITEMS NOT OTHERWISE COVERED IN THIS PLAN

1. **Procedures for Items Not Otherwise Covered in this Plan.** There may be occasions when requests for privileges or work within the scope of shoreline management arise which are not specifically addressed in this Plan. If this occurs, the Resource Manager, in coordination with the Pittsburgh District Office, will take the following actions:

- a. Review the request for general conformance with the objectives and intent of the Shoreline Management Plan. Determine if the request is likely a one-time event or whether it will likely be a recurring demand.
- b. If the request is likely a one-time event and a decision concerning the application could clearly be shown to be either contrary to or not contrary to, the overall public interest in light of the objectives of the Shoreline Management Plan, the Resource Manager shall approve or deny the request in a timely manner and document the administrative file as to the nature of the request and reasons for actions taken.
- c. If the request would likely be of a recurring nature, in addition to making a determination and taking action as in (b), above, the Resource Manager shall forward a copy of the documentation to the Pittsburgh District Office, with a proposal of how such requests should be addressed in updates to the Shoreline Management Plan.
- d. If a request is highly controversial, could impact the administration of the shoreline management program by setting a precedent for similar proposals, or is not clearly in, or is contrary to, the overall public interest, the Resource Manager shall forward the request to the District Office for review and joint determination as to the proper course of action. The applicant will be advised in a timely manner as to the status of their request and informed of the anticipated date of a decision on the request. Once a decision is made, the Resource Manager will draft proposed wording to be included in updates to the Shoreline Management Plan to address similar requests, and submit the proposal to the District Office for review.

XVI. EVALUATION OF THE PLAN

1. General Evaluation of the Plan. This Shoreline Management Plan is intended to provide optimum benefits to the general public and to conserve the natural resources of Berlin Lake. Present and future recreational needs of the general public and environmental considerations were evaluated in formulating the Plan. This Shoreline Management Plan will be reviewed periodically, but no less often than every five years, to determine the need for update. This Plan is prepared as an appendix to the Operational Management Plan for Berlin Lake.

XVII. PUBLIC INVOLVEMENT

1. Summary of Public Involvement. Public involvement in the review of the draft Shoreline Management Plan update was facilitated through a combination of press releases, internet notices and letters mailed directly to current permit holders. The document itself was made available for review at two public libraries, as a link on the Berlin Lake web page, and through hard copies provided by the Berlin Lake Resource Manager's Office. The period of August 19 to September 17, 2007 was designated as the

time during which written and email comments on the plan would be accepted for consideration. Public input sessions were held at the Resource Manager's Office on Sunday, August 19, 2007 from 11:00 AM to 3:00 PM, on Wednesday, August 22, 2007 from 3:00 PM to 7:00 PM and on Saturday, August 25 from 1:00 PM to 4:00 PM. A document summarizing comments received and the Corps response to those comments was prepared. Although not included as part of this plan, the summary and response document is available on the Berlin Lake web page or by contacting the Project Office for those lacking internet capability.

APPENDICES

APPENDIX 1

DEFINITIONS

Association of Multiple Family Developments – An association of property owners who own individual residential units in a condominium complex, cluster home development, or a similar residential development with jointly owned property directly fronting a Limited Development Area.

Boat Clubs – A Boat Club dock is owned by the members of a legally incorporated non-profit organization. Membership in a boat club is tied into ownership or leasing of individual lots in campgrounds that are adjacent to government land and not necessarily to individual adjacent land ownership.

Community Docks – A community dock is owned by the members of the community landowners association. The Association must be a legally incorporated non-profit organization. Community docks are individuals who own property contiguous to public property allocated as Limited Development.

Easement Property – Easement property is privately owned land over which the federal government has acquired flowage easement rights and the ability to prohibit or restrict certain structures on the land.

Encroachment – A structure or improvement built, installed or established which interferes with a real estate interest of the United States, either a fee interest or an easement if such is prohibited in the easement estate.

Exotic Species – Species of vegetation not native to the area.

Fee Land – Land that the U. S. Government owns outright in fee simple title.

Grandfathered Activity – The "grandfather clause" is a provision which allows existing land-based privileges of a type no longer permitted to continue to the individual who originally obtained the shoreline permit or real estate outgrant, provided he or she adheres to all terms and conditions of the shoreline permit or outgrant.

Individual Docks – Individual dock permits are issued to individual landowners who own land that shares a common boundary with public property designated Limited Development Area.

Legal Access – A recorded lease or easement for the right of ingress and egress to the shoreline.

Limited Development Areas – Limited Development Areas are areas established through prior development, public use, and management designation. Floating facilities and certain land based activities may be authorized in these areas, provided that all other conditions of eligibility criteria are met.

Outgrant – A lease, license, easement, permit or other written agreement issued from the Corps of Engineers for commercial or individual activities that are not covered under the Shoreline Management Program. These instruments normally involve grading, cut or fill, and construction of structures such as steps, shoreline erosion control, walkways, boat launch ramps and parking areas, roadways, and power lines.

Permittee – The individual to whom the permit is issued. This person is the responsible party for all matters concerning the permit.

Private Dock Facilities – Private dock facilities consist of individual docks or community docks. Permits for these facilities will be issued only in Limited Development Areas which are allocated for private docks.

Private Exclusive Use – Private exclusive use is the use of public lands or waters by a private citizen or organization such that any benefit to be derived therefrom is in the predominate interest of that individual or organization.

Prohibited Access Areas – These are areas which are established for the physical safety of the public. Shoreline use privileges are not allowed in these areas.

Protected Shoreline Areas – Protected Shoreline Areas are areas established to retain the natural, undeveloped character of the shoreline, maintain shoreline aesthetics, prevent erosion, and to protect other environmental values of the lake. Shoreline Use privileges will not be granted in these areas.

Public Recreation Areas – Public Recreation Areas include Corps recreation areas and launching ramps, state operated areas, and public marinas. Future recreation areas are also included in this classification. Shoreline Use privileges cannot be granted in these areas.

Trespass – A trespass is an unauthorized transient use and occupancy of public property, such as livestock grazing, mowing, cultivation and harvesting of crops, and timber cutting and removal. Trespasses also include the unauthorized placement of non-permanent items such as picnic tables, fire rings, birdbaths and trash piles on United States land.

APPENDIX 2

HOW TO APPLY FOR PERMITS/LICENSES/REGULATORY OUTGRANTS

Introduction. The Corps of Engineers has been delegated authority by Congress to manage and regulate public use of the lake. As part of its management program, the Corps may issue Real Estate Outgrants and Regulatory Permits to install minor private facilities on certain public lands and waters. Permit/Licenses are issued to eligible individuals and are nontransferable. They grant no real estate rights nor convey any private exclusive use privileges on government property. Berlin Lake's shoreline is open to use by the general public. This guide contains helpful information on how to apply for a "Shoreline Use Permit".

Who May Apply. Individuals who own property adjacent to public lands and share a common boundary line with the Corps of Engineers may apply for a Shoreline Use Permit/License. The adjacent land must be a buildable lot, as required by the county. The type of items that may be permitted is based on the zoning of the shoreline adjacent to this shared common boundary line.

How to Apply. Contact the Corps Resource Manager's Office at 330/547-3781 and request an appointment with the Park Ranger responsible for your area of the lake. The Park Ranger will meet with you to discuss Shoreline Management policies. You will be given an application packet to complete and return to the Berlin Lake Project Office for review and consideration.

Final approval will not be given until the Resource Manager or appropriate District Office representative reviews and issues the permit. Once the permit is approved, the permit is mailed to the permittee. Tags must be displayed on the land and water sides of the dock or along the shoreline if a dock is not present.

What to File.

Shoreline Use Permits: Issued for items such as (but not strictly limited to) docks, mowing, paths, special events, and specified acts.

- One completed original application (available at Resource Manager's Office)
- One copy of your property deed or closing statement. (Note: Must be signed and notarized.)
- One copy of engineered dock drawings displaying dimensions and materials used.
- Group dock agreement with each members name (if applicable)
- Check Payable to "FAO, USAED, Pittsburgh" in the amount of specified by the Resource Manger

Shoreline Use Licenses and Outgrants: Issued for items such as (but not strictly limited to): steps, electrical lighting and equipment, and shoreline erosion control.

- One completed Regulatory application (available online at Pittsburgh District internet site under Regulatory and permits at www.lrp.usace.army.mil/org/who.htm#reg or at the project office).
- One copy of your property deed or closing statement. (Note: Must be signed and notarized.)

- Check Payable to “FAO, USAED, Pittsburgh” in the amount of specified by the Real Estate Branch

Note all needed information must be submitted at the same time. Partial or incomplete applications will *not* be accepted.

Where to File.

Berlin Lake
ATTN: Resource Manager
7400 Bedell Road
Berlin Center, Ohio 44401
Telephone: 330/547-3781

How to Modify the Permit. Modification to any part of the permit requires prior approval of the Resource Manager. A site review is generally required. Contact the appropriate Park Ranger for your location for any additional information.

Rules and Regulations. Regulations governing the use of Berlin Lake are established in the Code of Federal Regulations, Title 36, Part 327. Copies are available at the Berlin Lake Project Office.

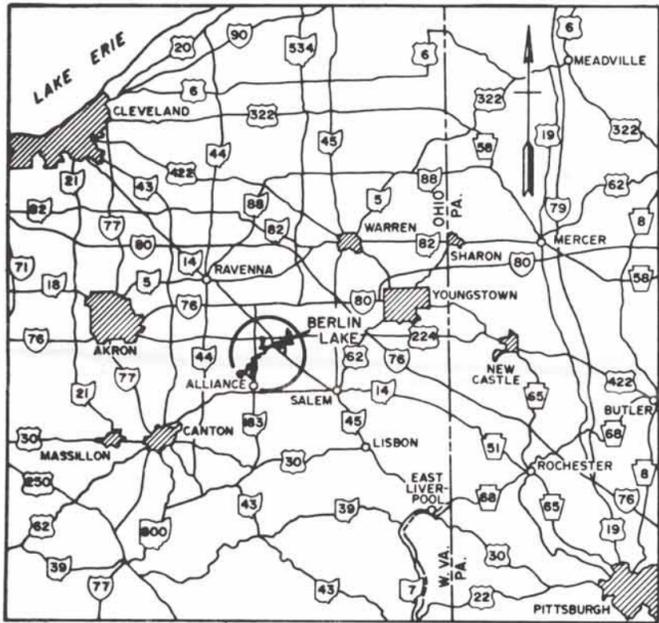
Any type of work or installation of facilities on public property must be pre-approved by the Resource Manager. A permit must be issued prior to any work being done on public property.

A violation of the provisions of the regulations shall subject the violator to a fine as defined in CFR Title 36 of not more than \$500.00 or imprisonment for not more than six (6) months, or both. In addition, any or all parts of the permit may be terminated.

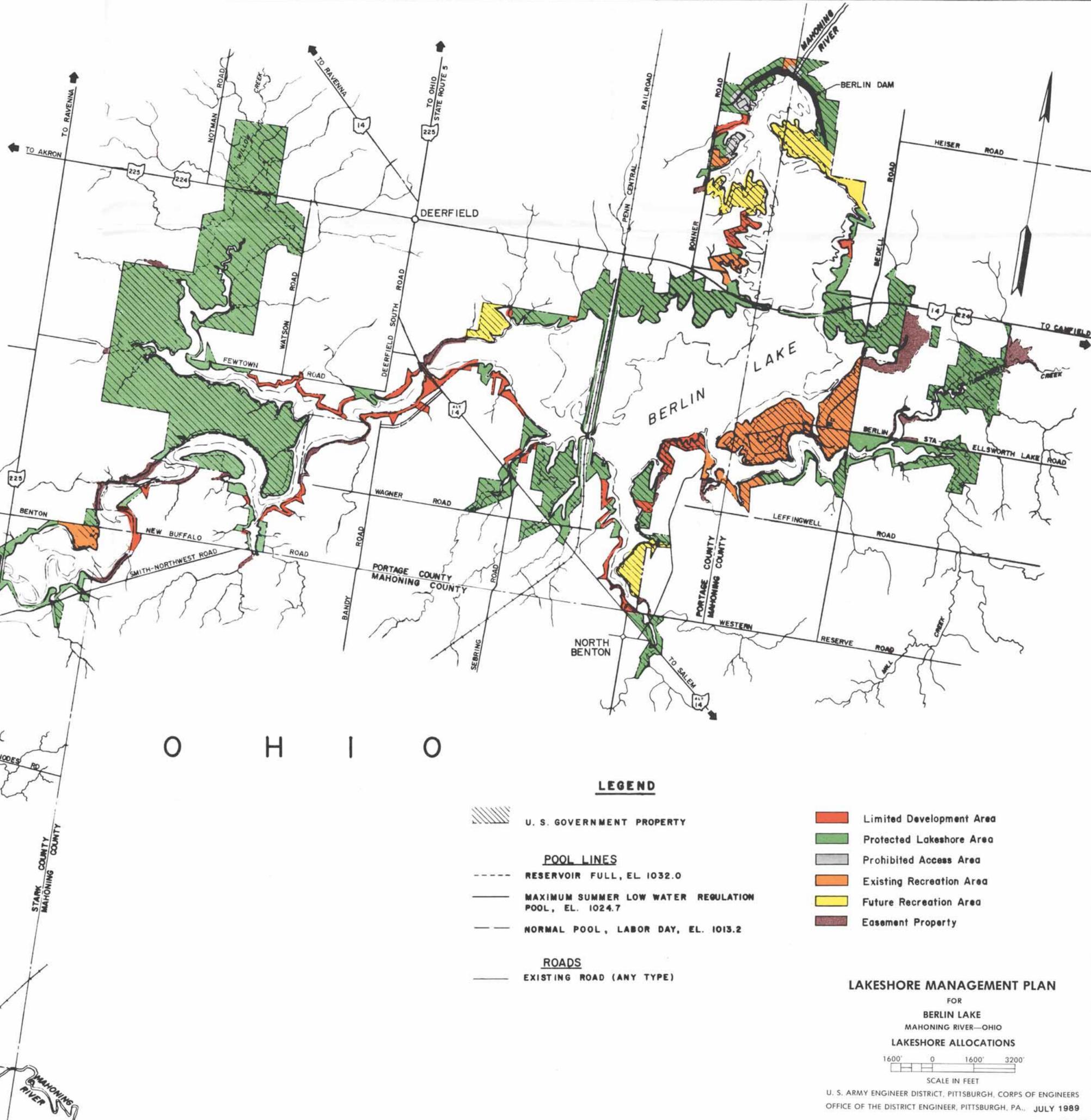
APPENDIX 3

ALLOCATION MAP

Adjacent land owners and prospective buyers are reminded that shoreline allocations (zoning) affect the type of facilities and/or activities that may be permitted at a particular site. Shoreline Use Permits are prohibited in some areas of the Berlin Lake shoreline. To determine the shoreline allocation adjacent to a particular site, please contact the Berlin Lake Project Office at 330/547-3781 to set up a time to review these maps. Rangers are available to assist in determining zoning and permit possibilities. Prospective buyers are encouraged to determine the shoreline allocations (zoning) prior to purchasing property adjacent to Berlin Lake.



VICINITY MAP



O H I O

LEGEND

- U. S. GOVERNMENT PROPERTY
 - Limited Development Area
 - Protected Lakeshore Area
 - Prohibited Access Area
 - Existing Recreation Area
 - Future Recreation Area
 - Easement Property
- POOL LINES**
- RESERVOIR FULL, EL. 1032.0
 - MAXIMUM SUMMER LOW WATER REGULATION POOL, EL. 1024.7
 - NORMAL POOL, LABOR DAY, EL. 1013.2
- ROADS**
- EXISTING ROAD (ANY TYPE)

LAKESHORE MANAGEMENT PLAN
FOR
BERLIN LAKE
MAHONING RIVER—OHIO
LAKESHORE ALLOCATIONS



APPENDIX 4

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 navigational 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 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 calendar 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 with 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 dock storage box 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 activities by the permittee or his/her agent for monetary gain. This does not preclude the permittee from selling total ownership to the facility (for instance, the dock itself).

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 eight 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 shoreline plan, 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 calendar days advance 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 calendar 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. Any activity of this type must have prior approval from the Resource Manager and must meet all federal, state and local guidelines.
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 calendar 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.