

DEPARTMENT OF THE ARMY
Omaha District, Corps of Engineers
6014 U. S. Post Office and Courthouse
Omaha, Nebraska 68102

DM 1130-2-1

MROOP

Memorandum
No. 1130-2-1

7 October 1983

Project Operation
LAKESHORE MANAGEMENT AT CIVIL WORKS PROJECTS

1. Purpose. The purpose of this memorandum is to provide policy and guidance on the protection of desirable environmental characteristics on operating lake projects and restoration of shorelines where degradation has occurred through private exclusive use.
2. Applicability. This memorandum applies to all operating lake projects except where such application would result in an impingement upon existing Indian rights.
3. References.
 - a. ER 1130-2-400.
 - b. ER 1130-2-406 of 13 December 1974, excepting paragraphs 6.a. and 6.b. which are obsolete."
 - c. Section 4, 1944 Flood Control Act, as amended, P.L. 87-874.
 - d. The Act of 31 August 1951 (31 USC 483a).
 - e. The National Environmental Policy Act of 1969, P.L. 91-190.
 - f. Title 36, Chapter III, Part 327, Code of Federal Regulations, "Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers."
 - g. Executive Order 11752.
 - h. 33 C.F.R. 320-330, "Permits for Work in Navigable Waters or Ocean Waters."
4. Policy.
 - a. It is the policy of the Corps of Engineers to manage and protect the shorelines of all lakes under its jurisdiction to properly establish and maintain acceptable fish and wildlife habitat, aesthetic quality, and natural environmental conditions, and to promote the safe and healthful use of these shorelines for recreational purposes. This will be accomplished essentially through "overlay" zoning of lakeshore land uses to supplement the land use allocations established in the master plan. Typical management measures include the establishment of no-wake boating zones, no boating zones, no hunting zones, water ski areas, etc., and the conduct of habitat management practices.

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b. Public Participation. The Commander will ensure that the public participates to the maximum practicable extent in the formulation and preparation of Lakeshore Management Plans and any subsequent major revisions. Maximum use will be made of news releases, public notices, congressional liaison, and public meetings to encourage full public participation. Special care will be taken to advise local citizen organizations, conservation organizations, Federal, State, and local natural resource management agencies and other concerned bodies as well as adjacent landowners during the formulation of Lakeshore Management Plans. Published notices shall be required on several successive weeks prior to public meetings to assure maximum public participation. Ample time shall be permitted for review and comment by concerned organizations and individuals. Public notices shall be issued by the Commander allowing a minimum of 30 days for receipt of public comment in regard to the proposed Lakeshore Management Plan or any major revision thereto.

c. Major changes in management policy or procedure, and changes in lakeshore zoning allocations, will constitute major revisions and thus require appropriate public participation. Minor revisions will be made to plan as necessary. Revision or update to Lakeshore Management Plans will be approved by the Division Commander.

d. Coordination. For projects where two or more agencies have jurisdiction, the plan will be cooperatively prepared with the Corps assuming the role of coordinator. When other agencies or District elements have a substantive interest in planning for the project's shoreline-related resources, any public meetings about common concerns should be combined.

5. Instruments for Private Exclusive Use. Criteria used to determine the type of instrument to be used for private exclusive use facilities or developments are as follows:

a. Lakeshore Use Permit. Lakeshore Use Permits (ENG Form 4264-R, Appendix B, ER 1130-2-406) are issued and enforced in accordance with provisions of Section 327.19, Chapter III, Title 36, Code of Federal Regulations, for private floating recreation facilities. Lakeshore Use Permits are issued for floating structures of any kind in waters of resource projects whether or not such waters are deemed navigable and where such waters are under the primary jurisdiction of the Secretary of the Army and under the management of a Corps of Engineers Resource Manager. On waters deemed nonnavigable, Lakeshore Use Permits will be issued for nonfloating structures when such waters are under management of a Corps Resource Manager, except for those structures which require the discharge of dredged or fill material into the water as such discharges must be permitted under Section 404 of the Clean Water Act (33 U.S.C. 1344). Lakeshore use permits are issued for vegetative modification activities on the land which do not involve in any way a disruption to or a change in land form. Situations which require a Real Estate instrument are covered in 5c, below.

b. Department of the Army Permits. A permit, pursuant to Section 10 of the River and Harbor Act approved March 3, 1899 (33 U.S.C. 403), is required for all structures and/or work in/or affecting navigable waters of the United States with the exception of the floating structures referenced in 5a, above. A permit, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), is required for any activity involving the discharge of dredged or fill material into the nations waterways.

c. Real Estate Instruments. All development activities and all activities by individuals which are not covered above and involve grade, cuts, fills, other changes in land form or appropriate land-based support facilities required for private floating facilities will be covered by a lease, license, or other legal grant issued by the Real Estate Division.

6. Transfer of Permits. All Lakeshore Use Permits are nontransferable. Upon sale or other transfer of the permitted facility or the death of the permittee the permit is null and void. The voided permit site, if located in a Limited Development Area, may become available for permit application by all members of the public for issuance in an impartial manner if consistent with the Lakeshore Management Plan.

7. Existing Facilities Now Under Permit. The schedule for implementation of the Lakeshore Management Plan shall be developed in full consideration of existing permitted exclusive use facilities, their residual value and the prior Corps commitment implicit in the issuance of the permits. Except under unusual circumstances, such facilities should in general remain under permit until replacement is required, or until death of the permittee, or until sale or cessation of use of the facility by them. In the instance of multi-slip, multi-owner permits for private floating facilities and corporation-owned private floating facilities, the structure must be located in areas specifically allocated in the Lakeshore Management Plan. When existing floating facilities of this type are located in areas not approved for limited development under the Lakeshore Management Plan, a grandfather rights provision will apply. Such provision will extend for the period of time that the facility will pass annual inspections without major repair by the permittee(s). At that time the floating facility will be removed or repaired and relocated to an approved location by the owner under a new permit.

8. Density of Development. The density of private floating recreation facilities will be established for all Limited Development Areas in the Lakeshore Management Plan. The densities will be consistent with ecological and aesthetic characteristics. In all cases, the density of development specified in the Lakeshore Management Plan will not be more than 50 percent of that shoreline allocated as Limited Development Areas. In those cases where current density of development exceeds the density level established in the Lakeshore Management Plan, the density will be reduced gradually to the prescribed level by employing such guidelines necessary to protect the integrity of the shoreline environment. The number of private recreation

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facilities, consistent with the preceding criteria and policy, will be established for each Limited Development Area. Additional areas may be established when demand outstrips allotted capacities.

9. Administration Charge. In accordance with the provisions of references 3c and 3d, a charge will be made for Lakeshore Use Permits to help defray expenses associated with issuance and administration of the permits. As permits become eligible for renewal after 1 July 1976, a charge of \$10.00 for each new permit and a \$5.00 annual fee for inspection of floating facilities will be made. There will be no annual inspection fee for permits for vegetative modification on lakeshore areas. In all cases the total administration charge will be collected initially at the time of permit issuance rather than on a piecemeal annual basis. ENG Form 4264-R will be used for Lakeshore Use Permit application. A receipt (SF 1165) will be issued for each amount collected and will be transmitted to the District Office in accordance with instruction contained in paragraph XI - 3(4) of Appendix XI, DR 35-1-1. Prenumbered SF 1165 receipt books should be obtained from the F&A Branch.

FOR THE COMMANDER:

1 Appendix
APP A - Guidelines for
Granting Permits for Private
Floating Recreation Facilities



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Appendix A
GUIDELINES FOR GRANTING
PERMITS FOR PRIVATE FLOATING RECREATION FACILITIES

1. General.

a. Decisions regarding the granting of permits for private floating recreation facilities must be made in considered relationship to the operating objectives and physical characteristics of each project. In every case, however, the foremost objectives are to secure maximum storage of boats and related equipment at commercial concession areas and to restrict private floating facilities in a centralized fashion to be inducive to concession operation. Through direction of the boat-owning public to such areas, the Corps strives to minimize the number of shoreline developments which could prove aesthetically distracting, unreasonably injurious to the environment, or limit use of Federal property by the general public.

b. Revocable permits for private exclusive use facilities either individually or community-owned, will be granted in Limited Development Areas when the sites are removed from commercial marine services and the granting of such permits will not despoil the shoreline nor inhibit the public use or enjoyment thereof. The Commander will ensure that private floating recreation facilities will be located in areas that do not presently enjoy reasonable access to commercial marine services and that, insofar as practicable, the installation and use of such facilities will not be in conflict with the preservation of the natural characteristics of the lake or shoreline. Resource Managers will continuously monitor the number and nature of permits with a view towards timely establishment of additional commercial storage areas in lieu of permitting dispersed private facilities. Administrative charges will be made for Lakeshore Use Permits in accordance with paragraph 9 of this memorandum.

c. Revocable permits will be granted for ski jumps, floats, boat moorage facilities, all types of duck blinds, and other private floating recreation facilities, where such facilities will not inhibit the public use or enjoyment of the project waters or shoreline. At projects where ice fishing houses or duck blinds are regulated by State program, a Corps permit will not be required.

d. Private floating recreation facilities will be permitted only in areas of the lakeshore which have been allocated as Limited Development Areas in the Lakeshore Management Plan. The density of development in such areas will not exceed 50 percent of areas allocated to such use.

e. Community boat mooring facilities will be encouraged where practicable in an effort to reduce the proliferation of individual facilities.

2. Applications for Lakeshore Use Permits.

a. Applications for any private waterfront recreation facilities made to Project Engineers/Managers will be reviewed with full consideration of the policies set forth in the previous paragraphs, referenced regulations, and the Lakeshore Management Plan. Applicants for a permit shall, prior to the start of construction, submit for approval plans and specifications of the facility proposed including: engineering details, structural design, anchorage method, construction materials, the type, size, location and ownership of the facility, the expected duration of the use, and an indication of willingness to abide by the rules and regulations and the conditions of the permit. Permit applications shall also identify and locate land-based support facilities which may require a Real Estate instrument.

b. Permits will be issued by the Commander or authorized representative in accordance with ENG Form 4264-R, for periods of 1 to 5 years, but are revocable by the Commander whenever they determine that the public interest requires such revocation or that the permittee has failed to comply with conditions of the permit or of this memorandum. Permits for duck blinds and ice fishing houses will be issued for 1 year only. Specified acts permits will continue to be issued by the Commander as necessary, for short terms, to provide for corrective measures such as tree removal and erosion control.

c. Effective on the receipt of this memorandum, the following will guide the issuance of this type of permit:

(1) The use of boat mooring facilities will be limited to the mooring of boats and the storage of gear essential to the operation of the watercraft.

(2) The installation of sleeping accommodations, cooking facilities, heating facilities, toilet and shower facilities, refrigeration, television, and other items conducive to human habitation in private recreation facilities is prohibited. Private floating recreation facilities shall not be used for human habitation.

(3) No private floating facility will exceed the minimum size required to moor the owner's boat or boats plus the minimum size required for an inclosed locker for the storage of oars, life preservers, and other items essential to the operation of the watercraft.

(4) All private floating recreation facilities will be conducted in accordance with plans and specifications approved by the Commander, that individual's authorized representative, or as certified by a licensed Engineer.

(5) The size of all structures will be kept to a minimum to limit encroachment of the water surface.

(6) The procedures set forth in this memorandum regarding the issuance of permits for individual facilities shall also apply to the issuance of permits for noncommercial community piers.

(7) Where facilities are anchored to the shore, they shall be securely anchored by means of moorings which do not obstruct the free use of the shoreline or unduly damage vegetation.

(8) Boat mooring buoys and flotation units of floating facilities shall be constructed of material which will not become waterlogged or sink when punctured.

(9) The color and marking of all boat mooring buoys will conform to the Uniform State Waterway Marking System, and the top of the buoy will be no less than 18 inches above the waterline.

(10) All private floating recreation facilities will be placed so as not to interfere with navigation.

(11) Permits for private boat piers or boathouses and mooring facilities will be issued only when the owner files a permanent address and telephone number with the Resource Manager at which they may be reached in case of emergency when they are not on site.

(12) The Commander or authorized representative is authorized to place special conditions in the permit deemed necessary. It may be desirable in some locations to establish a minimum surveillance interval to be observed by the facility owner or his/her representative.

3. Removal of Facilities. The facilities of permittees which are not removed when specified in the permit or when requested after revocation of the permit will be treated as unauthorized structures pursuant to Title 36, Chapter III, Par. 327.20, of the Code of Federal Regulations.

4. Posting of Permit. Permits (ENG Form 4264-R) will be placed in plastic envelopes to make them weatherproof after the permit number and the expiration date have been affixed thereon. The permit and original application form will be forwarded to the permittee. The duplicate application form will be retained by the Project Engineer/Manager. The permit numbers will be numbered consecutively for each project beginning with 0001. The Project Engineer/Manager may include letters in the permit number as an aid to project management. The permittee will be required to display the printed tag so that it can be visually checked with ease.