



**US Army Corps
of Engineers**

Nashville District

DRAFT ENVIRONMENTAL ASSESSMENT

Lake Cumberland Shoreline Management Plan 2023 Update

October 2023

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Executive Summary

The US Army Corps of Engineers Nashville District (USACE) has conducted an environmental analysis in accordance with the National Environmental Policy Act of 1969, as amended to evaluate the environmental effects of updating the Lake Cumberland Shoreline Management Plan.

The Environmental Assessment (EA) evaluated two alternatives—a Proposed Action Alternative (update the Shoreline Management Plan) and a No-Action Alternative. The recommended plan is the Proposed Action Alternative and includes:

- The creation of Limited Development Areas (LDAs) within existing community docks. As part of the LDAs, Community Dock Associations would be provided the opportunity to submit applications for the expansion, modification, or reconfiguration of their community docks.
- Increases in the maximum size of privately owned docks from 400 square-feet (sq ft) to 500 sq ft. No new individual docks would be authorized or considered as part of the proposed update.

Applicants submitting for dock expansion would be required to follow appropriate application processes outlined in the SMP. As the shoreline management plan is an administrative action, any activities requiring construction or disturbance of land or water would require further coordination with USACE.

All applicable environmental laws have been considered and coordination with appropriate agencies and officials has been completed. All applicable laws, executive orders, regulations, and local government plans were considered in evaluation of alternatives. USACE concludes that the recommended plan would have no adverse effect to the human environment.

Lake Cumberland Shoreline Management Plan

2023 Update

ENVIRONMENTAL ASSESSMENT

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1 INTRODUCTION

Background

Shoreline Management Plans (SMPs) address rules, regulations, shoreline allocations, policies, guidelines, and requirements for applying for and issuing permits for private facilities on public lands. SMPs are an essential and effective long-range management tool for the shoreline resources of Lake Cumberland. Lake Cumberland is a popular site for a variety of outdoor recreational activities. With recreational demands and development pressures increasing each year, sound management is necessary to provide optimum use of project resources for present and future generations. The proposed updated plan is an appendix to the project Operational Management Plan.

The overall and primary objective of the SMP is to conserve the natural resources of Lake Cumberland. Other objectives of this plan include:

- Conserve the natural environmental conditions of Lake Cumberland while achieving a balance between existing permitted private uses and resource protection for public use. In accordance with the provisions of the National Environmental Policy Act of 1969, primary goals in management of lake resources are to establish and maintain acceptable fish and wildlife habitat, preserve aesthetic qualities, safeguard water quality, and promote the safe and healthful use of the lake and surrounding public lands by the public.
- Conserve forested or riparian federal lands surrounding Lake Cumberland from encroachment, development, or vandalism. This plan protects natural environmental conditions by allowing vegetative growth to exist unencumbered for the purposes of soil retention or habitat improvement. Healthy forests and riparian lands around Lake Cumberland have direct positive impacts on water quality. Sound management of shoreline resources is an integral aspect of the U.S. Army Corps of Engineers (USACE) Environmental Operating Principles.
- Provide definitive guidance that regulates private, exclusive uses in favor of conserving the natural environment for the use and enjoyment of the public. Increasing residential development of private property adjacent to Lake Cumberland has resulted in a higher demand for private, exclusive use of the shoreline. Experience has shown that long range management is necessary to provide for public recreational needs and to prevent shoreline alterations that adversely affect lake values. In the absence of sound management, substantial portions of public lands adjoining the lake could be cleared of natural vegetation and become congested with private moorage facilities and other structures. Public lands that are available to all people should not be used in a fashion that gives the appearance of private exclusive use. The development of this plan includes full consideration of prior commitments to existing permitted private use facilities or privileges.

Proposed revisions to the 2012 SMP include the creation of Limited Development Areas (LDAs) within existing community docks as well as the expansion of individual, privately owned docks. No new individual docks are authorized or considered as part of the proposed updates. Additional information regarding the proposed action can be found in Section 2.1 of this document.

1.1.1 Project History and Setting

Lake Cumberland was created in 1950 by the closure of Wolf Creek Dam at river mile 460.9 of the Cumberland River, about 10 miles southwest of Jamestown, Kentucky. The lake extends 101 miles upstream through Russell, Clinton, Wayne, Pulaski, McCreary, Whitley, Laurel Counties, and territories formerly occupied by Cherokee, Shawnee, and Yuchi.

The Wolf Creek Project was authorized by the Flood Control Act of 1938 and the Rivers and Harbor Act of 1946. Construction of the project, designed and supervised by the U.S. Army Corps of Engineers, began in August 1941. After a three-year delay caused by World War II, the project was completed for flood control operation in 1950 and for full beneficial use in August 1952. Three of the six hydroelectric generating units were placed in operation in 1951 and the remaining three in 1952. Creation of the lake resulted in the partial or complete loss of several communities, including Burnside, Long Bottom, Lula, Horse Shoe Bottom, Stokes and hundreds of man-made structures including churches, cemeteries, and schools. The cost of the project was approximately

80.4 million. Lake Cumberland impoundment is the largest man-made reservoir east of the Mississippi River. This lake drains 5,789 square miles.



Figure 1. Project Location Map

Authorization

The Wolf Creek Project was authorized by the Flood Control Act of 1938 and the Rivers and Harbor Act of 1946. After the 1938 authorizing legislation, various Congressional acts provided additional authorizations for Lake Cumberland. The specific acts can be found in the 2011 Master Plan Update. Currently authorized project purposes for Lake Cumberland include flood control, hydropower generation, recreation, fish and wildlife management, and water quality. Although not specifically authorized for the purpose, the dam also contributes to inland navigation, particularly on the lower Ohio and Mississippi Rivers. Additional benefits provided by Lake Cumberland include tourism and municipal water supply.

NEPA Compliance

This EA is being completed to evaluate existing conditions and potential impacts of proposed alternatives for the update to the Shoreline Management Plan for Lake Cumberland. The EA is prepared pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality regulations (40 CFR, 1500–1508), and the US Army Corps of Engineers (USACE) implementing regulation, Policy and Procedures for Implementing NEPA, Engineering Regulation 200-2-2, 1988.

2 PURPOSE AND NEED FOR ACTION

The purpose of the proposed updates to the Lake Cumberland Shoreline Management Plan is to modernize the shoreline management guidance to effectively balance the use of the resource. The proposed updates to the Lake Cumberland SMP are needed to account for changes in regional demand for the resource as well as to update records of institutional knowledge and information gained since the previous SMP update in 2012.

Alternatives

Alternatives evaluated in the Environmental Assessment include the Proposed Action Alternative and a No Action Alternative, as described below.

2.1.1 Proposed Action: Shoreline Management Plan Update

The Proposed Action Alternative is to update the 2012 Lake Cumberland SMP. Revising the SMP would involve the creation of Limited Development Areas (LDAs) within existing community docks. As part of the LDAs, Community Dock Associations would be provided the opportunity to submit applications for the expansion, modification, or reconfiguration of their community docks. Enlargements to individual, privately owned docks would also be included in the 2023 SMP update. The maximum size of a privately owned dock is proposed to increase from 400 square-feet (sq ft) to 500 sq ft. The square footage is calculated by excluding the walkway but including all slips and the water area within those slips. No new community or individual, privately owned docks would be authorized or considered as part of the proposed update.

Applicants submitting for dock expansion would be required to follow the appropriate application processes outlined in the SMP. As the shoreline management plan is an administrative action, any activities requiring construction or disturbance of land or water would require further coordination with USACE. Additional coordination with State and Federal agencies could also be required.

2.1.2 No-Action

Under the No-Action Alternative, the 2012 Lake Cumberland SMP would not be updated. The No-Action Alternative serves as an environmental baseline to compare alternatives and its analysis is a requirement under NEPA.

3 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

This section discusses the existing conditions by resource category and any potential environmental impacts associated with the no-action, as well as with implementation of the proposed action.

USACE takes “the potentially affected environment and degree of the effects of the action” into consideration in determining potential impact significance, as outlined in 40 C.F.R. § 1501.13(b). The “degree of the effects” considerations includes “(i) both short- and long-term effects [;] (ii) both beneficial and adverse effects [;] (iii) effects on public

health and safety [;] (iv) effects that would violate federal, state, tribal, or local law protecting the environment.” An environmental effect is characterized as beneficial or adverse and minor, moderate, or significant.

- None/negligible – No measurable effects (beneficial, adverse, long-term, or short-term) are expected to occur.
- Minor – A measurable and beneficial or adverse effect to a resource. A slight impact that may not be readily obvious and if adverse, would likely be within accepted levels for permitting, continued resource sustainability, or human use. Adverse minor impacts should be avoided and minimized if possible but should not result in a mitigation requirement.
- Significant – A measurable and beneficial or adverse effect to a resource. A major impact would be readily obvious and if adverse, would likely not be within accepted levels for permitting, continued resource sustainability, or human use. Significant adverse impacts would likely result in the need for mitigation to conclude NEPA with a mitigative FONSI or would trigger a higher-level review of an Environmental Impact Statement.
- Adverse – A harmful or negative effect on a resource. An adverse impact could be minor to significant. Adverse impacts may be short-term or long-term.
- Beneficial – A measurable and positive effect to a resource. A beneficial impact may be minor to significant. Beneficial effects may be short-term or long-term.
- Short-Term – Effects that are temporary and do not result in a permanent long-term beneficial or adverse effect to a resource. For example, temporary construction- related effects (such as, an increase in dust, noise, traffic congestion) would no longer occur once construction is complete. Short-term effects may be minor or significant and adverse or beneficial. For the purpose of this document, short term effects could also be associated with seasonal impacts.
- Long-Term – Effects that are permanent (or for most of the project life) beneficial or adverse effects to a resource. For example, permanent conversion of a wetland to a parking lot or vice versa would be a long-term effect. These permanent changes may be minor or significant and adverse or beneficial in nature depending on the resource under consideration.

USACE uses quantitative and qualitative analyses, as appropriate, to determine the level of potential impact from proposed alternatives. Based on the results of the analyses, this EA identifies whether an effect would occur and if so, whether that effect would be adverse or beneficial, and to what extent.

Climate, Physiography, Topography, Geology, and Soils

3.1.1 Existing Conditions

3.1.1.1 Climate

The climate of the Lake Cumberland area is moderate. Temperatures range from summer highs (July) of 86-88° F to winter lows of 25° F in January. The average growing season is approximately 210 days, extending from early April to the end of October. Annual precipitation for the area averages approximately 51 inches.

3.1.1.2 Physical Geography, Topography, and Geology

Lake Cumberland lies within Ecoregion 71, the Interior Plateau, and drains the Southwestern Appalachians, Ecoregion 68. More specifically, the reservoir occurs within the Eastern Highland Rim, subset “g” of Ecoregion 71. This ecoregion is diverse with undulating plains, hills, and karst. Steep bluffs, springs, cascades, and wide bottomlands occur along/near the Cumberland River (Woods et al. 2002). The steep elevations surrounding the reservoir are a limiting factor for recreational development, specifically parking areas for marinas and launching access.

Ecoregion 71g is underlain by Mississippian-age limestone, chert, shale, siltstone, and sandstone. Stream morphology is primarily moderate gradient with cobble, gravel, and bedrock substrates; streams are mostly nutrient-rich. Ecoregion 68, specifically the Plateau Escarpment (68c) is underlain by Pennsylvanian strata, including cliff forming sandstone and coal. Lower slopes and western valleys are primarily underlain with Mississippian carbonates. (Woods et al. 2002). Streams of this ecoregion are some of the highest quality in Kentucky.

3.1.1.3 Soils

Soils have developed from residuum. The Interior Plateau is predominately Alfisols, which are common on limestone plains and support potential for oak-hickory forest and bluestem prairie. Well drained acidic Ultisols are common on the uplands of the Plateau Escarpment and have less natural fertility than the base-rich soils of the Interior Plateau (Woods et al. 2002). Associations common around Lake Cumberland are loamy or clayey subsoils formed from weathered limestone, siltstone, and shale. Soil types are further identified in Part I of the OMP where each natural resource management compartment is described.

3.1.2 Proposed Action

The proposed action of updating the SMP would have no direct effects on the existing climate, physiography, topography, geology or soils. Minimal indirect effects could result from subsequently proposed actions. Increased development has the potential to cause localized bank erosion in places where that development would occur, but those effects would likely be minor.

3.1.3 No-Action

The No-Action alternative would not update the 2012 Lake Cumberland SMP and would have no effect as compared to the existing conditions.

Aquatic Environment

3.1.4 Existing Conditions

3.1.4.1 Hydrology

Lake Cumberland is managed in conjunction with nine other Corps projects for hydropower, flood risk management, and maintaining flows through the Cumberland River Basin. The drainage area for the reservoir is approximately 6,000 square miles. At an elevation of 723 feet above sea level, the lake encompasses 50,250 acres and has a volume of 3,995,000 acre-ft. The theoretical latency time of water in Lake Cumberland is 129 days (USACE 2007).

Hydrology below the dam is dependent on discharges from Wolf Creek Dam. Tailwater releases from deep within the lake's water column result in a cold-water stream environment that is now a popular trout fishery. The Tailwater area immediately downstream of Wolf Creek Dam supports a more intact mussel and gastropod community compared to the heavily impacted community found in the impounded section.

3.1.4.2 Water Quality

Lake Cumberland is deep and relatively clear, with depths exceeding 100 feet in some areas. The lake undergoes strong thermal stratification from mid-spring until mid-fall. The main channels of the lake tend to be mesotrophic, while the major embayments are eutrophic (nutrient rich). During the period when the lake is stratified, depletion of dissolved oxygen (DO) occurs below the epilimnion in the major embayments with large inflows and in the metalimnion (thermocline) and benthic zones of the main channel. DO levels are too low to sustain most fish and invertebrate life below the epilimnion in these embayments.

As outlined in the states 305(b) Report and 303(d) list, Kentucky Division of Water (KDOW) has rated the water quality of Lake Cumberland based on five uses: Warmwater/cold-water aquatic habitat; primary contact for recreation; secondary contact for recreation; fish consumption; and drinking water supply. The reservoir met

“fully supporting” criteria for aquatic habitat, secondary recreation contact, and drinking water. The reservoir is listed as “non supporting” for fish consumption and was not assessed for primary contact recreation. Various tributaries to Lake Cumberland (including, but not limited to White Oak Creek, Pitman Creek, Lynn Camp Creek, Buck Creek) were less than “fully supporting” warm water aquatic habitat and contact for recreation due to sediment/siltation, nutrient enrichment, turbidity, and sewage concerns. Causes of water quality issues included habitat modification, agriculture land practices, non-point and point source runoff, and coal mining (KDOW 2023).

3.1.5 Proposed Action

The proposed updates to the 2012 Lake Cumberland SMP would have no direct effects on hydrology or water quality. Individual actions approved under the proposed updated terms of the SMP would need to be coordinated with USACE on an individual basis regarding affects to hydrology and water quality.

3.1.6 No-Action

The No-Action alternative would not update the 2012 Lake Cumberland SMP and would have no effect as compared to the existing conditions.

Aquatic Resources

3.1.7 Existing Conditions

The Kentucky Department of Fish and Wildlife Resources (KDFWR) has primary responsibility for fisheries management at Lake Cumberland. Common game fish occurring in Lake Cumberland include Smallmouth Bass (*Micropterus dolomieu*), Spotted Bass (*Micropterus punctulatus*), Largemouth Bass (*Micropterus salmoides*), Walleye (*Stizostedion vitreum*), Sauger (*Sitostedion canadense*), White Bass (*Morone chrysops*), White Crappie (*Pomoxis annularis*), Black Crappie (*Pomoxis nigromaculatus*), Bluegill (*Lepomis macrochirus*), Warmouth (*Lepomis gulosus*) and other sunfish (USACE, 2004). Lake Cumberland is known as a productive Striped Bass (*Morone saxatilis*) fishery, with numerous local fishing guide services that focus on the species.

Presently, the fish community in the tailwater is composed of remnants of the pre-impoundment populations, but include artificially propagated, stocked Rainbow Trout (*Oncorhynchus mykiss*) and Brown Trout (*Salmo trutta*), and species reaching the tailwater by way of entrainment from the lakes during operation of the turbines and spillways. Seasonally, however, Walleye, Sauger, and White Bass enter the tailwater and congregate near the dam in the winter and early spring. Gizzard Shad (*Dorosoma cepedianum*) and Threadfin Shad (*Dorosoma petenense*) are the primary of forage of piscivorous fishes. Striped Bass and hybrids of Striped Bass and White Bass, known regionally as “hybrid bass”, originate from fingerlings stocked in the Cumberland River, are increasingly found in the lower reaches. Several less frequently targeted species are common, including Common Carp (*Cyprinus carpio*), buffalo (*Ictiobus spp.*), River

Herring (*Clupeidae spp.*), Freshwater Drum (*Aplodinotus grunniens*), Channel Catfish (*Ictalurus punctatus*) and Flathead Catfish (*Pylodictic olivaris*) are also caught (USACE, 2007). Striped Bass, Rainbow Trout, and Walleye are routinely stocked by the KDFWR in the project area (USACE 2004).

3.1.8 Proposed Action

The proposed updates to the 2012 Lake Cumberland SMP would have no direct effects on aquatic species. Individual actions approved under the proposed updated terms of the SMP would need to be coordinated with USACE on an individual basis regarding affects to aquatic species.

3.1.9 No-Action

The No-Action alternative would not update the 2012 Lake Cumberland SMP and would have no effect as compared to the existing conditions.

Terrestrial Resources and Land Use

Land use beyond public lands consists of forestry, mining, agriculture, urban, industrial, and recreational uses. Runoff from these land uses directly affects the water quality of the lake. Mining, agriculture, and urban development contribute nutrients that affect water quality.

Large contiguous tracts of undeveloped hardwood forests, wetlands, shoreline, and adjacent agricultural lands contribute to a relatively high species richness in and along Lake Cumberland. The Kentucky Department of Fish and Wildlife Resources (KDFWR) has designated much of the public land around Lake Cumberland as a Wildlife Management Area. Species commonly seen around the lake include Eastern whitetail deer (*Odocoileus virginianus*), Eastern wild turkey (*Meleagris gallopavo*), Eastern cottontail (*Sylvilagus floridanus*), squirrel (*Sciurus spp*), raccoon (*Procyon lotor*), striped skunk (*Mephitis mephitis*), opossum (*Didelphis virginiana*), coyote (*Canis latrans*), and numerous species of songbirds, raptors, and waterfowl. Though not seen as often, numerous species of reptiles, amphibians, and small mammals may occur in the area.

3.1.10 Proposed Action

The proposed updates to the 2012 Lake Cumberland SMP would have no effect on terrestrial species. Individual actions approved under the proposed updated terms of the SMP would need to be coordinated with USACE on an individual basis regarding affects to the terrestrial species.

3.1.11 No action

The No-Action alternative would not update the 2012 Lake Cumberland SMP and would have no effect as compared to the existing conditions.

3.1.12 Vegetation

3.1.12.1 Existing Condition

Forests surrounding Lake Cumberland have been historically logged. Secondary mixed hardwood forests remain and are composed of trees including oaks (*Quercus* spp.), hickory species (*Carya* spp.), tulip poplar (*Liriodendron tulipifera*), ashes (*Fraxinus* spp.), and eastern red cedar (*Juniperus virginiana*); approximately 95% of the project's land area is forested. A small percentage of the lands are leased to adjacent landowners for hay and/or grazing purposes. Since acquisition of lands for project impoundment, a concerted effort has been made by the Corps and the Commonwealth to establish an effective wildlife habitat improvement program on public lands (USACE 2004a). Currently, much of the land immediately surrounding Lake Cumberland is included in the Lake Cumberland Wildlife Management Area. Optimum use of project lands for wildlife habitat is a management goal of USACE.

Pine stands formerly occurring around the lake have been decimated by the Southern pine beetle (*Dendroctonus frontalis*). The pine plantation at Kendall Recreation Area, located in the tailwaters of Lake Cumberland, was lost in 2000. Salvage cuts were implemented to remove the dead/dying timber and alleviate safety concerns. The area was replanted with native hardwood species. Other forest pests, such as the wooly adelgid (*Adelges tsugae*), emerald ash borer (*Agrilus planipennis*), sawyers (*Monochamus* spp.), red oak borer (*Enapholodes rufulus*), hickory bark beetle (*Scolytus quadrispinous*), and gypsy moth (*Porthetria dispar*), have been identified as potential concerns.

3.1.13 Proposed Action

The proposed updates to the 2012 Lake Cumberland SMP would have no effect on vegetation. Individual actions approved under the proposed updated terms of the SMP would need to be coordinated with USACE on an individual basis regarding affects to the vegetation.

3.1.14 No-Action

The No-Action alternative would not update the 2012 Lake Cumberland SMP and would have no effect as compared to the existing conditions.

Threatened and Endangered Species

The Endangered Species Act (ESA) of 1973 (16 U.S.C. §1531 et seq.) provides a framework to conserve and protect threatened and endangered species and their habitats both domestically and abroad. An endangered species is defined by the ESA as any species in danger of extinction throughout all or a significant portion of its range, whereas a threatened species is likely to become endangered within the foreseeable future throughout all or a significant part of its range. Critical habitat, essential to the conservation of listed species, can also be designated under the ESA. The ESA establishes programs to conserve and recover threatened and endangered species and

makes their conservation a priority for Federal agencies. Section 7 of the ESA requires federal agencies to consult with the U.S. Fish & Wildlife Service (USFWS) when a proposed action may affect threatened or endangered species or their critical habitats.

3.1.15 Existing Conditions

Based on a review of information obtained from the USFWS Information, Planning and Conservation (IPaC) system, a list of species protected under the ESA, that may occur in the study area, is presented in Table 1. No known Designated Critical Habitat is present at or near the project area.

Table 1. Summary of Threatened and Endangered Species that could occur in the project area.

Category	Common Name	Scientific Name	Status*
Mammal	Gray Bat	<i>Myotis grisescens</i>	E
	Indiana Bat	<i>Myotis sodalis</i>	E
	Northern Long-eared Bat	<i>Myotis septentrionalis</i>	E
	Virginia Big-eared Bat	<i>Corynorhinus townsendii virginianus</i>	E
Fishes	Blackside Dace	<i>Phoxinus cumberlandensis</i>	T
	Duskytail Darter	<i>Etheostoma percnurum</i>	E
Clams	Cumberland bean (pearlymussel)	<i>Villosa trabalis</i>	E
	Cumberland elktoe	<i>Alasmidonta atropurpurea</i>	E
	Cumberland combshell	<i>Epioblasma brevidens</i>	E
	Dromedary pearlymussel	<i>Dromus dromas</i>	E
	Fanshell	<i>Cyprogenia stegaria</i>	E
	Fluted kidneyshell	<i>Ptychobranhus subtentus</i>	E
	Littlewing pearlymussel	<i>Pegias fabula</i>	E
	Orangefoot pimpleback (pearlymussel)	<i>Plethobasus cooperianus</i>	E
	Oyster mussel	<i>Epioblasma capsaeformis</i>	E
	Pink mucket	<i>Lampsilis abrupta</i>	E
	Rabbitsfoot	<i>Quadrula cylindrica cylindrica</i>	T

	Rink pink (mussel)	<i>Obovaria retusa</i>	E
	Rough pigtoe	<i>Pleurobema plenum</i>	E
	Round hickorynut	<i>Obovaria subrotunda</i>	T
	Snuffbox mussel	<i>Epioblasma triquetra</i>	E
	Spectaclecase (mussel)	<i>Cumberlandia monodonta</i>	E
Insects	Monarch Butterfly	<i>Danaus plexippus</i>	Cand
Birds	Whooping crane	<i>Grus americana</i>	Exp
Flowering Plants	Cumberland rosemary	<i>Conradina verticillata</i>	T
	Virginia spiraea	<i>Spiraea virginiana</i>	T
	White fringeless orchid	<i>Platanthera integrilabia</i>	T

*E = Endangered; T = Threatened; Cand = Candidate; Exp = Experimental Population, Non-Essential

3.1.16 Proposed Action

The proposed updates to the 2012 Lake Cumberland SMP would have no effect on federally listed threatened or endangered species. Individual actions approved under the proposed updated terms of the SMP would need to be coordinated with USACE on an individual basis regarding affects to federally listed threatened and endangered species.

3.1.17 No-Action

The No-Action alternative would not update the 2012 Lake Cumberland SMP and would have no effect as compared to the existing conditions.

Archaeological and Historic Resources

3.1.18 Existing Conditions

Section 106 of the National Historic Preservation Act (NHPA) of 1966 (P.L. 89-665: 54 U.S.C. 300101 et seq.), as amended, requires consideration of historic properties prior to a Federal undertaking and affords the Advisory Council on Historic Preservation the opportunity to comment. Appendix D summarizes the requirements of Section 106 and the actions taken by USACE to comply with the Act.

3.1.19 Proposed Action

USACE defined the proposed shoreline management plan update as an undertaking with the potential to cause effects to historic properties. USACE defined the Area of Potential Effects (APE) as the visual line of sight encompassing the proposed dock

expansion areas. Given that the footprint of each dock is water based, USACE recommends that the dock expansions lack the potential to directly affect archaeological resources and no direct effect APE was proposed. USACE archaeologist, Crystal Geiger, conducted a site visit on August 28, 2023 to visually inspect areas included in the update and identify the potential for changes to the visual line of sight or effects to historic properties. The steep slopes and dense vegetation preclude visual effects and the presence of existing community docks and facilities indicate that any proposed dock expansions are commensurate with the surrounding viewshed. A review of the existing condition, location, and documentation suggested that the potential for intact cultural material deposits or archaeological sites in the APE is low. USACE has made a determination of “No historic properties affected” (36 CFR800.4(d)(1)) for the Proposed Action. Therefore the proposed action would not have beneficial or adverse effects nor long term or short term effects on cultural resources.

3.1.20 No-Action

The No-Action alternative would not update the 2012 Lake Cumberland SMP and would have beneficial or adverse effects nor long term or short term effects on cultural resources compared to the existing conditions.

Air Quality

The Clean Air Act (CAA), as amended, is the comprehensive law that affects air quality by regulating emissions of air pollutants from stationary sources (e.g., power plants) and mobile sources (e.g., automobiles). It requires the U.S. Environmental Protection Agency (EPA) to establish National Ambient Air Quality Standards (NAAQS) and directs the states to develop State Implementation Plans to achieve these standards. This is primarily accomplished through permitting programs that establish limits for emissions of air pollutants. The CAA also requires EPA to set standards for emissions of hazardous air pollutants. NAAQS have been established to protect the public health and welfare with respect to six criteria air pollutants: carbon monoxide (CO), nitrogen dioxide (NO₂), ozone, particulate matter (PM), sulfur dioxide (SO₂), and lead (Pb). Primary standards protect public health, while secondary standards protect public welfare (e.g., visibility, crops, forests, soils, and materials). In accordance with the CAA Amendments of 1990, all counties are designated with respect to compliance, or degree of noncompliance, with NAAQS.

3.1.21 Existing Conditions

The Lake Cumberland site is in an attainment area regarding the National Ambient Air Quality Standards (NAAQs)

3.1.22 Proposed Action

No direct changes in emissions are expected as a result of the proposed action. Therefore, air quality permitting, and emission standard regulations are not applicable to the project. The proposed action would meet the Conformity Rule under the Clean Air

Act and poses no risk to NAAQS. Though the number of moored boats may increase at individual and community dock locations, the proposed action is not anticipated to increase the overall total usage at Lake Cumberland as those boats are likely already being used at the reservoir and stored elsewhere. Therefore, the proposed action is not anticipated to have a long-term effect to air quality at or near the project area.

3.1.23 No-Action

The No-Action alternative would not update the 2012 Lake Cumberland SMP and would have no effect as compared to the existing conditions.

Socio-Economic Resources

3.1.24 Existing Conditions

Lake Cumberland straddles the boundaries for Russell, Wayne, Clinton, Pulaski, McCreary and Whitley Counties. McCreary and Whitley Counties are less influenced due to this region being the headwaters of the reservoir. The primary industries for employment for these counties surrounding the lake are retail trade and manufacturing.

Population statistics for the Lake Cumberland region are shown in Table 2. All counties in the affected area show populations of non-white or minority residents below the state average. The four-county area also contains a greater percentage of people living below the poverty line as compared to the state average. An estimated 150 million USD were generated within thirty (30) miles of Lake Cumberland as a result of visitation in the 2021 federal fiscal year (USACE 2021).

Table 2. Summary of socioeconomic demographics for the Lake Cumberland Region and state of Kentucky.

	Russell County	Wayne County	Clinton County	Pulaski County	Kentucky
Population	17,909	19,743	9,372	64,717	4,509,394
Percent Minority	6.8%	7.2%	5.6%	6.5%	13.0%
Percent Below Poverty Threshold	9.3%	9.3%	10.1%	9.0%	7.3%
Percent Under 18 yrs. old	23.3%	20.7%	21.5%	22.6%	22.5%

Source: U.S. Census Bureau 2021; American Community Survey 5-year Estimates

3.1.25 Proposed Action

The proposed updates to the 2012 Lake Cumberland SMP would have no direct effect on socioeconomics. Individual actions approved under the proposed updated terms of the SMP would need to be coordinated with USACE on an individual basis regarding effects to socioeconomics.

3.1.26 No-Action

The No-Action alternative would not update the 2012 Lake Cumberland SMP and would have no effect as compared to the existing conditions.

Recreation Resources

3.1.27 Existing Conditions

Lake Cumberland was originally intended to provide flood control and hydropower to the surrounding communities. Recreation was officially authorized as a project purpose of with the Federal Water Project Recreation Act of 1965, which supports the development of the recreation potential of federal water resource projects like Lake Cumberland. Recreation opportunities at Lake Cumberland and surrounding areas are numerous and include both consumptive and non-consumptive forms of recreation. Popular activities include, but are not limited to, fishing, hunting, camping, boating, swimming, hiking, horseback riding, and cycling. Lake Cumberland supports 11 USACE recreation areas, 5 U.S. Forest Service area, two National Park Service areas, three Kentucky State parks, one County Park, and 11 commercial marinas that provide public lake access (USACE 2012). More than 2.7 million recreation visits were recorded in FY 2021 (USACE 2021). Large tracts of undeveloped lands surround Lake Cumberland that provide resource users miles of shoreline for recreation.

3.1.28 Proposed Action

The proposed updates to the 2012 Lake Cumberland SMP would have no direct effect on recreation. Individual actions approved under the proposed updated terms of the SMP would need to be coordinated with USACE on an individual basis regarding affects to the recreation.

3.1.29 No-Action

The No-Action alternative would not update the 2012 Lake Cumberland SMP and would have no effect as compared to the existing conditions.

Noise, Health, and Safety

3.1.30 Existing Conditions

Lake Cumberland is a vacation destination known for its undeveloped shorelines, boating and numerous other recreation activities. In FY 2021, Lake Cumberland hosted

more than 2.7 million recreational visits (USACE 2021). By providing opportunities for active recreation, USACE lakes like Lake Cumberland help combat one of the most significant of the nation's health problems, lack of physical activity. USACE staff, and state/local law enforcement personnel provide visitor assistance and work to educate visitors about water and boating safety. In FY 2021, more than thirty (30) thousand public outreach contacts were made at Lake Cumberland (USACE 2021).

In addition to public awareness efforts, safety of project visitors and staff is regarded as the highest priority in daily project operations. Facilities and recreational areas are routinely evaluated to ensure sites are safe for visitor use. Project staff conducts numerous water safety programs and public announcements to educate project visitors about ways to be safe on the reservoir.

Current noise pollution experienced within and around Lake Cumberland are primarily from recreational boaters and adjacent residences. Noise levels are considered within acceptable levels throughout most of the project area.

3.1.31 Proposed Action

The proposed updates to the 2012 Lake Cumberland SMP would have no direct effect on health and safety. Individual actions approved under the proposed updated terms of the SMP would need to be coordinated with USACE on an individual basis regarding affects to the health and safety. Though the number of moored boats may increase at individual and community dock locations, the proposed action is not anticipated to increase the overall total usage at Lake Cumberland. Therefore, the Proposed Action Alternative is not anticipated to have a long-term effect to noise, health, and safety.

3.1.32 No-Action

The No-Action Alternative would not update the 2012 Lake Cumberland SMP and would have no effect as compared to the existing conditions.

Aesthetics

3.1.33 Existing Conditions

Limited development of the Lake Cumberland shoreline contributes to a relatively unique scenic and recreational experience. A large portion of the land immediately surrounding the lake is managed as a Wildlife Management Area by the Kentucky Department of Fish and Wildlife Resources. Management objectives in the Lake Cumberland Master Plan include maintaining scenic vistas while limiting impacts that would negatively affect aesthetics. The perimeter lands around Lake Cumberland provide a natural setting that is aesthetically pleasing and provides a buffer between the lake and development. The undeveloped perimeter reduces the negative impacts such as erosion and stormwater runoff that often result from development. There are numerous existing threats to the aesthetics of Lake Cumberland, including activities such as vandalism, timber cutting, land disturbance, littering, and illegal trash dumping both on project lands and project waters.

3.1.34 Proposed Action

The proposed updates to the 2012 Lake Cumberland SMP would have no direct effect on aesthetics. The proposed updates to the 2012 Lake Cumberland SMP may indirectly affect the aesthetics of the Lake Cumberland shoreline by allowing potential expansion of existing community docks and private docks. However, this impact is expected to be minimal because the updated SMP would only authorize minor expansion of docks. Individual actions approved under the proposed updated terms of the SMP would need to be coordinated with USACE on an individual basis regarding effects to aesthetics.

3.1.35 No-Action

The No-Action alternative would not update the 2012 Lake Cumberland SMP and would have no effect as compared to the existing conditions.

Cumulative Impacts

Cumulative impacts are defined as the incremental impact a proposed action would have when added to other past, present, or reasonably foreseeable future actions in the local area. Geographical boundaries for this discussion of cumulative impacts are Lake Cumberland and counties the project lies within. Temporal boundaries established span from reservoir impoundment (1950) to fifty years future projection.

3.1.36 Past and Present Actions

The Cumberland River was impounded to create Lake Cumberland in 1950. The project was initially authorized for flood control and hydropower generation to address repeated flooding in the Cumberland Valley as well as increasing regional demands for electricity. Soon after construction of the reservoir, fishermen, boaters, and other recreationists began to utilize both the lake and the tailwater fishery. Recreation and Natural Resource Management are now official uses of Lake Cumberland and numerous local economies have developed to support recreational pursuits. Marinas, community docks, and individual private docks provide boat mooring at Lake Cumberland. However, given the limited existing development, the demand for dock spaces far exceeds the supply of dock slips at community docks and marinas. Current waitlists for dock slips are impracticable at many community docks and marinas. Project purposes for recreation is the primary focus of the Shoreline Management Plan Update.

3.1.37 Reasonably Foreseeable Future Actions

Development along the Lake Cumberland Shoreline is limited by steep terrain and public land ownership. However, future development is expected and demands on lake infrastructure will continue to increase. Demand for additional docking spaces would continue to grow as communities with docks expand. Additionally, increased demand for larger private docks could result from trends towards larger recreational boats. The updated Shoreline Management Plan is a tool Operations staff could utilize to

responsibly and sustainably address the increasing demands for dock space, while also ensuring the resource values of Lake Cumberland are not significantly impacted.

Table 3. Summary of Potential Effects of the Recommended Plan

	Insignificant effects	Insignificant effects as a result of mitigation*	Resource unaffected by action
Aesthetics	X		
Air quality			X
Aquatic resources/wetlands			X
Invasive species			X
Fish and wildlife habitat			X
Threatened/Endangered species/critical habitat			X
Historic properties	X	<input type="checkbox"/>	<input type="checkbox"/>
Other cultural resources	X	<input type="checkbox"/>	<input type="checkbox"/>
Floodplains			X
Hazardous, toxic & radioactive waste			X
Hydrology			X
Land use			X
Navigation			X
Noise levels	X		
Public infrastructure	X		
Socioeconomics			X
Environmental justice			X
Soils			X
Tribal trust resources	X	<input type="checkbox"/>	<input type="checkbox"/>
Water quality			X
Climate change			X

4 ENVIRONMENTAL COMPLIANCE

Compliance with Federal Acts (Acts) and Executive Orders (EO) are summarized in this section. The proposed action would be further evaluated in accordance with each applicable Act and/or EO.

National Environmental Policy Act (NEPA) of 1969

Environmental information on the proposed action has been compiled into this EA and has been prepared in accordance with the NEPA. Upon finalization of this EA, a determination is made regarding the significance of the impacts resulting from this project. A Finding of No Significant Impact (FONSI) statement is drafted for this EA and will be available for public review during the public commentary period. The preparation of an Environmental Impact Statement is not anticipated.

Clean Air Act of 1972

The Clean Air Act (CAA) is the comprehensive federal law that regulates air emissions from stationary and mobile sources. Among other things, this law authorizes EPA to establish National Ambient Air Quality Standards (NAAQS) to protect public health and public welfare and to regulate emissions of hazardous air pollutants. No air quality permits are required for this project.

Clean Water Act (CWA) of 1972

The CWA states that it is unlawful to discharge any pollutant from a point source into navigable waters unless appropriate permits have been obtained through the Section 401 water quality certification process.

Fish and Wildlife Coordination Act

The Corps is required to coordinate proposed federal actions with the USFWS under the Fish and Wildlife Coordination Act (FWCA) (48 Stat. 401, as amended; 16 USC 661 et seq.). Coordination is initiated with a scoping notice and continues with review of the EA. FWCA coordination will be finalized along with Endangered Species Act coordination for the project.

Endangered Species Act (ESA) of 1973

The ESA requires the determination of possible effects on or degradation of habitat critical to Federally-listed endangered or threatened species. Updates to the Lake Cumberland SMP would have “no effect” on state or federally listed threatened or endangered species. Individual requests for use of project lands would be evaluated and coordinated as necessary to ensure compliance with this Act.

Environmental Justice

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, requires Federal agencies to promote “nondiscrimination in Federal programs substantially affecting human health and environment”. In response to this directive, Federal Agencies must identify and address disproportionately high and adverse human health and environmental effects of their programs, policies, and activities on minority and low-income populations. The final step in the environmental justice evaluation process is to evaluate the impact of the project on the population and to ascertain whether target populations are affected more adversely than other residents.

On March 15, 2022, the Assistant Secretary of the Army (Civil Works) issued interim guidance for the Implementation of Environmental Justice (EJ). This Guidance explicitly states that EJ and disproportionate impacts to disadvantaged communities must be considered throughout the Civil Works programs and in all phases of project planning and decision-making. Specifically, the programs will work to reduce disparate

environmental burdens, remove barriers to participation and decision-making, and increase access to benefits.

The Environmental Protection Agency's Environmental Screening Tool, EJScreen (www.ejscreen.epa.gov), was utilized to identify different socioeconomic indicators for the areas surrounding Lake Cumberland. Project Lands are available for use by all members of the general public. Marina and dock membership may tend to be skewed towards individuals with higher socioeconomic status. However, the proposed SMP updates would not directly change the public's access to these amenities and one of the goals of the updated SMP is to ensure that Lake Cumberland shoreline is not negatively impacted by increasing private demands. Therefore, there are no known adverse effects to a minority or low-income population from the proposed changes to the SMP.

National Historic Preservation Act

Section 106 of the National Historic Preservation Act of 1966 (P.L. 89-665: 54 U.S.C. 300101 et seq.), as amended, requires consideration of historic properties prior to a Federal undertaking and affords the Advisory Council on Historic Preservation the opportunity to comment. The implementing regulations at 36 C.F.R. §800 further defines consultation with the State Historic Preservation Officer, Federally recognized tribes with a connection to the project location and other consulting parties, and the overall process to determine effects to historic properties. The NHPA only affords protection to sites, buildings structures, or objects listed in or determined eligible for listing in the NRHP.

USACE consulted with the Kentucky SHPO on the determination of "No historic properties affected" (36 CFR800.4(d)(1)) regarding the Proposed Action on September 1, 2023. No response has been received to date and any future correspondence will be included in Appendix D.

USACE consulted with six Federally recognized tribes on the determination of "No historic properties affected" (36 CFR800.4(d)(1)) regarding the Proposed Action on September 1, 2023. The Corps is awaiting tribal comment. For a summary of Tribal correspondence, see Appendix D.

Section 106 will be concluded prior to signing a FONSI.

Climate Change

Executive Order 13653, Preparing the United States for the Impacts of Climate Change, directs U.S. federal agencies to take steps that will make it easier for American communities to strengthen their resilience to extreme weather and to prepare for other impacts of climate change. Climate change is a topic to be considered into discussions for potential impacts and consequences. Lands identified as vulnerable to extreme climate impact (flood and drought) would need to be managed to protect natural resources and human safety. Although information available for review specific to climate change varies, most acknowledge similar expected trends. Noted generally for the Southeast region of the United States, including Lake Cumberland and the

surrounding area, are increases in temperature and extreme precipitation events along with increased drought duration and intensity. (NCA, 2018).

Table 4. Summary of Federal Acts and Executive Order Compliance

Statute/Executive Order	On-Going	Full
Executive Order 11990 – Wetlands		X
Farmland Protection Policy Act		X
Executive Order 11988 Floodplain Management		X
Clean Water Act		X
ENDANGERED Species Act	X	
Fish and Wildlife Coordination Act	X	
National Historic Preservation Act	X	
Executive Order 13514 – Environmental Justice		X
Clean Air Act		X
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)		X
Resource Conservation and Recovery Act		X
Executive Order 13653 – Climate Change		X

5 PUBLIC AND AGENCY COORDINATION

NEPA is a federal law that requires federal agencies to consider the potential environmental, including social, impacts of their proposed project and to allow for comments from interested groups about the work plan before any action is taken.

Public Involvement

Scoping letters were mailed to state and Federal governments with jurisdiction by law or special expertise. Scoping letters were also mailed to select members of the public that are considered stakeholders (see Appendix C). A 30-day review and comment period will also occur for this draft EA and unsigned Finding of No Significant Impact (FONSI).

Scoping Responses

A scoping letter, which is included in Appendix C, was issued on 19 July 2023, with a thirty (30) day comment period ending on 18 August 2023. Comments received from the Scoping Letter are addressed in this section.

Public Comments:

A total of thirty (30) comments were received from the public during the 19 July 2023 to 18 August 2023 comment period. Six (6) comments were from private landowners, eight (8) comments from private dock owners, fourteen (12) comments from individuals with access/membership to community docks on Lake Cumberland, and four (4) comments were from individuals with an unknown affiliation. Of these, twenty-two (22) comments were relevant to the NEPA scoping process and indicated a preferred alternative. Eighteen (18) individuals indicated a preference for the Proposed Action to update the Lake Cumberland Shoreline Management Plan and four (4) individuals preferred the No-Action alternative that would result in no updates to the 2012 lake Cumberland Shoreline Management Plan. Individuals with community dock affiliations that indicated a preferred alternative were unanimously in favor of the Proposed Alternative to update the SMP. Those individuals with a preference for the No-Action alternative had private property or unspecified affiliations. Generally, those in favor of the Proposed Alternative cited congestion, long waitlists, and limited slip availability at community docks as well as a need for larger dock size allowance for private docks. Those in favor of the No-Action Alternative cited the scenic, wildlife, and ecosystem values of Lake Cumberland that may be impacted by further dock/shoreline developments as well as the sufficient existing infrastructure and the potential that additional docks could increase congestion and pollution in the surrounding area. Two additional comments were received outside of the 30-day comment period, both in favor of the Proposed Alternative.

Kentucky Energy and Environment Cabinet Comments:

A letter regarding the 19 July 2023 Scoping Letter was received from the Kentucky Energy and Environment Cabinet on 25 August 2023. The letter stated that an endorsement of this project by the Kentucky Energy and Environment Cabinet does not satisfy, or imply, the acceptance or issuance of any permits, certifications or approvals that may be required from this agency under Kentucky Revised Statutes or Kentucky Administrative Regulations. Such endorsement means this agency has found no major concerns from the review of the proposed project as presented other than those stated as conditions or comments. The letter also included specific comments from the Division of Enforcement, Division of Water, Division of Waste Management, Division of Air Quality, and Kentucky Nature Preserves. Comments from the individual Divisions was generally focused on the specific permitting processes, best management practices, and considerations that must occur prior to any work on Lake Cumberland. Kentucky Natural Resource Conservation Service (NRCS) Comment:

A response regarding the 19 July 2023 Scoping Letter was received from the Kentucky Natural Resource Conservation Service (NRCS) on 23 August 2023 stating that KY NRCS has no concerns from their perspective regarding the proposed project.

Notice of Availability (NOA) of the Draft EA and FONSI Documents

A NOA of the draft EA and unsigned FONSI will be circulated to the public, governmental agencies and officials, Native American Tribes, and other interested parties for a 30-day review and comment period. The draft EA and unsigned FONSI will be available online through the USACE digital library system. The NOA will provide information on how to acquire copies of the EA and unsigned FONSI as well as how to submit comments. Responses will be considered and addressed when finalizing the EA.

6 CONCLUSIONS

Two alternatives were evaluated in detail throughout this EA; Alternative 1- Proposed Action: Update the 2012 Lake Cumberland Shoreline Management Plan and Alternative 2- No Action. The preferred alternative is Alternative 1 – Proposed Action.

The Proposed Action Alternative would involve the creation of Limited Development Areas (LDAs) within existing community docks as well as enlargements to individual, privately owned docks. No new individual docks would be authorized or considered as part of the proposed update. The maximum size of a privately owned dock is proposed to increase from 400 square-feet (sq ft) to 500 sq ft. Applicants submitting for dock expansion would be required to follow the appropriate application processes outlined in the SMP.

Under the No-Action Alternative, the 2012 Lake Cumberland SMP would not be updated.

Neither the proposed action or no action alternatives would result in adverse impacts to the human environment. As updates to the shoreline management plan are an administrative action, any activities conducted under the proposed revisions requiring construction or disturbance of land or water would require further coordination with USACE to assess effects to the human environment.

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APPENDIX A

Draft 2023 Lake Cumberland Shoreline Management Plan

OPERATIONAL MANAGEMENT PLAN

**U.S. ARMY CORPS OF ENGINEERS
NASHVILLE DISTRICT – WOLF CREEK PROJECT, LAKE CUMBERLAND**

**SHORELINE MANAGEMENT PLAN
APPENDIX TO PART II OF THE OPERATIONAL MANAGEMENT PLAN**



**US Army Corps
of Engineers®**

Nashville District

June 2023

**U.S. Army Corps of Engineers
Nashville District
Lake Cumberland
Shoreline Management Plan
June 2023**

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1. **PURPOSE.** This Shoreline Management Plan (SMP) addresses rules, regulations, shoreline allocations, policies, guidelines, and requirements for applying for and issuing permits for private facilities on public lands. The SMP is an essential and effective long-range management tool of the shoreline resources of Lake Cumberland. Lake Cumberland is an extremely popular site for a variety of outdoor recreational activities. Recreational demands and development pressures increase each year, yet the total amount of public land and water area remains fixed. Sound management is necessary to provide optimum use of project resources for present and future generations. This plan is an appendix to the project Operational Management Plan.

2. **OBJECTIVE.** The overall and primary objective of this SMP is to conserve the natural resources of Lake Cumberland. Other objectives of this plan are to:

2.1. Conserve the natural environmental conditions of Lake Cumberland while achieving a balance between existing permitted private uses and resource protection for public use. In accordance with the provisions of the National Environmental Policy Act of 1969, primary goals in management of lake resources are to establish and maintain acceptable fish and wildlife habitat, preserve aesthetic qualities, safeguard water quality, and promote the safe and healthful use of the lake and surrounding public lands by the public.

2.2. Conserve forested or riparian federal lands surrounding Lake Cumberland from encroachment, development, or vandalism. This plan restores natural environmental conditions by allowing vegetative growth to exist unencumbered for the purposes of soil retention or habitat improvement. Healthy forests and riparian lands around Lake Cumberland directly and positively impact water quality. Sound management of shoreline resources is an integral aspect of the U.S. Army Corps of Engineers (Corps) Environmental Operating Principles.

2.3. Provide definitive guidance that regulates private, exclusive uses in favor of conserving the natural environment for the use and enjoyment of the public. Increasing residential development of private property adjoining Lake Cumberland has resulted in a higher demand for private, exclusive use of the shoreline. Experience has shown that long range management is necessary to provide for public recreational needs and to prevent shoreline alterations that adversely affect lake values. In the absence of sound management, substantial portions of public lands adjoining the lake could be cleared of natural vegetation and become congested with private moorage facilities and other structures. Public lands that are available to all people should not be used in a fashion that gives the appearance of private exclusive use. The development of this plan includes full consideration of prior commitments to existing permitted private use facilities or privileges.

3. **AUTHORITY.** The authority for the preparation of this document is contained within ER-1130-2-406, "Shoreline Management at Civil Works Projects", dated 31 October 1990, and includes Change 1 dated 14 September 1992, and Change 2 dated 28 May 1999.

4. **REFERENCES.**

4.1. Section 10 and 13, Rivers and Harbors Act of 1899 (33 USC 403).

4.2. The National Environmental Policy Act of 1969, PL 91-190.

4.3. Section 404 of The Clean Water Act (PL 92-500, 86 STAT. 316, 33 U.S.C. 1344).

- 4.4. ER 1130 2 406, "Shoreline Management at Civil Works Projects".
- 4.5. 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".
- 4.6. Section 6, PL 97-140, as amended by Section 1134(d), PL 99-662.
- 4.7. 33 CFR 320-330, Regulatory Programs of the Corps of Engineers.
- 4.8. ER 1130-2-400, "Management of Natural Resources and Outdoor Recreation at Civil Works Water Resource Projects".
- 4.9. ER 1130-2-540, Environmental Stewardship Operations and Maintenance Policies.
- 4.10. National Historic Preservation Act of 1966. (PL 89-665; 80 STAT. 915) as Amended (54 USC 300101 et seq.)
- 4.11. Federal Register, Vol. 77, No. 34, Page 10184, February 21, 2012, "Final Notice of Issuance of Nationwide Permits; Notice"
- 4.12. CEORDR 405-2-13, "Issuance of Minor Licenses and Permits at Water Resources Projects." (UNDER REVISION).
- 4.13. Federal Register, Volume 63, No. 126, July 1, 1998, "Shoreline Use Permits, Flotation".
- 4.14. ER 405-1-12, Real Estate Handbook.
- 4.15. ER 1130-2-550, "Project Operations, Recreation Operations and Maintenance Guidance and Procedures", 30 September 2013.
- 4.16. Archaeological Resources Protection Act of 1979 (Public Law 96-95) (16 U.S.C. 470aa et seq.).
- 4.17. Endangered Species Act of 1973, (Public Law 93-205), as amended (16 U.S.C. 1531 et seq.).

5. POLICY. It is the policy of the Chief of Engineers to protect and manage shorelines of all Civil Works Water Resource Development Projects under the Corps of Engineers jurisdiction in a manner which will promote the safe and healthful use of these shorelines, while maintaining environmental safeguards to ensure a quality resource for use by the public. The objectives of all management actions are to achieve a balance between permitted uses and resource protection for the public use.

6. DESCRIPTION OF LAKE CUMBERLAND AND LAKE CUMBERLAND SHORELINE.

6.1. Lake Cumberland was created in 1950 by the closure of Wolf Creek Dam at river mile 460.9 of the Cumberland River about 10 miles southwest of Jamestown, Kentucky. The lake extends 101 miles upstream through Russell, Clinton, Wayne, Pulaski, McCreary,

Whitley, and Laurel Counties. The top of the Flood Control Pool is elevation 760' above mean sea level and the minimum power pool is 673'.

6.2. The shoreline of Lake Cumberland is highly irregular and broken by many deep inlets and coves. The impounded waters of the Cumberland River create approximately 1,255 miles of shoreline. One critical and important feature of Lake Cumberland is the mostly steep and rocky shoreline. Prior to inundation by Wolf Creek Dam, the various creeks and Cumberland River throughout the watershed had cut deep ravines through the underlying rock layers. Access to the water was limited and difficult due to this feature. Specific areas having reasonable access to the water have been identified and are in use around Lake Cumberland. Obtaining access otherwise is extremely difficult and would necessitate removing large amounts of earth and rock. Hardwood trees, mixed with cedar and pine, border most of the lake.

6.3. The Wolf Creek Dam project was authorized for the purposes of flood control and hydroelectric power generation. Recreation has become an extremely important benefit resulting from the creation of Lake Cumberland. Residents and millions of visitors from many states enjoy boating, fishing, swimming, camping, hiking, hunting, picnicking, sightseeing, and other outdoor activities on and around the lake. Tourism to Lake Cumberland has far-reaching economic benefits to the entire Lake Cumberland area and its surrounding counties. The Corps' Value to the Nation Fast Facts recreation 2021 lake report has an estimated \$151 million economic impact within 30 miles of Lake Cumberland.

6.4. LAND EXCHANGE WITH THE U.S. DEPARTMENT OF AGRICULTURE, U.S. FOREST SERVICE.

6.4.1. In September 1979, a land exchange took place between the Corps and the U.S. Department of Agriculture, U.S. Forest Service (USFS), Daniel Boone National Forest. All Corps property on the South Fork upstream of the confluence with the Little South Fork (excluding lands bordering the Little South Fork itself), and the main stem of the Cumberland River upstream of the confluence with Buck Creek was transferred to the USFS. Downstream of these points, USFS land below a general guide-taking line of 765 feet above mean sea level (msl) was transferred to the Corps. In all, 566.3 acres were transferred to the Corps and 3,118.4 acres were transferred to the USFS. The USFS will consider this Shoreline Management Plan as a guide in administering private use permits in the areas under USFS management.

6.4.2. The Corps has reserved the right to use all the lands transferred that are necessary for project purposes. These uses include, but are not limited to, timber clearing (if necessary, for flood risk management purposes), using the land for flood storage, to construct and maintain utility lines, transmission lines, access roads, and to make improvements to navigation. Also, the Corps continues to have jurisdiction over all waters of the United States with respect to regulatory permits under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act

6.5. PRESENT LAND USE.

6.5.1. There are ten Corps-managed recreation areas: Waitsboro, Lakeview, Fishing Creek, Cumberland Point, Fall Creek, Kendall, Halcomb's Landing, 76 Falls, Mill Springs Park and Mill, and Wolf Creek Dam Overlook.

6.5.2. Ten areas are currently leased for commercial marinas: Conley Bottom Resort, Safe Harbor Grider Hill, Safe Harbor Beaver Creek, Safe Harbor Burnside, Safe Harbor Jamestown, Marina@Rowena, Suntex Wolf Creek, Suntex State Dock, Lee's Ford, and Lake Cumberland Marina.

6.5.3. There are five USFS managed areas: Nathan McClure Trail, Mouth of Laurel Boat Ramp, Jasper Bend Boat Ramp, Noe's Boat Ramp, and Sawyer Boat Ramp. These areas are within contiguous lands of the USFS, Daniel Boone National Forest.

6.5.4. The Department of the Interior manages two areas: Big South Fork National River and Recreation Area and Wolf Creek National Fish Hatchery.

6.5.5. There are three Commonwealth of Kentucky State Parks: Lake Cumberland State Resort Park, General Burnside Island State Park, and Cumberland Falls State Resort Park.

6.5.6. There are two county parks: Pulaski County Park and Russell County Recreation Area.

6.5.7. There are eight Kentucky State Nature Preserves Natural Areas: lands in the Robert's Bend, Haynes Bend, Fishing Creek, Woodson Bend, Cox Bend, Rowena, Martin Bend, and Seventy-Six Falls State Natural Area of Lake Cumberland.

6.6. Other land management of the federal lands includes a Commonwealth of Kentucky license for a Wildlife Management Area that extends the entire perimeter of the reservoir and a Conservation Education Camp that has amenities on federal land and water.

6.7. Certain lands are operational areas and include the dam, powerplants, outlet-works, municipal intake structures, and other utility or industrial assets. These assets lie within Prohibited Access Areas.

6.8. Over 80 access roads have been outgranted to various counties or to the Commonwealth of Kentucky, although some of these areas are suitable only to access by four-wheel drive vehicles. There are also large tracts of undeveloped lands surrounding the lake, and lake users can enjoy miles of natural shoreline unbroken by roads, ramps, or other development. These undeveloped lands serve a specific Project purpose to support the overall health of the lands and water ecology of Lake Cumberland.

6.9. **RESIDENTIAL DEVELOPMENT ON ADJOINING PROPERTY.** Residential development on adjoining private property surrounding Lake Cumberland and pressure for use of the shoreline continue to increase each year. Private property owners understandably wish to have unimpeded views of the lake and easy access to the shoreline. These wishes have historically led to encroachments and vandalism of vegetation on federal lands. Private property owners have damaged or removed public vegetation without permission, leading to substantial fines. A strong Shoreline Management Plan is one tool that helps reduce conflict between public use and unauthorized private development of the Lake Cumberland resources. The protection of the shoreline from overuse and the conservation of the natural beauty of the public land and water for all visiting public is a major goal of this Shoreline Management Plan and a Corps Environmental Operating Principle.

7. HISTORY AND DEVELOPMENT OF PRIOR SMP.

7.1. INITIAL PERMIT POLICY, 1950 – 1973. Prior to formulation of the initial Lakeshore Management Plan in 1973, adjoining private landowners were routinely given approval for use of public lands (mowing, pipelines, and improved access) and for the placement of boathouses and boat docks on the lake. Applications for these permits were accepted for all areas of the lake except recreation areas and other developed areas.

7.2. DEVELOPMENT OF THE LAKESHORE MANAGEMENT PLAN, 1973 – 1987.

7.2.1. EARLY PLANNING. Due to the increasing number of land use and moorage privileges that were being issued across all of the Corps' reservoirs, including Lake Cumberland, the potential for serious problems related to ecology, aesthetics, pollution, and diminishing long-term "quality" public use became evident. In addition, the continued development of private docks and increased shoreline landscaping of federal lands began to give the public land the appearance of private exclusive use. Further vegetation removal would lead to increased erosion and decreased water quality. The need for a more regulated control of public lands and waters became evident and it was apparent that the continued development of manicured lawns on public lands and private docks along the shoreline would be detrimental to the aesthetic and recreational setting of Lake Cumberland. The policy regarding lakeshore management programs was codified in Title 36, Chapter III, Part 327.30, Code of Federal Regulations and placed into agency guidance in ER 1130-2-406 on December 13, 1974, which required all Corps lake projects with private facilities to establish a Lakeshore Management Plan. In addition, resource management personnel at Lake Cumberland conducted a lakeshore management study which concluded in 1973.

7.2.2. PUBLIC INVOLVEMENT. Public meetings were advertised and held in Somerset and Jamestown, Kentucky to solicit public input into the development of a formal Lakeshore Management Plan. Letters, news releases, and public notices were also circulated. Most of the many written and oral comments received were very favorable. After evaluating all public input, the draft plan was revised, and the final plan was released in 1973.

7.3. UPDATE OF THE LAKESHORE MANAGEMENT PLAN, 1987.

7.3.1. The 1973 plan was generally well accepted. Over the years, however, with continuing private development around the lake and ever-increasing recreational visitation, it became apparent that further action was required to ensure the long-term protection of recreational, aesthetic, and other environmental values for which Lake Cumberland had become noted. The 1987 update was intended to achieve that goal by increasing the number of protected areas around the lake, limiting the types of shoreline alterations permitted, and encouraging environmentally compatible types of uses in limited development areas. Most of the additional areas to be designated as "Protected" were undeveloped. Every effort was made to minimize impacts of proposed changes on lakeside property owners. The update mentioned possibly closing the entire lake to private docks in the future.

7.3.2. Public input was solicited to aid in the development of the proposed update through news releases, direct mailings to lakeshore property owners, public notices, and

two public hearings held in Jamestown, Kentucky on March 17, 1986, and Somerset, Kentucky on March 18, 1986. Participation at the meetings as well as after meeting responses was excellent. Many participants and respondents supported the provisions of the updated plan. No objections were received in response to possible future prohibitions of additional private docks. The plan was modified to reflect the views expressed at the meetings and was approved by the Division Engineer.

7.4. SHORELINE MANAGEMENT PLAN, 1994.

7.4.1. The 1987 update of the Lakeshore Management Plan made strides toward achieving the goal of ensuring the long-term protection of recreational, aesthetic, and other environmental values of Lake Cumberland by increasing the number of protected areas. The 1994 Shoreline Management Plan took into consideration the value of tourism and the economic benefit tourism has on the entire Lake Cumberland area.

7.4.2. Experience has shown that new development has occurred in areas that have never been open to private docks. Most individuals who desire to live in proximity of the lake do so without the guarantee of having private exclusive use of the lake for moorage. Also, there has been a large increase in commercial marina and upland dry storage facilities all areas of the lake have reasonable access to public launching areas.

7.4.3. With the importance of the economic benefit of tourism to the entire surrounding area of Lake Cumberland and the expectation that tourism would continue and possibly increase each year, the demand for increasing the number and size of private moorage facilities conflicted with preserving Lake Cumberland's natural beauty for years to come. To maintain this goal, the 1994 draft update of the SMP proposed to accept no new applications for privately owned moorage facilities or enlargement of existing facilities on Lake Cumberland following a six-month grace period.

7.4.4. Public meetings on the 1994 SMP were held in Russell Springs, Kentucky on October 18, 1993, Somerset, Kentucky on October 19, 1993, and Monticello, Kentucky on October 20, 1993. The meetings were well attended and those who participated had the opportunity to voice their individual concerns or agreement with the Shoreline Management Plan update during individual breakout sessions. Questions and concerns were recorded and each participant at the meetings received a mailed copy of written responses to all questions raised at the meetings.

7.4.5. A thirty-day written comment period took place after the public meetings for those who were not able to attend the meetings. It also gave those who attended the meetings a chance to review the draft plan in detail and offer additional comments. The plan was modified to increase the time for those individuals who were still eligible to apply for a private moorage facility from six months to an eight-month grace period. The updated Shoreline Management Plan was signed by Ohio River Division Commander, Major General Albert J. Genetti, Jr. on May 2, 1994. On January 11, 1995, all existing Limited Development Areas were converted to Protected Areas and no new applications for private moorage facilities or enlargements to existing facilities were accepted.

7.5. SHORELINE MANAGEMENT PLAN, 2002.

7.5.1. The 2002 Shoreline Management Plan further took into consideration the value of tourism and the economic benefit tourism has on the entire Lake Cumberland area as

well as making strides toward achieving the goal of ensuring the long-term conservation of recreational, aesthetic, water quality, and other environmental values of Lake Cumberland.

7.5.2. Lake Cumberland had one of the highest visitation figures in the country each year due to its unforgettable natural landscapes and recreational opportunities. Studies at that time revealed that on average, visitors to U.S. Army Corps of Engineers lakes spend about \$21.50 for each day use visit, and \$82.57 for each camping visit in the lake area. These expenditures include those for food, fuel, overnight accommodations, bait, souvenirs, etc. For example, in 2001 Lake Cumberland received over 4.7 million visits, which created an economic benefit to the entire lake region estimated at over \$150 million. The Corps considered the balance of these economic impacts balanced against the negative potential impacts of development of the Lake Cumberland lands and waters.

7.5.3. To obtain a better understanding of the public's opinion toward the latest revision of the Shoreline Management Plan, individuals were given the opportunity to comment on the 1994 SMP and give feedback on its goals and objectives. An "Invitation For Comments" advising the public about the impending update of the SMP was distributed to current Shoreline Use permittees as well as individuals who had contacted the Resource Manager's Office wishing to be notified of the SMP update. Public notices were sent to the area newspapers and radio stations, as well as distributed to the attendees at area boat shows. The 1994 SMP was also placed on the Nashville District's web site. The letters and public notices instructed the public to review the current SMP on the web site and it also gave them the opportunity to send written and e-mail comments regarding their views on the upcoming 2002 update. Copies of the SMP were mailed to those individuals who did not have access to the internet.

7.5.4. Comments were accepted during the invitation for comments period, January 15, 2002, through March 1, 2002. Following the public information workshops held on April 22 & 23, comments were accepted on the "Draft" SMP update through May 24, 2002. Comments covered a wide range of SMP issues. The evaluation of all comments received did not indicate the need for a change to the Objectives of the SMP (to conserve and protect environmental resources). Numerous comments received urged the Corps to keep the Lake Cumberland shoreline free from additional private exclusive use development such as individual and community docks.

7.5.5. The 2002 SMP continued to prohibit new privately owned moorage facilities (private individually owned docks and privately owned community docks). Continued prohibition of future private exclusive uses, such as private moorage, furthered the Objective of protecting and conserving the natural environmental resources of Lake Cumberland for public use.

7.5.6. Since the early 2000's, several community dock associations and individual moorage permit holders have raised concerns over the prohibition of enlargements to dock structures. These concerns are based on the current dimensions of existing dock slips in comparison to the increasing width and length of newer vessels. To accommodate members with larger runabouts, pontoons, etc. and still maintain overall square footage of the structure, some community dock associations had decreased the size of walkway fingers to make slips wider. In some cases, this has resulted in unstable

walkway fingers and a subsequent safety concern. Comments received during both comment periods, and the public workshops supported this concern.

7.5.7. Individual and community docks were not allowed to enlarge for the purpose of additional slips. However, individual docks, and slips within community docks could increase in size provided that: (a) the dock or slip was not currently larger than the maximum size allowed, (b) the enlargement did not encroach on other adjacent permitted docks (must be at least 50 feet apart), and (c) the dock structure did not extend more than one third the distance across a cove or other body of water.

7.6. REVIEW AND UPDATE OF THE SMP, 2012. A review and update of the SMP was submitted to the Director of Programs, Great Lakes and Ohio River Division. During the 2012 review and update period, no major or substantial changes were identified. Only administrative changes were implemented. It was identified that the Corps should continue to adhere to environmental operating principles, continue to conserve the shoreline, continue to prohibit additional private and community docks, and continue to manage the Lake Cumberland resource for the benefit of the public. Administrative changes were coordinated by Operations and Real Estate Division offices. This review and update of the Shoreline Management Plan was signed by Hiroshi Eto, P.E., Director, Programs on 21 May 2012.

7.7. SHORELINE MANAGEMENT PLAN (SMP) 2023. (Draft until signed with concurrence)

7.7.1. The 2023 SMP supersedes all previous versions of Lake Cumberland's Shoreline Management Plan and Lakeshore Management Plan and incorporates all applicable supplements, changes, and updates of the SMP.

7.7.2. The 2023 SMP reintroduces Limited Development Areas (LDAs) and specifically defines the boundaries of each LDA. The reintroduction of LDA shoreline allocations applies only to areas with existing community docks. Community Dock Associations will be provided an opportunity to submit applications for consideration of expansion, modification, and/or reconfiguration of their community docks within the boundaries of the newly defined LDAs.

7.7.3. Applicants must follow the application process and applications will be evaluated based on criteria described in the SMP. Applications will only be considered from Community Dock Associations and incomplete applications will not be considered.

8. SHORELINE ALLOCATION. This SMP incorporates the following allocations and the associated definitions.

8.1. LIMITED DEVELOPMENT AREAS. Limited Development Areas (LDAs) are those areas in which private facilities and/or activities may be allowed with an approved Shoreline Use Permit consistent with this SMP. Potential low and high-water conditions and underwater topography were carefully evaluated along with other environmental considerations before allocating shoreline as LDA.

8.2. PUBLIC RECREATION AREAS. Recreation areas are managed by Federal, tribal, state, county, local, quasi-public entities, or commercial concessionaires. No private shoreline use, facilities, and/or activities will be permitted inside these areas. Undeveloped

recreation areas are also included in this classification. No modification of landforms or vegetation by private individuals or groups of individuals is permitted in Public Recreation Areas. Courtesy docks, commercial boat docks, and marinas are permitted only in public recreation areas.

8.3. PROHIBITED ACCESS AREAS. These are areas that are established for the physical safety of the public and security of the federal project operations areas. These areas could include hazardous areas near the dam, spillway, hydroelectric power stations, work areas, water intake structures, threatened and endangered species habitat, historic properties, and/or dangerous or collapsing embankments. Private exclusive use facilities or privileges are not allowed in these areas. The following areas are within this classification:

8.3.1. Wolf Creek Dam and Powerplant, including the posted danger areas upstream and downstream.

8.3.2. John Sherman Cooper Power Station at Burnside, Kentucky.

8.4. PROTECTED SHORELINE AREAS.

8.4.1. These are areas that have been established to retain the natural, undeveloped character of the shoreline, maintain shoreline aesthetics, preserve historical importance, prevent erosion, support the native ecology, conserve water quality, and protect other environmental values of the lake. These areas are to be protected from private exclusive use and are set aside for the public. This classification is characterized by physical limitations of depth, terrain, or susceptibility to wind, wave, or current action. Fish and wildlife areas, scenic or cultural resource areas, and areas in the proximity of commercial marinas, recreation areas, or other large public land holdings are included in this designation.

8.4.2. Pedestrian access, boating, fishing, hunting, hiking, photography, and other recreational activities are allowed in these areas if they are compatible with the protection of the shoreline and with state hunting, fishing, and boating laws. Access paths and items under Section 14. Activities Requiring Real Estate Instruments that do not create an accumulative impact on the environment and do not create a perception of private exclusive use may be authorized in Protected Areas upon receipt of proper permits or Outgrants obtained through the U.S. Army Corps of Engineers, Nashville District. Examples may include a maximum four-foot-wide meandering path or legacy fire lane. Only legacy facilities, such as legacy individual private moorage facilities, are permitted in Protected Areas. See Sections 10.4. and 11.

9. LIMITED DEVELOPMENT AREA BOUNDARY DELINEATION. The Corps of Engineers will attempt to place signs at the boundary line of each Limited Development Area. Some shorelines may be so steep, or may be comprised of shallow or exposed bedrock, as to not be conducive to the installation of signs. Signs will be placed at or above lake elevation 760' msl and meet USACE sign standards. However, the written description of the allocations within this plan--See Appendix A--will take precedence over the locations of signs if there is a discrepancy of shoreline allocation.

10. SHORELINE USE PERMITS AND ACTIVITIES REQUIRING SHORELINE USE PERMITS.

10.1. SHORELINE USE PERMITS. ENG Form 4264-R. "A permit to construct and/or maintain and use a floating recreation facility or other development." Shoreline Use Permits are non-transferable. The permit becomes null and void upon sale or transfer of the permittee's private property (designated on the Shoreline Use Permit with appropriate Deed Book and Page Number) or the permitted facility. The Shoreline Use Permit also becomes null and void due to the death of the permittee and his/her legal spouse. A new permit may be applied for, reviewed by the Resource Manager, and then may be issued to a new owner after he or she submits a complete application and the required fees. The Resource Manager will receive and process all applications for Shoreline Use Permits. New owners must apply for a Shoreline Use Permit within 14 days after purchasing their property or else remove the facility and restore the use area within 30 days from the date of ownership transfer. Private moorage facilities are not to be moved from their original location unless completely removed from public property. New property owners are not permitted and have no opportunity to move private docks to new locations. Permitted facilities are always to be moored directly adjacent to the location designated by the Resource Manager or his/her representative.

10.2. SHORELINE USE IDENTIFICATION. If the Shoreline Use Permit is for moorage (boat dock), a permit plate, provided by the Resource Manager, shall be attached directly to the dock, clearly visible from the water, six inches from the right side of the dock as seen from the water.

10.3. PRIVATE MOORAGE FACILITIES / PRIVATE DOCKS (GENERAL). Information in this section provides guidance on the administration of private facilities. Private moorage facilities consist of legacy individual docks, community docks, or courtesy floats, as described below. Private moorage facilities are for the moorage of vessels only and shall not contain diving boards, slides, playground equipment, grills, tables, furniture, or similar facilities.

10.3.1. LOCATION. All docks must be located at least 50 feet away from any other permitted dock. The Resource Manager or his/her representative will designate the exact location of each facility.

10.3.2. CONSTRUCTION CRITERIA.

10.3.2.1. GENERAL CRITERIA, MOORAGE AND ANCHORING OF DOCKS. Fixed piers, fixed docks or other non-floating structures are prohibited. Docks must be properly constructed and firmly secured in place. Dock revisions or replacements must be constructed and in place within 180 days of the date of approval of plans or the approval is void. No deviation or changes from approved plans will be allowed without prior written approval of the Resource Manager. The facility is subject to periodic inspection. Docks shall not be moored to vegetation, and therefore must utilize one of the following shoreline anchoring methods placed above the 725' contour line:

10.3.2.1.1. Eyebolts grouted and set in concrete through which the cables are fastened.

10.3.2.1.2. Pressure treated wood or steel posts set in concrete. Posts shall be a maximum height of 12 inches.

10.3.2.1.3. Concrete dead-man anchors placed on or in the ground to which the cables are fastened.

10.3.2.1.4. Winches set in concrete. Only hand-operated types allowed.

10.3.2.2. ACCEPTABLE BUILDING MATERIALS AND COMPONENTS. Pressure treated wood, steel, aluminum, concrete, fiberglass, or a combination of these are acceptable building materials for docks. Roofs or enclosed boathouses are not permitted. A storage compartment not to exceed forty cubic feet may be constructed on the dock to store equipment related to boating. The height of an approved storage compartment may not exceed four feet. If the dock is painted, it should be an earth tone color, such as green, brown, or tan. Carpeting of wooden decking and any coverings of wood flooring preventing immediate inspection are not permitted.

10.3.2.3. FLOTATION.

10.3.2.3.1. Floats and the flotation material for all docks and vessel mooring buoys shall be fabricated of materials manufactured for marine use. It is imperative for the purposes of protection of water quality and the environment to ensure plastics and micro-plastics do not enter the environment from poorly made, maintained, or fabricated floats. 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. 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 September 14, 1992, when this specification became effective, 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. The Resource Manager's Office maintains a list of flotation suppliers with products that meet the above specifications. If a permittee wishes to purchase flotation from a supplier that is not on this list, a specification sheet that identifies the manufacturer shall be furnished to the Resource Manager for approval before the flotation is placed under the dock.

10.3.2.3.2. Buoyancy of flotation material must equal twice the weight of the structure, as a minimum. The walkway must have flotation and be capable of adjusting to fluctuations of the lake level.

10.3.3. MAINTENANCE.

10.3.3.1. The permittee must maintain the structure in a safe and structurally sound condition. The dock must be always floating and is required to be removed from public property when not being maintained in the water. The facility is subject to

periodic inspection. If the dock has been removed from public property, it must be stored in a location in the Lake Cumberland area so that it can be easily inspected.

10.3.3.2. The Shoreline Use Permit for a dock will not be renewed until the dock has been physically inspected. If a permittee no longer has his/her dock, the permittee will be given 180 days to re-construct the dock. Replacement or repairs to the dock must conform to the size dimensions indicated on the permittee's approved dock plans. The permittee must supply a caretaker to serve in his/her absence to provide protection during fluctuations of the lake level or adverse weather conditions. The caretaker must be a local resident and the permittee is responsible for notifying the Resource Manager if the caretaker changes.

10.4. PRIVATE INDIVIDUALLY OWNED BOAT DOCKS.

10.4.1. All individually owned docks on Lake Cumberland are legacy activities further described in Section 11.

10.4.2. A permittee of an individual dock and/or his/her spouse is only allowed one dock on Lake Cumberland. Therefore, an individual and/or his/her spouse who already has a permitted individual dock and purchases an additional tract of land with a permitted individual dock may retain only one of the permitted docks. This also applies to membership in a community dock. If an individual and/or his/her spouse become members of a community dock association on Lake Cumberland, they must relinquish the individual dock permit, or keep the individual dock and resign from the community association.

10.4.3. Only two vessels legally registered to the permittee may be moored at the dock and the registration numbers must be furnished to the Resource Manager. The permittee will be responsible for all watercraft moored at the permitted dock. The permitted dock may not be rented, leased, or licensed to other individuals or used for any purpose other than moorage of the permittee's vessels.

10.4.4. Permits will not be renewed until conflicts with Corps policies are resolved.

10.4.5. SIZE OF PRIVATE INDIVIDUALLY OWNED BOAT DOCKS. Changes to existing docks may be approved by the Resource Manager's Office. Enlargements to individual docks may be requested by current permittees for the purpose of increasing the size of existing slips solely to accommodate the increasing length and width of newer vessels. Enlargements to individual docks to increase slip size may be approved on a case-by-case basis based on site conditions and other factors. The maximum size of private individually owned legacy docks is 500 square feet. Square footage is calculated by excluding the walkway but including all slips and the water area within those slips. Existing individual docks are also limited to the following size requirements: Walkways shall not exceed 20 feet in length by 4 feet in width. The width of a dock may not exceed 30 feet and the length of a dock (including the walkway) may not exceed 40 feet. If in a cove or a creek, the dock and walkway combined shall not exceed 40 feet in length or one third the width of the cove, whichever is less. No dock shall encroach closer than 50 feet from any other permitted dock. These size limits may be reduced by the Resource Manager, if necessary, to protect the public's interest including, but not limited to, navigation interests or public recreational use of the lake. Any proposed changes to the size and/or configuration of a legacy moorage facility must be submitted in writing to be

considered by the Resource Manager. The application must include a signed letter of request with details of the proposal, a detailed drawing of the current, permitted dock structure showing size dimensions of walkway, slip, and slip fingers, and a second detailed drawing of the dock facilities which shows proposed size dimensions. All drawings and plans must be submitted on standard (8 ½ x 11") or legal (8 ½ x 14") paper.

10.5. COMMUNITY DOCKS.

10.5.1. All community docks on Lake Cumberland are legacy activities further described in Section 11. Community moorage facilities are permitted only to legal, not-for-profit corporations. This corporation must be a Community Dock Association. Homeowner Associations will not be issued a permit, and existing permits held by Homeowner Association will be transferred to a Community Dock Association if the Association applies for dock expansion. Copies of the state certificate of incorporation, the corporate charter, corporate by laws, a list of officers, members (names, addresses, phone numbers, and proof of qualified property ownership (deed book and page number)) and their vessel registration numbers (vessels to be moored at the facility) must be submitted to the Resource Manager when the dock permit is renewed. In addition, the community dock association must furnish the Resource Manager with changes to the above items annually. The charter must state, "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."

10.5.2. To be permitted, the non-profit association, not association members, must own the community dock. Individual slips may not be rented, leased, licensed, or sold, nor may any other commercial activity be associated with the operation of the facility.

10.5.3. Community dock facilities and associated community dock assets shall not extend more than one third the distance across a cove or other body of water. This includes no-wake buoys and wave breaks. The construction criteria are the same as for private individual docks (see Section 10.3.2.). The community dock must be located within the limits of an area defined by the Resource Manager or his or her representative so that it is at least 50 feet from any other permitted existing dock.

10.5.4. To be eligible for membership in a community dock association, an applicant must own private property within the designated area served by the community dock. The original area served by each community dock permit was determined by the Resource Manager when the initial permit was issued. This area is delineated by a map or written designation located in the permit file. This designated area will be re-confirmed whenever a Community Dock Association seeks to renew or modify their permit for a community dock. The applicant's property, for association membership, must also meet the Lake Cumberland District Health Department's residential construction requirements for septic systems. Only those who own private property within a community have rights or access to the community dock. Those who rent, including those who are living in apartments or another rental unit, have no rights or access to the community dock. The incorporated association will determine any additional eligibility requirements for membership and use of the community dock. Since the number of residents may exceed the number of slips available, association bylaws must clearly state the criteria for dock

usage and turnover. These criteria shall prohibit discrimination and any form of commercial activities.

An Applicant is defined as the listed owner of the private property. Applicants may be Trusts or Limited Liability Companies. The Applicant, whether an individual, married couple, LLC, or Trust, will be listed the same way in the Community Dock Association membership, and on vessel registration, and as the private property owner. Applicants and members are responsible for transferring and registering assets accordingly.

10.5.5. To maximize the use of a community dock, the association may choose not to assign full time occupancy of slips to specific members. Managing/assigning slips based on use, rather than to an individual, can make the facility available to a much larger number of members. If a community dock association chooses to assign slips to specific members, the number of slips assigned to any member and/or his/her spouse cannot exceed the number of vessels registered to that member and/or his/her spouse.

10.5.6. Upon request by the Resource Manager and every time a Community Dock permit is to be renewed, or modified, corporate bylaws shall be submitted for review. Changes to bylaws shall also be submitted for review to ensure that there are no conflicts with the Shoreline Management Plan or Permit Conditions. Permits will not be renewed or modified until conflicts with Corps policies are resolved.

10.5.7. The corporate bylaws must be clearly written and shall include all the following:

10.5.7.1. The qualifications for participation.

10.5.7.2. Evidence of membership on a nondiscriminatory basis. A Community Dock Association shall not discriminate against any person or persons or exclude them from eligibility for membership in the association because of age, equal pay, genetic information, harassment, pregnancy, retaliation, sexual harassment, race, color, sex, religion, age, disability, or national origin.

10.5.7.3. Procedures for utilization by members, routine maintenance, and removal of inoperable or ineligible vessels.

10.5.7.4. Use allocation procedures for slips. List procedures for managing slips based on use or member assignment. Such procedures must provide for re-assignment of slips when any member of the community dock association becomes ineligible for participation, due to death, chooses to end their membership, or for any other reason. Use of a waiting list comprised of names of those who are eligible to become members and have requested to join the association is recommended to cover any situations not addressed by the bylaws.

10.5.7.5. The schedule for regular meetings and procedures to deal with problems occurring between scheduled meetings.

10.5.7.6. A statement clearly identifying that the Community Dock is owned by a Not-for-Profit Association, and specifically identifying the Community Dock Association by name. Other associations with additional holdings are NOT permitted

to own Community Docks. Clearly identify that no private individual, nor individual members of the Association, own the community dock.

10.5.7.7. Reference to the geographical area being served in the bylaws shall read, "...as designated by the Corps of Engineers."

10.5.8. No deviation or changes from approved plans for the dock facilities will be allowed without the prior written approval of the Resource Manager.

10.5.9. A responsible Association Officer, with current standing in the Association, 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.

10.5.10. SIZE OF COMMUNITY DOCKS AND NUMBER OF SLIPS.

10.5.10.1. Changes to existing community docks may be approved by the Resource Manager's Office. Enlargements to community docks may be approved for the purpose of increasing the size of existing slips to accommodate the increasing length and width of newer vessels. The SMP also allows requests to increase the total number of individual slips at community docks. Enlargements to community docks to increase slip size and/or the number of slips may be approved on a case-by-case basis based on site conditions and other factors. Under no circumstances will approval be granted to enlarge or expand a community dock beyond the limits of the designated Limited Development Area.

10.5.10.2. The maximum size of community dock slips will be 10.5 feet wide by 24 feet long for single slips, and 12 feet wide by 24 feet long for multiple slips.

10.5.10.3. Community dock associations shall provide the following information to request a change in the size of their moorage facility:

10.5.10.3.1. A letter of request with details of the proposal signed by an authorized community dock association officer.

10.5.10.3.2. A detailed drawing of all current dock structures which shows size dimensions of walkways, slips, and slip fingers. The drawing must reference each slip with a unique numeric designation. (This numeric designation will eliminate confusion related to current and future requests for slip enlargements.)

10.5.10.3.3. A second detailed drawing of the dock facilities which shows proposed size dimensions. This drawing must also reference each slip's numeric designation.

10.5.10.3.4. Detailed plans showing location of new slips (Aerial view map must be included).

10.5.10.3.5. All drawings and plans must be submitted on standard (8 ½ x 11") or legal (8 ½ x 14") paper.

10.5.10.3.6. Provide clear and concise language for assignment of new slips and re-assignment of slips as addressed in the non-profit association bylaws and the use of a waiting list for eligible members.

10.5.10.4. Any proposed changes will not be authorized unless and until the revised plans are properly submitted to and approved by the Resource Manager's Office in writing.

10.5.10.5. The criteria used to authorize proposed dock changes is based on the following factors:

10.5.10.5.1. A Community Dock and associated community dock assets will not extend more than one third the distance across a cove or other body of water.

10.5.10.5.2. No Community Dock will encroach closer than 50 feet from any other permitted dock.

10.5.10.5.3. No Community Dock will be permitted to expand without written documentation of commensurate parking expansion.

10.5.10.5.4. If the Community Dock Association offers undesignated, unassigned slips, then those slips must be available on a first come – first serve basis.

10.5.11. **COMMUNITY DOCK ACCESS.** To provide access to public lands, the not-for-profit association must provide a dedicated access from a public thoroughfare to the site of the community dock. Access across the public land may be permitted by a narrow, meandering, unpaved pedestrian pathway authorized by the Resource Manager (See Paragraph 13.1.1.). In certain situations, access steps may be authorized through a Real Estate instrument if steps are deemed necessary for safe access (See Paragraph 13.2.1.3.). Public lands will not be made available for parking. A plat should be provided to the Resource Manager's Office showing the nearest public thoroughfare, long term access to public land, and public land including the water surface. The source of this long-term interest should be listed (e.g., deed, plat book, etc.).

10.5.12. **CONSTRUCTION CRITERIA.** Construction requirements are the same as for other private docks. Refer to Section 10.3.2. Approval of plans will be required prior to revisions to any community dock structure.

10.5.13. **MAINTENANCE.** Maintenance requirements are the same as for other private docks. Refer to Section 10.3.3. The corporation is required to post a performance bond of a sufficient amount to ensure proper maintenance or removal of the permitted facility. The amount is based on the actual value of the facility. The amount of the bond shall be a minimum of 10% of the construction cost of the facility.

10.5.14. **LIABILITY INSURANCE.** The corporation is required to hold liability insurance for bodily injury and property damage with a minimum of \$300,000 per person in any one claim, and an aggregate limit of \$300,000 for any number of persons or claims arising from any one incident with respect to bodily injuries or death, and \$300,000 for damage to property suffered by any person or persons resulting from the operations of the

permittee. The corporation must submit proof of insurance once a year to the Resource Manager.

10.5.15. **INDIVIDUAL PRIVATE MOORAGE WITHIN A COMMUNITY MOORAGE BOUNDARY.** Any individual private moorage facility that exists within a community moorage boundary as defined by a Limited Development Area may remain. If a permit for an individual private moorage facility in an area served by a community dock is cancelled for reasons of noncompliance to regulations, a new permit will not be issued. Individual private docks existing within a Limited Development Area are considered "Legacy Structures" and are subject to all conditions and limitations described by Section 10.4. above and Section 11. below.

10.5.16. **OFFSHORE MOORAGE.** Future offshore or buoy moorage will not be permitted in conjunction with a community moorage facility.

10.6. **COURTESY FLOATS.** Courtesy floats are different from other private legacy docks in that they are only for **TEMPORARY** use (moorage may not exceed two consecutive days per week). Such floats were authorized to provide vessel tie up and landing facilities for residents of a designated area as determined by the Resource Manager. Courtesy floats must conform to all construction and maintenance requirements applicable to other private docks (Sections 10.3.2. and 10.3.3.) and maximum size limitations applicable to individual private docks (Paragraph 10.4.5.). The permit for a courtesy float is issued to the property owners association. A property owners association is a separate and distinct entity from a community dock association.

10.7. **COURTESY DOCKS.** Courtesy Dock permits are issued to government and quasi-government agencies through a Real Estate process. Generally, the managing agency of a boat ramp requests permission to place a courtesy dock. Courtesy docks are managed and operated for the benefit of the public; they are not exclusive to private use. Courtesy docks are only for **TEMPORARY**, short-term tie up for the duration of loading and unloading.

10.8. **SKI COURSES.** The Resource Manager may determine the approval of a ski course on Lake Cumberland. Applicant(s) must be legal not for profit organizations and are required to have bodily injury liability insurance with a minimum of \$300,000 per person in any one claim, and an aggregate limit of \$300,000 for any number of persons or claims arising from any one incident with respect to bodily injuries or death. The applicant must also have property damage liability insurance with a minimum of \$300,000 for damage to property suffered by any person or persons resulting from the operations of the permittee. The permittee must submit evidence of insurance prior to installation of the facility and each time the permit is renewed.

11. PRIOR COMMITMENTS AND LEGACY STRUCTURES.

11.1. Private moorage facilities existing as of January 11, 1995, having a current Shoreline Use Permit, are covered under a legacy clause. The Resource Manager will honor all existing Shoreline Use Permits for private moorage facilities unless the dock or structure presents a safety hazard, the permittee fails to comply with the conditions of the permit, or the District Commander revokes the permit when the public interest necessitates such revocation. If the facility becomes unsafe, or if permit conditions are violated, permits may be suspended or revoked by the Resource Manager when the permittee fails to comply with terms and conditions of the permit. If the permit is revoked, the permittee will be required to

remove the facility from public property, and another permit or Outgrant will not be issued. If a permittee sells or transfers his/her adjoining private property (that property designated on the Shoreline Use Permit with appropriate Deed book and Page Number) and individual dock, the Shoreline Use Permit becomes null and void (See Section 10.3. Private Moorage Facilities/ Private Docks (General)). However, a new permit may be issued to the new owner after he or she submits a complete application and the required fees, provided that the new owner does not already have an existing permitted dock on the lake, and he or she is not a member of a community dock.

11.2. Legacy docks (including individual docks, community docks, courtesy floats, etc.) may be repaired or replaced by the permittee if needed, provided that the structure is repaired or replaced in accordance with approved dock plans.

11.3. SECTION 6, PUBLIC LAW 97 140 AMENDED BY SECTION 1134(D), PUBLIC LAW 99 662.

11.3.1. Public Law 97 140 reads that a dock, cabin, or appurtenant structures, lawfully installed on or before December 29, 1981, cannot be removed except when the dock or structure presents a safety hazard, the permittee fails to comply with the conditions of the permit, or the District Commander revokes the permit when the public interest necessitates such revocation. While this does not technically extend such provisions to docks installed after 1986, the Corps will, as a matter of policy, treat all lawfully installed docks in the same manner, regardless of the date of installation.

11.3.2. If the dock presents a safety hazard that is not corrected, or the permittee fails to comply with permit conditions, the permit will be revoked. When a permit is revoked for any of the above causes, the dock must be removed, and another permit or Outgrant will not be issued. If a structurally sound dock is damaged, destroyed by a storm, or natural disaster, repairs will be authorized. Repairs to the dock must conform to the size dimensions indicated on the permittee's approved dock plans.

11.4. SECTION 121, PUBLIC LAW 108-7. Public Law 108-7 allowed for construction of a privately owned moorage facility at Woodson Bend Peninsula on the South Fork of the Cumberland River at Lake Cumberland. A requirement of the law was to modify the Shoreline Management Plan to allow such development. The addition of this paragraph meets the requirements of this law. The community dock permitted to satisfy the legislation is known as The Villa's Community Dock.

12. HUMAN HABITATION.

12.1. Private facilities used for human habitation are prohibited on Lake Cumberland. Permitted facilities and any watercraft moored thereto shall not be used for human habitation or in any manner that would imply exclusive private use of the public shoreline or waters. Vessels with living accommodations will not be allowed to moor at a private moorage facility. All vessels on Lake Cumberland shall be constructed and maintained in accordance with the standards established by the National Safe Boating Act of 1971 (PL 92 75, 85 Stat. 213).

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

13. LAND BASED ACTIVITIES. All alterations or modifications of public lands surrounding Lake Cumberland are prohibited without the express, prior, and written approval of the Corps. The only exception is that drift, debris, and any form of garbage may be removed without formal approval. All applications for land-based privileges shall be made through the Resource Manager. Some activities require ultimate approval from the Real Estate Division or the Regulatory Division, and applications for these activities will be forwarded to the District Office in Nashville, Tennessee with the Resource Manager's recommendation, for appropriate action. All Real Estate Outgrants will be assessed a fair market rental and an administrative fee. Those activities that may be approved by the Resource Manager and those requiring District Office approval are identified below.

13.1. ACTIVITIES WITHIN THE PERMIT AUTHORITY OF THE RESOURCE MANAGER

13.1.1. PATHS. The Resource Manager may authorize a natural meandering path not to exceed four feet in width to improve pedestrian access to the lake. The path must blend in with the natural terrain and tree cutting will not be allowed. Native shoreline stones may be placed on the path provided that they are placed flush with the ground. Access paths across public lands will be restricted to pedestrian use only and will be available for the use of the general public. Construction or placement of concrete, metal, or wooden walkways, steps, or personnel lifts is prohibited. Such structures previously covered by a Real Estate license will be allowed to remain in place provided they are maintained in a safe and presentable condition.

13.1.2. SPECIFIED ACTIVITIES. SPECIFIED ACTS PERMIT CELRN FORM 552, OCTOBER 2011. The Resource Manager may authorize adjacent private property owners to remove a standing damaged or dead tree on public land if he or she determines that such conditions constitute a danger to adjacent private property. Also, the planting of native trees and/or vegetative species beneficial to wildlife is encouraged on public land. These activities will be considered on a case-by-case basis.

13.1.3. FIRE LANES. Shoreline Use Permits for maintaining a fire lane may be issued by the Resource Manager only for residences existing prior to approval of the 1994 Shoreline Management Plan (May 2, 1994) in cases where a definite fire hazard would result without such maintenance. Any residences constructed after May 2, 1994, do not qualify for a fire lane permit. Vegetation removal within the designated fire lane area will be limited to one-inch base diameter or less, and the use of herbicides or pesticides are prohibited. The Resource Manager will specify the dimensions of the fire lane. The maximum width of a fire lane will be 50 feet from the edge of the residence to be protected. Homeowners are strongly encouraged to maintain setbacks and to perform fire risk reduction measures on their private property.

13.2. ACTIVITIES REQUIRING REAL ESTATE INSTRUMENTS. Items which involve structures placed on public land or changes in landform are covered by a lease, license, or other legal Outgrant issued by the Corps Real Estate Division. All commercial activities or development require a real estate instrument.

13.2.1. FIVE-YEAR LICENSES. Minor privileges, such as water withdrawal pipelines, electrical lines, and access steps associated with a permitted moorage facility may be covered under a five-year license:

13.2.1.1. PIPELINES. Applications for water withdrawal pipeline licenses for domestic use will be considered when no other practical source of water is available and when water withdrawals would not adversely affect project operations. All water pipelines and associated electric lines must be buried unless the Resource Manager determines that physical site conditions preclude such installation and that above ground installation would not adversely affect public recreation or aesthetics. Non submersible water pumps must be located on private property. (Floats, solely for the purpose of water pumps, are prohibited.) The fee for a water pipeline license will include a charge for water withdrawal as well as the charge for granting, administering, and inspecting the pipeline right of way.

13.2.1.2. ELECTRICAL LIGHTING AND EQUIPMENT.

13.2.1.2.1. Electrical equipment, including service for a private dock or shoreline lights, may be permitted upon approval of the Resource Manager, 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 shoreline lighting or power for a permitted private dock.

13.2.1.2.2. Applicants must be an individual private dock owner who holds a valid moorage permit or must be a Community Dock Association if said electrical equipment will serve a Community Dock. The Resource Manager or his/her representative will approve the location of all lights on public land.

13.2.1.2.3. Electrical installations must meet all applicable electric codes. All installations must be state certified, 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 (required every five years or after rewiring or adding more outlets) shall also be furnished to the Resource Manager. If a new adjoining private property owner wishes to obtain a license to continue use of existing electrical facilities on public property, he or she must have the wiring re-inspected and provide the Resource Manager with a new inspection certificate in his or her name. Because of the potential hazards of electrical shock, the Resource Manager will require removal of any electrical equipment if the installation cannot be certified. All new electrical lines will be installed underground. Existing overhead lines will be allowed to remain, as long as they meet all applicable electrical codes, regulations and above guidelines, to include compatibility and safety related to fluctuating water levels. Electrical lines or fixtures cannot be affixed to trees on public property.

13.2.1.3. ACCESS STEPS. Access steps are prohibited on Lake Cumberland unless it is determined that access to a legally permitted dock requires steps to allow safe access to the dock. If an on-site inspection by the Resource Manager's staff determines that steps are required to provide access, the Resource Manager will accept a license application with plans for steps, provided that the applicant agrees to maintain the steps in a safe condition. Steps shall be constructed using materials inherently resistant to weathering, rot, and water damage unless site conditions require other materials. Any colors must be an earth tone color, such as green, brown, or tan. **NOTE:** Public land is open to the public. Any conveyance across public land, including access steps on public property, must also remain open to the public. Landowners' private lands are not affected by this condition.

13.2.1.4. GENERAL LICENSE CONDITIONS. The grantee shall keep the premises in good order and in a clean, safe condition by, and at the expense of, the grantee. The grantee shall be responsible for any damage that may be caused to property of the United States by the activities of the grantee under the license and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes.

13.2.2. AGRICULTURAL LEASES. Consideration will be given for agricultural leases for row cropping only when the Resource Manager determines that such practices would significantly enhance the wildlife management program at Lake Cumberland.

14. ACTIVITIES REQUIRING REGULATORY DIVISION APPROVAL.

14.1. Activities involving excavation of the lake bottom, depositing dredged or fill material into the lake, construction of outfalls, intakes, pipeline crossings, installation of fish attractors, modifications of wetlands, etc. require Department of the Army approval under Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. Applications should be submitted to the Resource Manager as far in advance of the proposed work as possible. Please contact the Resource Manager's office or the Nashville District Regulatory Division with questions concerning the Regulatory Program.

14.2. Fish attractors may meet the criteria for approval under the Nationwide Permit for fish and wildlife harvesting devices. Permits for fish attractors may be issued by the Resource Manager. Do not place fish attractors without prior approval from the Corps.

15. DURATION OF SHORELINE USE PERMITS. Shoreline Use Permits for legacy private moorage facilities, fire lanes, and similar activities will normally be issued for a five-year period. Permits can be suspended or revoked by the Resource Manager when the permittee fails to comply with terms and conditions of the permit, the Shoreline Management Plan, Engineering Regulation Number 1130 2 406, or if it becomes necessary to protect public interest.

16. CONSOLIDATION OF REAL ESTATE OUTGRANTS AND SHORELINE USE PERMITS. If the same individual holds both a shoreline use permit and one or more real estate Outgrants, the terms will be adjusted based on the instrument that is due for renewal first, so that the permit and all Outgrants issued to an individual can be renewed at the same time.

17. FEES. 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.

18. LEGACY LAND BASED PRIVILEGES.

18.1. To implement this management plan fairly with regard to existing private use on public land, the U.S. Army Corps of Engineers, Nashville District will honor all prior commitments of the government. A legacy provision allows existing land-based privileges of a type no longer permitted to continue to the individual who originally obtained the 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 effect until:

18.1.1. The transfer of ownership of the permittee's adjoining private property.

18.1.2. The death of the permittee and spouse.

18.1.3. Permit or Outgrant conditions are violated and not corrected upon reasonable notice.

18.1.4. The individual voluntarily discontinues the private use covered by the legacy clause.

18.2. When any of these events occurs, the permit or Outgrant becomes null and void. Any future private use on public property at that location must conform to requirements of the current Shoreline Management Plan.

19. EXISTING BOATHOUSES / HUMAN HABITATION

19.1. Existing enclosed boathouses that were approved prior to the original Lake Cumberland Lakeshore Management Plan in 1973 will be allowed to remain in their present condition. When change of ownership occurs, the new permittee will be required to modify the boathouse to create a substantial opening such as a window or fenced door to allow easy inspection for the purposes of enforcing the prohibition of human habitation.

19.2. When a boathouse becomes unsafe or unseaworthy, the permittee will be required to rebuild the facility according to construction criteria for individual docks as outlined in this plan. If the structure is not rebuilt according to these criteria, the Shoreline Use Permit will become null and void.

20. PROHIBITED ITEMS AND ACTIVITIES.

20.1. Public lands around Lake Cumberland are dedicated and available to full and free use by the general public. Private exclusive uses not specifically authorized in this plan are prohibited. Activities which create the appearance of private ownership of public lands, are destructive to public lands, or inhibit the use of public lands are prohibited. Prohibited items include, but are not limited to:

20.1.1. Mowing, landscaping, or underbrush removal including the removal of brush, vines, tree limbs, or other understory vegetation unless covered in writing through a legacy permit.

20.1.2. Structures including, but not limited to, permanent vessel piers, patios, fences, flagpoles, sidewalks, driveways, buildings, sheds, outhouses, barbecue grills, fire rings, septic tanks or drainage systems, underground sprinkler system, domestic water intakes, satellite dishes, and swimming pools.

20.1.3. Flower beds, gardens of any kind or type, orchards, ornamental plantings, or any other managed vegetative growth.

20.1.4. The spreading of gravel or any other material to construct a path or drive.

20.1.5. The storage of any item including firewood, vessels, playground equipment, lawn furniture, picnic tables, trash cans, bird baths, pet houses and pens, ornamental concrete, ceramic figures, scrap material, or any other similar items.

20.1.6. The disposal of litter, leaves, trash, or any other debris or waste.

20.1.7. Excavation, cutting, or filling on public property of any type or kind.

20.1.8. The spreading of sand or any other material to construct or simulate a beach.

20.1.9. Use of vehicle off authorized roads is allowed only for specific circumstances: to place dock facility in the water at the beginning of the season and once to remove dock facility from the water at the end of the season. Use of a vehicle may also be used to assist with raising or lowering of dock systems. After the maneuvering of the dock is finished, the vehicle will be moved back onto an authorized road.

20.1.10. The placement and/or anchoring of floating structures such as swim platforms or floating trampolines or floating play equipment is not permitted.

20.2. All unauthorized structures and private items shall be removed from public property within thirty days of written notice to the owner. Trash, litter, and debris shall be removed immediately upon verbal or written notice. Unauthorized items are subject to impoundment and removal by the Corps of Engineers at the owner's expense in accordance with CFR Title 36, Chapter III, Part 327.15.

21. **BOUNDARY LINE ENCROACHMENTS.** Federal property lines have been established and marked with signs, property corners, and blaze marks painted yellow and white on trees. The public is encouraged to obtain a free copy of the Nashville District "Boundary Line Marking of Public Land" brochure from the Resource Management office. It is the responsibility of each adjoining landowner to know the exact location of his or her property lines and corners. The federal markings on federal lands **ARE** to be used for general awareness of the approximate property boundary and **ARE NOT** sufficient for private property owners to know the exact boundaries of adjoining private property. Construction on, or alteration of, public land can be avoided by proper research and planning, to prevent costly removal of private structures and/or after the fact restoration of public property. Owners of private property are solely responsible for obtaining surveys of their private lands. Removal or alteration of public property line markers or survey points is expressly prohibited by federal statutes.

22. **WATER QUALITY.** Water Quality is of primary importance to the Corps and plays a significant factor in the shoreline management process. Because Lake Cumberland 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.

22.1. **TRASH, REFUSE, DEBRIS.** The disposal of household trash, grass cuttings, leaves, tree limbs, waste oil, chemicals, or any other material in the lake and on public lands is strictly prohibited. Burning household trash or garbage on public land is prohibited.

22.2. The Corps encourages removal and proper disposal of man-made debris and helps facilitate regular public clean up events. Contact the Resource Management office for details on such events.

22.3. PRIVATELY OWNED SANITARY FACILITIES ON ADJOINING PROPERTY. Septic tanks, drain fields, leach lines, and any other sanitary facilities on adjoining private property are regulated by the local Health Department. The construction or installation of a septic tank, drain field, leach line, or holding tank on public land is not allowed.

22.4. FILL MATERIAL(S). The U.S. Army Corps of Engineers regulates the discharge of dredged or fill material into any waterway or adjacent wetland, regardless of ownership, under the authorities of Section 404 of the Clean Water Act and/or the Rivers and Harbors Act of 1899. Regulations supporting these authorities are available at the Resource Manager's office and can be found at USACE websites.

22.5. NON-POINT SOURCES OF WATER POLLUTION. The Kentucky Division of Water is responsible for the prevention and control of streambank 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 22.3., above. Penalties for fish kills resulting from water pollution are assessed by the Kentucky Department of Fish and Wildlife Resources.

22.6. MUNICIPAL AND INDUSTRIAL DISCHARGES. Industries 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 Kentucky Division of Water.

23. 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 Area Operations Manager and subsequently to the District Engineer 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 will be final except in those cases or situations when legislation is passed that is contrary to the SMP. The Assistant Secretary of the Army for Civil Works and Secretary of the Army may also issue direction that will supersede the decision of the District Engineer.

24. 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 will take the following actions:

24.1. Review the request for general conformance with the objectives and intent of the Shoreline Management Plan. Determine if the request is likely a onetime event or whether it will likely be a recurring demand.

24.2. If the request is likely a onetime event and a decision concerning the application could clearly be shown to be either contrary to, or not contrary to, the overall public interest considering 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.

24.3. If the request would likely be of a recurring nature, in addition to deciding and taking action as in Paragraph 24.2., above, the Resource Manager shall forward a copy of the

documentation to the Nashville District Office, with a proposal of how such requests should be addressed in updates to the Shoreline Management Plan.

24.4. 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 his or her 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.

25. GENERAL EVALUATION OF THE PLAN. This Shoreline Management Plan is intended to primarily conserve the natural resources of Lake Cumberland and secondarily provide optimum benefits to the general public. This plan strives to ensure and protect water quality of the Cumberland River system. Present and future recreational needs of the 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 Part II of the Operational Management Plan for Lake Cumberland.

26. PUBLIC INVOLVEMENT. This plan is prepared with input from the public. Public meetings are held to seek public input and involvement for any major update in the Shoreline Management Plan or the Project Master Plan. This will also apply to policy revisions that affect changes in land use and/or impact many people.

END OF THIS SECTION

ATTACHMENT A
LIMITED DEVELOPMENT AREAS DESCRIPTIONS
(In alphabetical order by the name of the community)

(Draft Until Signed by Nashville Commander):

Blue Jay: T-2052-11 to T-2052-14

- The limited development area is defined as a point on the left descending bank due west of monument T-2052-11 following the shoreline downstream to a point on the left descending bank closest to monument T-2052-12.

Clearwater: T-2041-10 to T-2041-8

- The limited development area is defined as a point on the right descending bank due south of monument T-2041-10 following the shoreline downstream to a point on the right descending bank due south of monument T-2041-8

Clifty Creek: Clifty Creek Road to O-1544-2

- The limited development area is defined as a point on the right descending bank east of Clifty Creek Road following the shoreline downstream to a point on the right descending bank due south of monument O-1544-2.

Cub Creek: S-1968-6 to S-1968-7

- The limited development area is defined as a point on the left descending bank closest to monument S-1968-6 following the shoreline downstream to a point on the left descending bank due south of monument S-1968-7.

Dixie Bend East: AA-2718-1 to AA 2717-1

- The limited development area is defined as a point on the left descending bank due east of monument AA-2718-1 following the shoreline downstream to a point on the left descending bank due east of monument AA-2717-1.

Dixie Bend West: AA-2709-1 to AA-2708-1

- The limited development area is defined as a point on the left descending bank due west of monument AA-2709-1 following the shoreline downstream to a point on the left descending bank due west of monument AA-2708-1.

Ford Hollow: V-2244-6 to V-2245-1

- The limited development area is defined as a point on the left descending bank due west of monument V-2244-6 following the shoreline downstream to a point on the right descending bank due southwest of monument V-2245-1.

Fryman Landing: C-332-1 to C-332-2

- The limited development area is defined as a point on the right descending bank due northwest of monument C-332-1 following the shoreline downstream to a point on the right descending bank due northwest of monument C-332-2.

Lakeridge Acres: H-857-11 to H-857-12.

- The limited development area is defined as a point on the shoreline closest to monument H-857-11 following the shoreline downstream to a point on the right descending bank due north of monument H-857-12.

Lakeshore Resort: I-933-6 to I-933-11

- The limited development area is defined as a point on the left descending bank due west of monument I-933-6 following the shoreline downstream a point on the left descending bank due south of monument I-933-11.

Lakeside: P-1619-4 to P-1619-2

- The limited development area is defined as a point on the right descending bank located due northeast of monument P-1619-4 following the shoreline downstream to a point on the right descending bank due northwest of monument P-1619-2.

Piney Woods: V-2209-1 to V-2210-A1

- The limited development area is defined as a point on the shoreline due east of monument V-2209-1 following the shoreline on the right descending bank to a point due south of monument V-2210-A1.

Pleasant Hill: P-1626-A12 to P-1626-A11

- The limited development area is defined as a point on the right descending bank due south of monument P-1626-A12 following the shoreline to a point on the right descending bank due south of monument P-1626-A11.

Poplar Hill: Q-1710-7 to Q-1710-2

- The limited development area is defined as a point on the right descending bank due north of monument Q-1710-7 following the shoreline upstream to a point on the left descending bank closest to monument Q-1710-2.

Prudy Hill: P-1626-16 to P-1630-1

- The limited development area is defined as a point on the left descending bank due south of monument P-1629-16 following the shoreline downstream to a point on the left descending bank due south of monument P-1630-1.

Ridge Mark Estates: H-856-9 to H-856-8

- The limited development area is defined as a point on the left descending bank due north of monument H-856-9 following the shoreline downstream to a point on the left descending bank closest to monument H-856-8.

Secluded Acres: Q-1740-1 to Cave Springs Road

- The limited development area is defined as a point on the right descending bank due south of monument Q-1740-1 following the shoreline downstream to a point immediately adjacent to Cave Springs Road.

Springwater: V-2247-3 to V-2247-2

- The limited development area is defined as a point on the right descending bank due south of monument V-2247-3 following the shoreline downstream to a point on the right descending bank due south of monument V-2247-2.

Three Springs: W-2306-20 to W-2630-18

- The limited development area is defined as a point on the right descending bank of the shoreline due east of monument W-2306-20 following the shoreline downstream to a point on the right descending bank due east of monument W-2630-18.

Union Ridge: T-2033-5 to T-2033-4

- The limited development area is defined as a point on the right descending bank due east of monument T-2033-5 following the shoreline to a point on the left descending bank due southeast of monument T-2033-4.

Villas Boat Club: LL-3816-1 to LL-3818-1

- The limited development area is defined as a point on the shoreline due south of monument LL-3816-1 following the shoreline downstream to a point on the left descending bank due south of monument LL-3818-1.

White Cliff: LL-3836-B3 to LL-3836-B2

- The limited development area is defined as a point on the left descending bank due north of monument LL-3836-B3 following the shoreline downstream to a point on the left descending bank due north of monument LL-3836-B2

White Oak: T-2061-A12 to T-2061-A7

- The limited development area is defined as a point on right descending bank due south of monument T-2061-A12 following the shoreline downstream to a point on the right descending bank closest to monument T-2061-A7.

Woodson Bend: LL-3809-3 to LL-3809-1.

- The limited development area is defined as a point on the left descending bank due north of monument LL-3809-3 following the shoreline downstream to a point on the left descending bank due north of monument LL-3809-1.

END OF THIS SECTION

ATTACHMENT B
PERMIT CONDITIONS

1. This permit is granted solely to the applicant for the purpose described on the attached permit.
2. The permittee agrees to and does hereby release and agree to save and hold the Government harmless from any and all causes of action, suits at law or equity, or claims or demands or from any liability of any nature whatsoever for or on account of any damages to persons or property, including a permitted facility, growing out of the ownership, construction, operation or maintenance by the permittee of the permitted facilities and/or activities.
3. Ownership, construction, operation, use and maintenance of a permitted facility are subject to the Government's navigation servitude.
4. No attempt shall be made by the permittee to forbid the full and free use by the public of all public waters and/or lands at or adjacent to the permitted facility or to unreasonably interfere with any authorized project purposes, including navigation in connection with the ownership, construction, operation or maintenance of a permitted facility and/or activity.
5. The permittee agrees that if subsequent operations by the Government require an alteration in the location of a permitted facility and/or activity or if in the opinion of the district commander a permitted facility and/or activity shall cause unreasonable obstruction to navigation or that the public interest so requires, the permittee shall be required, upon written notice from the district commander to remove, alter, or relocate the permitted facility, without expense to the Government.
6. The Government shall in no case be liable for any damage or injury to a permitted facility which may be caused by or result from subsequent operations undertaken by the Government for the improvement of navigation or for other lawful purposes, and no claims or right to compensation shall accrue from any such damage. This includes any damage that may occur to private property if a facility is removed for noncompliance with the conditions of the permit.
7. Ownership, construction, operation, use and maintenance of a permitted facility and/or activity are subject to all applicable Federal, state and local laws and regulations. Failure to abide by these applicable laws and regulations may be cause for revocation of the permit.
8. This permit does not convey any property rights either in real estate or material; and does not authorize any injury to private property or invasion of private rights or any infringement of Federal, state or local laws or regulations, nor does it obviate the necessity of obtaining state or local assent required by law for the construction, operation, use or maintenance of a permitted facility and/or activity.
9. The permittee agrees to construct the facility within the time limit agreed to on the permit issuance date. The permit shall become null and void if construction is not completed within that period. Further, the permittee agrees to operate and maintain any permitted facility and/or activity in a manner so as to provide safety; minimize any adverse impact on fish and wildlife habitat, natural, environmental, or cultural resources values and in a manner so as to minimize the degradation of water quality.

10. The permittee shall remove a permitted facility within 30 days, at his/her expense, and restore the waterway and lands to a condition accepted by the resource manager upon termination or revocation of this permit or if the permittee ceases to use, operate or maintain a permitted facility and/or activity. If the permittee fails to comply to the satisfaction of the resource manager, the district commander may remove the facility by contract or otherwise and the permittee agrees to pay all costs incurred thereof.

11. The use of a permitted boat dock facility shall be limited to the mooring of the permittee's vessel or watercraft and the storage, in enclosed locker facilities, of his/her gear essential to the operation of such vessel or watercraft. Docks shall not contain diving boards, slides, playground equipment, grills, tables, or similar facilities.

12. Private facilities used for human habitation are prohibited. Permitted facilities and any watercraft moored thereto shall not be used for human habitation or in any manner that would imply exclusive private use of the public shoreline or waters. Boats with living accommodations will not be allowed to moor at a private moorage facility.

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

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

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

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

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

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

19. No change in land form such as grading, excavation or filling is authorized by this permit.
20. This permit is non-transferable. Upon the sale or other transfer of the permitted facility or the death of the permittee and his/her legal spouse, this permit is null and void.
21. By 30 days written notice, mailed to the permittee by certified letter, the district commander may revoke this permit whenever the public interest necessitates such revocation or when the permittee fails to comply with any permit condition or term. The revocation notice shall specify the reasons for such action. If the permittee requests a hearing in writing to the district commander through the resource manager within the 30-day period, the district commander shall grant such hearing at the earliest opportunity. In no event shall the hearing date be more than 60 days from the date of the hearing request. Following the hearing, a written decision will be rendered, and a copy mailed to the permittee by certified letter.
22. Notwithstanding the conditions cited in condition 21 above, if in the opinion of the district commander, emergency circumstances dictate otherwise, the district commander may summarily revoke the permit.
23. When vegetation modification on these lands is accomplished by chemical means, the program will be in accordance with appropriate Federal, state and local laws, rules and regulations.
24. The resource-manager or his/her authorized representative shall be allowed to cross the permittee's property, as necessary to inspect facilities and/or activities under permit.
25. When vegetation modification is allowed, the permittee will delineate the government property line in a clear, but unobtrusive manner approved by the resource manager and in accordance with the project Shoreline Management Plan.
26. If the ownership of a permitted facility is sold or transferred, the permittee or new owner will notify the Resource Manager of the action prior to finalization. The new owner must apply for a Shoreline Use Permit within 14 days or remove the facility and restore the use area within 30 days from the date of ownership transfer.
27. If permitted facilities are removed for storage or extensive maintenance, the resource manager may require all portions of the facility be removed from public property.
28. Personal property of any kind shall not be abandoned, stored or left unattended upon project lands or waters except for those items specifically prescribed in the permit.
29. The permittee agrees to provide the requested documents and comply with all requirements and conditions as indicated in the project's Shoreline Management Plan.

APPENDIX B

Unsigned Finding of No Significant Impact

FINDING OF NO SIGNIFICANT IMPACT

LAKE CUMBERLAND SHORELINE MANAGEMENT PLAN 2023 UPDATE LAKE CUMBERLAND, KENTUCKY

The U.S. Army Corps of Engineers, Nashville District (USACE) has conducted an environmental analysis in accordance with the National Environmental Policy Act of 1969, as amended. The final Environmental Assessment (EA) dated TBD, for the proposed updates to the Lake Cumberland Shoreline Management Plan addresses the proposed action's effects to the human environment.

The Final EA, incorporated herein by reference, evaluated two alternatives—a Proposed Action Alternative (Update the 2012 Shoreline Management Plan) and a No Action Alternative. The recommended plan is the Proposed Action Alternative and includes:

- The creation of Limited Development Areas (LDAs) within existing community docks. As part of the LDAs, Community Dock Associations would be provided the opportunity to submit applications for the expansion, modification, or reconfiguration of their community docks.
- Increases in the maximum size of privately owned docks from 400 square-feet (sq ft) to 500 sq ft. The square footage is calculated by excluding the walkway but including all slips and the water area within those slips. No new individual docks would be authorized or considered as part of the proposed update.

Applicants submitting for dock expansion would be required to follow the appropriate application processes outlined in the SMP. As the shoreline management plan is an administrative action, any activities requiring construction or disturbance of land or water would require further coordination with USACE. Additional coordination with State and Federal agencies could also be required.

For all alternatives, the potential effects were evaluated, as appropriate. A summary assessment of the potential effects of the recommended plan are listed in Table 1:

Table 1: Summary of Potential Effects of the Recommended Plan

	Insignificant effects	Insignificant effects as a result of mitigation*	Resource unaffected by action
Aesthetics	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Air quality	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Aquatic resources/wetlands	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Invasive species	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fish and wildlife habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Threatened/Endangered species/critical habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Historic properties	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other cultural resources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floodplains	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Hazardous, toxic & radioactive waste	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Insignificant effects	Insignificant effects as a result of mitigation*	Resource unaffected by action
Hydrology	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Land use	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Navigation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Noise levels	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Public infrastructure	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Socio-economics	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Environmental justice	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Soils	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Tribal trust resources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water quality	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Climate change	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

All practicable and appropriate means to avoid or minimize adverse environmental effects were analyzed and incorporated into the recommended plan. Best management practices (BMPs) as detailed in the EA will be implemented, as appropriate, to minimize impacts.

Pursuant to section 7 of the Endangered Species Act of 1973, as amended, the U.S. Army Corps of Engineers determined that the recommended plan would have no effect on federally listed species or their designated critical habitat.

Pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, the U.S. Army Corps of Engineers determined that no historic properties would not be affected by the recommended plan. The Kentucky State Historic Preservation Office concurred with the determination on **TBD**.

The proposed project proposes no discharge of dredged or fill material into waters of the US. The proposed action has been found to be compliant with The Clean Water Act section 404(b)(1) Guidelines (40 CFR 230). Individual applicants undertaking activities allowed under the revisions to the Lake Cumberland Shoreline Management Plan that would disturb earth or water would need to coordinate with USACE regarding compliance with the Clean Water Act for their proposed action.

All applicable environmental laws have been considered and coordination with appropriate agencies and officials has been completed. All applicable laws, executive orders, regulations, and local government plans were considered in evaluation of alternatives. Based on this report, the reviews by other Federal, State and local agencies, Tribes, input of the public, and the review by my staff, it is my determination that the recommended plan would not cause significant adverse effects on the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required.

Date

Robert W. Green
Lieutenant Colonel, Corps of Engineers
District Commander

APPENDIX C

Scoping Notice, Agency
Responses, Sample
Public Responses, and
Mailing Lists



IN REPLY REFER TO

Project Planning Branch

DEPARTMENT OF THE ARMY
NASHVILLE DISTRICT, CORPS OF ENGINEERS
110 9TH AVENUE SOUTH, ROOM A-405
NASHVILLE, TENNESSEE 37203

**SUBJECT: Public Scoping Notice for Wolf Creek Dam and Lake Cumberland
Shoreline Management Plan (2023 Update)**

TO ALL INTERESTED PARTIES:

The U.S. Army Corps of Engineers (USACE), Nashville District, in accordance with the National Environmental Policy Act (NEPA), is evaluating potential impacts of a proposed revision to the Wolf Creek Dam and Lake Cumberland Shoreline Management Plan (SMP). The 2023 SMP update would introduce additional development areas within existing water-based leases and provide for the expansion of existing private dock facilities.

The following alternatives will be evaluated: Alternative 1 - (No Action) and Alternative 2 - (Revision of the Existing Shoreline Management Plan). The term "No Action" means that there would be no change to the existing 2012 SMP and no new resource classification, assessment, or inventory would occur. Revising the SMP would involve the creation of Limited Development Areas (LDAs) within existing community docks. As part of the LDAs, Community Dock Associations would be provided the opportunity to submit applications for the expansion, modification, or reconfiguration of their community docks. Enlargements to individual, privately owned docks would also be included in the 2023 SMP update. No new individual docks would be authorized or considered as part of the proposed update. The maximum size of a privately owned dock is proposed to increase from 400 square feet (sq ft) to 500 sq ft. The square footage is calculated by excluding the walkway but including all slips and the water area within those slips.

This letter serves to initiate the public involvement requirements of Section 106 of the National Historic Preservation Act of 1966, as amended. Section 106, implemented by regulations at 36 C.F.R. 800, requires USACE to consider the effects of its undertakings on historic properties. Architectural and archeological assessments are planned, and the results will be coordinated with the Kentucky State Historic Preservation Officer, Federally Recognized Native American Tribes, and other Consulting Parties as necessary.

By way of this letter, we are soliciting public and agency comments concerning environmental and cultural issues that should be addressed during the NEPA process. We request comments be sent by email to Patrick.W.Garner@usace.army.mil, no later

than thirty calendar days from the date of this letter. If you are unable to access an email account, you may send your written comments to the address listed in the letterhead above, ATTN: CELRN-PMP (Patrick Garner). For additional information regarding the proposed project, please contact Patrick Garner at (615) 736-5985. Your participation is greatly appreciated.

Sincerely,

JAMES.JAMIE.
G.1213684589

Digitally signed by
JAMES.JAMIE.G.1213684589
Date: 2023.07.13 16:02:46
-05'00'


Jamie G. James, P.E., PMP
Chief, Planning Branch

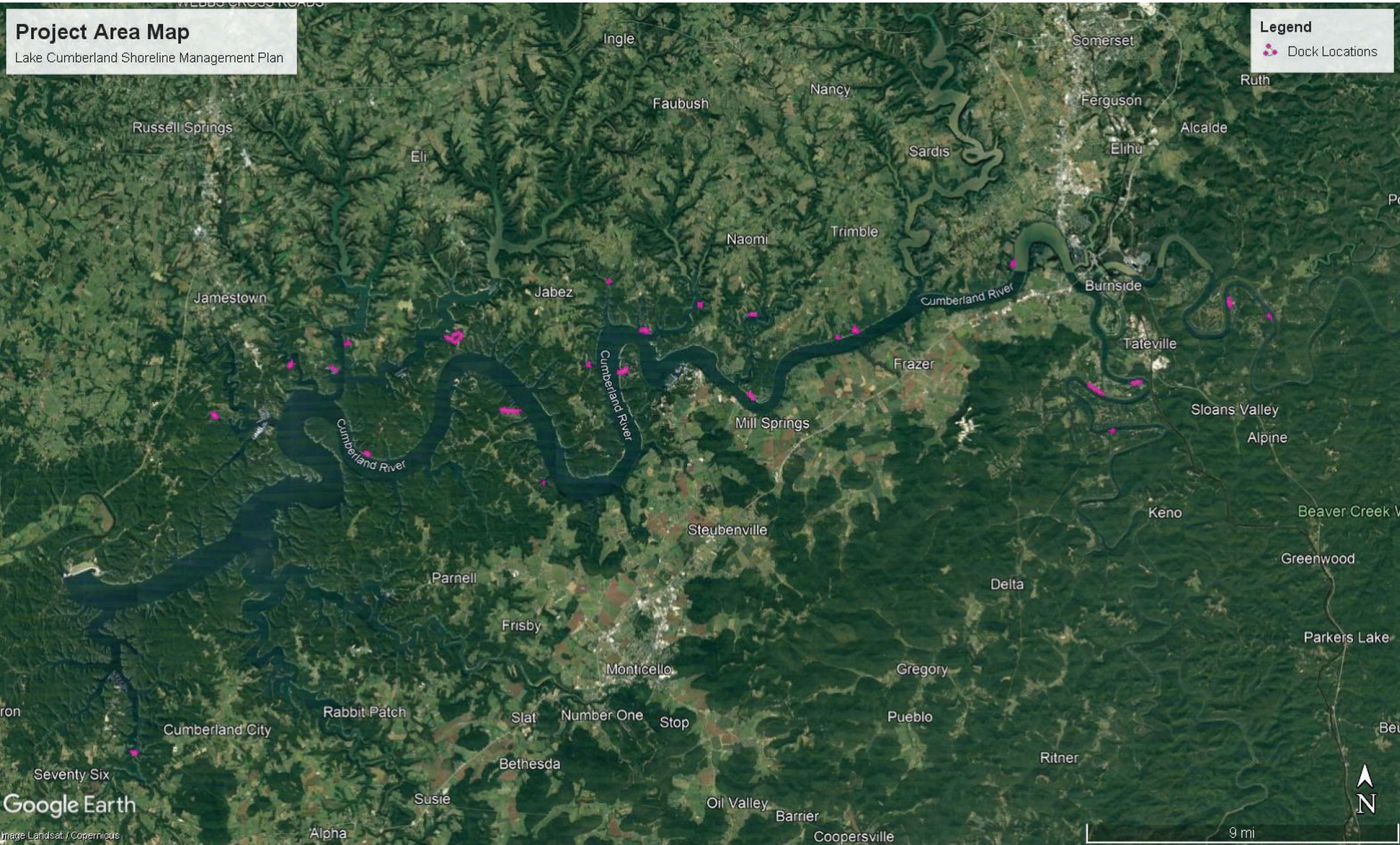
Enclosure

Project Area Map

Lake Cumberland Shoreline Management Plan

Legend

 Dock Locations





Andy Beshear
GOVERNOR

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

300 Sower Boulevard
Frankfort, Kentucky 406 01
Phone: (502) 564 -2150
Fax: 502-564 -4245

Rebecca Goodman
SECRETARY

Anthony R. Hatton
COMMISSIONER

August 25, 2023

Department of the Army
Nashville District, COE
110 9th Ave S, Room A-405
Nashville, TN 37203

RE: Wolf Creek Dam and Lake Cumberland Shoreline Management Plan (2023 Update) (NEPA 2023-56)

Dear Sir or Madam,

The Energy and Environment Cabinet serves as the state clearinghouse for review of environmental documents generated pursuant to the National Environmental Policy Act (NEPA). Within the Cabinet, the Commissioner's Office in the Department for Environmental Protection (DEP) coordinates the review for Kentucky state agencies. We received your letter requesting an environmental review for this project. We have reviewed the document and provided comments below.

Division of Enforcement

The Division of Enforcement does not have any concerns about this project. The U.S. Army Corps of Engineers (USACE) is evaluating alternatives for either revising the 2012 Shoreline Management Plan for Wolf Creek Dam and Lake Cumberland or taking "no action" in the plan. Revising the 2012 Shoreline Management Plan will create "Limited Development Areas" with existing community docks. This will allow docks the opportunity for to submit applications to expand, modify, or reconfigure their facilities. It will also allow individual, privately owned docks to enlarge. It will not authorize new individual docks. The "no action" alternative will keep the 2012 Shoreline Management Plan in place.

DEP's TEMPO database has 3 AIs associated with USACE in the Wolf Creek Dam and Lake Cumberland area:

- AI #100686 – USACE Wolf Creek Dam
- AI #3897 – USCOE Wolf Creek Power Plant



- AI #3896 – USCOE Kendall Rec Area

DEP has not initiated any formal enforcement actions for these AIs. DEP issued a NOV to AI #100686 on 12/28/2010 related to solids accumulating downstream from the NPDES discharge. DEP issued NOVs to AI #3897 on 01/10/2018 and 02/04/2020 for NPDES effluent violations reported on the discharge monitoring reports (DMRs) for dissolved oxygen. DEP has not issued any NOVs to AI #3896.

Division of Water

Water Quality Branch

Comment: Best management practices should be utilized to reduce runoff from project activities into nearby waters.

Questions should be directed to Andrea Fredenburg, (502) 782-6950, Andrea.Fredenburg@ky.gov.

Field Operations Branch

Comment: Endorse.

Questions should be directed to Constance Coy, (502) 782-6587, Constance.Coy@ky.gov.

Watershed Management Branch

Water Supply Section:

Comment: Portions of this proposed project are within the Albany Water Works, Jamestown Municipal Water Works, Monticello Water and Sewer Commission, and Woodson Bend Property Owners Association designated Source Water Protection Areas, Zone 1 (Critical Zone/Less than 1 hour Time of Travel).

Portions of this proposed project are within the Somerset Water Service and Burnside Water Company designated Source Water Protection Areas, Zone 3 (Zone of Potential Impact/2.5 to 12.5 hour Time of Travel).

Source Water Protection should include best management practices or BMP's that prevent, reduce, or eliminate storm water runoff, soil erosion, and movement of nutrients, bacteria, and contaminants into unprotected waterways that may pose threats to public drinking water supplies. It should also include contingency planning strategies if protective measures fail or accidents and/or disasters occur and emergency response planning for water supply contamination or service interruption. Examples can be referenced here:

<https://www.epa.gov/sourcewaterprotection/source-water-protection-practices> or

<https://eec.ky.gov/Environmental-Protection/Water/Protection/Pages/SWP.aspx>

Questions should be directed to Chip Zimmer at (502) 782-7141, Edward.Zimmer@ky.gov.

Groundwater Section:

Comment: There are no permits, certifications or formal approvals need for the description of work from the Groundwater Section of the Watershed Management Branch. However, it is our recommendation that site be made aware of the requirements of 401 KAR 5:037 and the need to

develop a Groundwater Protection Plan (GPP) for the protection of groundwater resources within that area during both construction and in operation if necessary.

Questions should be directed to Bronson McQueen at (502) 782-6036, Bronson.McQueen@ky.gov or Adam Smith at (502) 782-6453, Adam.Smith@ky.gov

Water Resources Branch

Floodplain Management Section:

Comment: Revision of the SMP initially will involve no construction of changes that would require permitting or certification from the Division of Water. If proposed Community Dock Associations plan expansion or other construction, Stream construction permitting and water quality certifications may be required.

You can check <https://watermaps.ky.gov/RiskPortal/> to determine if your site is located in the 1% chance floodplain (shown in Blue or Blue/Red on the map). You can use the search bar in the top right corner of the page to find your location using either a Latitude & Longitude, street address, or community name.

The Floodplain General Permit (GP) covers projects that have little potential to impact regulatory base flood elevation. If the GP applies to your project, no application or public notice is required. The GP does have conditions, requirements, and exclusions listed so be sure your project can meet all these prior to the start of development. The most common activities covered by the GP include:

- Underground utilities only with no ground surface elevation changes, where stream crossings, if any, are completed by directional boring; or
- Installation of utility poles; or
- Installation of fences that do not obstruct water flow; or
- Stream obstruction removals of items such as woody debris from near bridges and culverts.

The exclusions to the GP include work in or along an outstanding state resource water (OSRW) or other special use water, if an Individual 401 WQC required for the development, and development of structures or dams.

The Floodplain GP can be downloaded here: <https://eec.ky.gov/Environmental-Protection/Water/FloodDrought/Documents/Floodplain%20General%20Permit.pdf>

If your site is in the floodplain and the GP doesn't apply, then an Individual Permit is required from the Division of Water for any proposed development. The application can be downloaded here: <https://eec.ky.gov/Environmental-Protection/Water/FloodDrought/Documents/StreamConstructionApplicationPackage.zip>.

You must provide accurate latitude/longitude on the application and an aerial map (maps from the Riskmap link above or Google maps are acceptable) in lieu of a topo map. The map must show where structures or stream crossings will be placed, and if fill or cut/fill is being done,

draw the full extents of the fill or cut/fill on the aerial map. For the project description, describe what you plan to do to complete the project, how much (if any) fill will be brought into the floodplain, or how much material will be moved from or redistributed within the floodplain. For structures, describe the structure, provide the size and type of foundation (slab on grade, elevated, crawl space). For culverts, describe how much material will be brought in and what type, how high above current surface elevation will the material be placed, especially in low lying areas where the roadway would impede flow. Include the number of culverts pipes used and description (length, diameter and material). For a bridge, describe how the bridge abutments will be installed, the thickness of the bridge deck and the height of the lowest point of the bridge over the ordinary high water mark (plant line on the shoreline) and height of the bottom of the bridge deck above the bottom of the creek channel. If you are replacing a bridge or culvert, describe how the new installation will compare to the old- if the new installation will have a larger opening or pipes, will have more or less fill for the installation, indicate that on the application description.

Other Permits

Anytime you need a state floodplain permit, and you live in a community that participates in the NFIP, a local permit is also required. Your local floodplain manager can help you with the state permit, as well as help you with the local permit and to understand the floodplain requirements. Find your local floodplain manager here: <https://eec.ky.gov/Environmental-Protection/Water/FloodDrought/Documents/FloodplainCoordinatorsList.pdf>.

If you are working below the top of the bank, within a stream channel, or within wetlands, a 404 permit from the US Army Corps of Engineers and 401 Water Quality Certification may also be required. Our Water Quality Certification section will review the application to determine if 401/404 permitting is needed. For information on permitting procedures or for other information, visit <https://eec.ky.gov/Environmental-Protection/Water/PermitCert/WQ401Cert/Pages/Apply-for-Certification.aspx>. Questions should be directed to Shawn Hokanson at (502) 782-6977, Shawn.Hokanson@ky.gov.

Water Quality Certification Section:

Comment: If the activity requires a federal permit due to activities in or near Waters of the U.S., a Clean Water Act Section 401 Water Quality Certification from the DOW may be required for this project.

Questions should be directed to the Water Quality Certification Section, (502) 564-3410, 401WQC@ky.gov.

Surface Water Permits Branch

Permit Support Section:

Comment: If the construction area disturbed is equal to or greater than 1 acre, the applicant will need to apply for a Kentucky Pollutant Discharge Elimination System (KPDES) stormwater discharge permit.

Questions should be directed to the Permit Support Section, (502) 564-3410, SWPBsupport@ky.gov.

The Kentucky Division of Water supports the goals of EPA's Sustainable Infrastructure Initiative. This Initiative seeks to promote sustainable practices that will help to reduce the potential gap between funding needs and spending at the local and national level. The Sustainable Infrastructure Initiative will guide our efforts in changing how Kentucky views, values, manages, and invests in its water infrastructure. This website, www.epa.gov/waterinfrastructure/, contains information that will help you ensure your facility and operations are consistent with and can benefit from the aims of the Sustainable Infrastructure Initiative.

Division of Waste Management

Based on the information provided by the applicant for this project:

UST Branch records indicate no underground storage tank site issues identified within the project impact area. If any USTs are encountered during the project construction they should be reported to KDWM. Any UST issues or questions should be directed to the UST Branch.

Superfund Branch records indicate no superfund site issues identified within the project impact area. Any superfund issues or questions should be directed to the Superfund Branch.

Solid Waste Branch records indicate no active or historic landfill sites within the project impact area. Solid Waste Branch records indicate no sites located within the project impact area. Any solid waste issues or questions should be directed to the Solid Waste Branch.

Hazardous Waste Branch records indicate no hazardous waste issues identified within the project impact area. Any hazardous waste issues or questions should be directed to the Hazardous Waste Branch.

RLA Branch records indicate the following RLA tracked open dumps within the project impact area:

MASTER AI ID: 73639
MASTER AI NAME: Scotts Chapel Road Dump
USER GROUP DESCRIPTION: RCLA Dump ID
ALTERNATE AI ID: 104-003
LONGITUDE: -85.03123333
LATITUDE: 36.95433333

Any questions or issues should be directed to the RLA Branch.

All solid waste generated by this project must be disposed of at a permitted facility.

If asbestos, lead paint and/or other contaminants are encountered during this project contact the Division of Waste Management for proper disposal and closure.

The information provided is based on those facilities or sites that KDWM currently has in its database. If you would like additional information on any of these facilities or sites, you may contact the file room custodian at (502) 782-6357. Please keep in mind additional locations of releases, potential contamination or waste facilities may be present but unknown to the agency. Therefore, it is recommended that appropriate precautions be taken during construction activities. Please report any evidence of illegal waste disposal facilities and releases of hazardous substances, pollutants, contaminants, or petroleum to the 24-hour Environmental Response Team at 1-800-928-2380.

Division for Air Quality

The Division for Air Quality does not have any comments pertaining to this project as it is presented.

Kentucky Nature Preserves

Your project might have the potential of impacting federally or state listed species and natural communities. Go to the Kentucky Biological Assessment Tool (kynaturepreserves.org) to obtain a Standard Occurrence Report for information regarding listed species known within your project area. The report will also provide information on public and private conservation lands, areas of biodiversity significance, and other natural resources in your project area for which the Office of Kentucky Nature Preserves maintains data.

This review is based upon the information that was provided by the applicant. An endorsement of this project does not satisfy, or imply, the acceptance or issuance of any permits, certifications or approvals that may be required from this agency under Kentucky Revised Statutes or Kentucky Administrative Regulations. Such endorsement means this agency has found no major concerns from the review of the proposed project as presented other than those stated as conditions or comments. If you should have any questions, please contact me at (502) 782-0863 or e-mail Louanna.Aldridge@ky.gov.

Sincerely,



Louanna Aldridge
Environmental Scientist Consultant Sr.
Office of the Commissioner
Department for Environmental Protection
Energy and Environment Cabinet



Andy Beshear
GOVERNOR

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR NATURAL RESOURCES

300 Sower Boulevard
Frankfort, Kentucky 40601
Phone: (502) 564- 6940

Rebecca Goodman
SECRETARY

Gordon R. Slone
COMMISSIONER

August 18, 2023

Patrick W. Garner
Project Planning Branch
Department of the Army
Nashville District, Corps of Engineers
110 9th Avenue South, Room A-405
Nashville, Tennessee 37203
Patrick.W.Garner@usace.army.mil

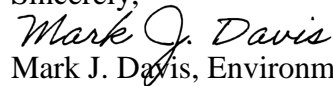
**Subject: Public Scoping Notice for Wolf Creek Dam & Lake Cumberland SMP
(Update 2023)**

As requested, the Division of Conservation has reviewed the proposed revision to Wolf Creek Dam & Lake Cumberland Shoreline Management Plan (SMP) under Alternative 2 that may have potential impacts on established environmental resources within or adjacent to project area. We would like to provide the following comments that may be helpful in this early planning process.

Currently, there are no PACE (Purchase of Agricultural Conservation Easements) within the study area however, there are three established agricultural districts in Wayne County, Kentucky, adjacent to or near shoreline areas. A portion of agricultural district 116-01 is located adjacent to Lake Cumberland off Old Fall Creek Road, agricultural district 116-02 is adjacent to Mill Springs State Park, and agricultural district 116-05 is near Conley Bottom Dock. GIS shape files are attached with this letter to indicate size and location of these districts.

Alternative 1 would have no impact and the actions described in the scoping notice for Alternative 2 seem to have no adverse impacts on the districts. We wanted to mention the existence of these districts for your environmental resource inventory in case Alternative 2 is enacted.

We appreciate the opportunity to comment on this study and if you have any questions, please contact this office anytime.

Sincerely,

Mark J. Davis, Environmental Scientist Advisor
Kentucky Division of Conservation

From: [Wampler, Christina - FPAC-NRCS, KY](#)
To: [Garner, Patrick W CIV USARMY CELRN \(USA\)](#)
Subject: [Non-DoD Source] Public Scoping Notice for Wolf Creek Dam and Lake Cumberland Shoreline Management Plan (2023 Update)
Date: Wednesday, August 23, 2023 10:52:54 AM
Attachments: [image001.png](#)

Hello Mr. Garner,

I am the biologist for NRCS KY and also handle our NEPA compliance. I received your scoping letter regarding the Wolf Creek Dam project and wanted to let you know we see no concerns from the NRCS perspective regarding the project. If you need any additional information from us please let me know.

Thank you!

Christy

Christina R. Wampler
State Biologist
USDA Natural Resources Conservation Service
771 Corporate Drive, Suite 300
Lexington, KY 40503
Office Phone: (859) 224-7456
Cell Phone: (606) 594-8099
Christina.r.wampler@usda.gov



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"Alone we can do so little. Together we can do so much."
Helen Keller

From: [REDACTED]
To: [Garner, Patrick W CIV USARMY CELRN \(USA\)](#); [REDACTED]
Subject: [URL Verdict: Neutral][Non-DoD Source] Proposed Shoreline Management Plan Update -Public Scoping Notice Response
Date: Thursday, August 10, 2023 2:28:36 PM

Dear Mr. Garner,

My name is Keith Papania and I, along with our family, have been members of the Clifty Creek Community in Jamestown KY for over 34 years and I have been the President of the Clifty Creek Dock Owners Association for the last 10 years. I am writing today on behalf of the entire Clifty Creek Community in response to your recent email that solicited feedback from the Lake Cumberland community and organizations like ours. We feel that revising the SMP, allowing the creation of Limited Development Areas (LDAs) within existing community docks would be a welcome change for our community in the hope that we could, at some point, be able to expand our current dock set up to allow those individuals with homes or property in the community who currently do not have a place to moor their watercraft, to have access to a designated space.

Based on a waiting list that I maintain at the Corps direction, we would only need to add about a dozen slips to satisfy the needs of the Clifty Creek Community and based on my assessment of the area, we have ample space to place these docks adjacent or attached to existing structures.

At this time, I would respectfully ask that the Corp consider Alternative 2 - (Revision of the Existing Shoreline Management Plan).

Regards,

Keith Papania – President

Clifty Creek Dock Owners Association



Virus-free. www.avg.com

From: [REDACTED]
To: [Garner, Patrick W CIV USARMY CELRN \(USA\)](#)
Subject: [Non-DoD Source] Public Scoping Notice for Wolf Creek Dam and Lake Cumberland Shoreline Management Plan (2023)
Date: Saturday, July 29, 2023 7:36:26 AM

As seasonal property owners in Wayne County and longtime boaters on beautiful Lake Cumberland we choose "Alternative 1 - no action".

We love the uncluttered appearance of the shoreline and the natural beauty it offers.

[REDACTED]

Sent from my iPhone

From: [REDACTED]
To: [Garner, Patrick W CIV USARMY CELRN \(USA\)](#)
Subject: [URL Verdict: Neutral][Non-DoD Source] Re: Scoping Letter for Proposed Shoreline Management Plan Update; Lake Cumberland; Kentucky
Date: Wednesday, July 19, 2023 2:17:23 PM
Importance: High

Mr. Garner,

I support Alternative 2 - (Revision of the Existing Shoreline Management Plan) revising the SMP to involve the creation of Limited Development Areas (LDAs) within existing community docks. As part of the LDAs, Community Dock Associations would be provided the opportunity to submit applications for the expansion, modification, or reconfiguration of their community docks. The boat ramp congestion and limited boat trailer parking space plus slip waitlist are unrealistically long due to denied request for expanding community docks. For example, there are 140 people on the boat slip waitlist at Woodson Bend, alone.

I support the enlargements to individual privately owned docks to be included in the 2023 SMP update. I support the maximum size of a privately owned dock to increase from 400 square feet (sq ft) to 500 sq ft.

Also as a private dock owner on Lake Cumberland, I request a revision of the SMP to include the use of a cover for shade on the dock.

Respectfully submitted,

[REDACTED]

On Jul 19, 2023, at 10:59 AM, Pelfrey, Peggy L CIV USARMY CELRN (USA)
<Peggy.L.Pelfrey@usace.army.mil> wrote:

Greetings,

On behalf of Mr. Patrick Garner see attached Scoping Letter for Proposed Shoreline Management Plan Update; Lake Cumberland; Kentucky and message below.

Dear All,

Please see the attached scoping letter for the subject action. By way of this letter, we are soliciting public and agency comments concerning environmental and cultural issues that should be addressed in the course of the NEPA process. We request comments be sent by email to patrick.w.garner@usace.army.mil. Please submit comments by August 18, 2023.

If you are unable to access an email account, you may send written comments to the address:

Attn: CELRM-PMP, Patrick Garner
Department of the Army
U.S. Army Corps of Engineers, Nashville District
110 9th Avenue South, Room A-405
Nashville, Tennessee 37203

For additional information regarding the proposed project, please contact me by email or at the number listed below. Thank you.

Patrick W. Garner
Biologist, Environmental Section
Project Planning Branch
U.S. Army Corps of Engineers
Nashville District
(615) 736-5985

Sincerely,

Peggy L Pelfrey
Programs and Project Management Branch
Plan, Programs and Project Management Division
US Army Corps of Engineers, Nashville
CELRN-PM
peggy.l.pelfrey@usace.army.mil
615-736-7956

Internet: <http://www.lrn.usace.army.mil/>
Facebook: <http://www.facebook.com/nashvillecorps>
<image001.png><image004.png>

<WOL SMP Scoping Notice 12 July 23.pdf>

Government Officials: Kentucky

Honorable Mitch McConnell
United States Senator
317 Russell Senate Office Bldg
Washington DC 20510

Honorable Rand Paul
United States Senator
167 Russell Senate Office Building
Washington DC 20510

Representative James Comer
200 North Main Street Suite F
Tompkinsville, Kentucky 42167

Representative Harold Rogers
551 Clifty Street
Somerset, KY 42503

Office of Governor Andy Beshear
700 Capitol Avenue, Suite 100
Frankfort, KY 40601

Josh Branscum
702 Capital Ave Annex Room 357C
Frankfort, KY 40601

Ken Upchurch
702 Capital Ave Annex Room 311
Frankfort, KY 40601

Rick Girdler
702 Capital Ave Annex Room 209
Frankfort, KY 40601

Ricky Craig
100 South Cros Street
Albany, KY 42602

Steve Kelley
100 N Main Street, Suite 202
Somerset, KY 42501

Gary Robertson
PO Box 397
410 Monument Square
Jamestown, KY 42629

Mike Anderson
55 N Main St, Suite 103
PO Box 439
Monticello, KY 42633

Federal Agencies: Kentucky & Tennessee

U.S. Fish & Wildlife Service
330 West Broadway, Suite 265
Frankfort, Kentucky 40601

U.S. EPA – Region IV
Water Protection Division
61 Forsyth Street
Atlanta, Georgia 30303

U. S. Coast Guard Auxiliary
Flotilla 11-04
Commander Jim Williamson
105 Belgium Court
Hermitage, Tennessee 37076

Gracia Szczech, Region IV Administrator
Federal Emergency Management Agency
3003 Chamblee Tucker Road
Atlanta, Georgia 30341

NRCS
Kentucky State Office
771 Corporate Drive, Suite 205
Lexington, Kentucky 40503

Christopher Militscher, Chief
U.S. EPA – Region 4
NEPA Program Office
61 Forsyth Street, SW
Atlanta, Georgia 30303

State Agencies: Kentucky

NRCS
Madisonville Service Center
1095 National Mine Rd
Madisonville Kentucky 42431

Kentucky State Farm Service Agency
771 Corporate Drive STE 205
Lexington, Kentucky 40503

Adair County Farm Service Agency
961 Campbellsville Rd
Columbia, Kentucky 42728-2203

Monroe County Farm Service Agency
P.O. Box 700
Tompkinsville, Kentucky 42167-0700

Kentucky Dept of Fish & Wildlife
#1 Game Farm Rd
Frankfort Kentucky 40601

KY Nature Preserves Commission
300 Sower Blvd
Frankfort, Kentucky 40601

Kentucky Department of Parks
Elaine Walker, Commissioner
11th Floor, Capital Plaza Tower
300 Mero Street
Frankfort, Kentucky 40601

Kentucky Division of Water
300 Sower Blvd.
Frankfort, Kentucky 40601

Steve Beam, Director
KY Dept. of Fish and Wildlife
1 Sportsman's Lane
Frankford, Kentucky 40601

KY Dept of Agriculture
105A Corporate Drive
Frankfort, Kentucky 40601

Kentucky Division of Conservation
300 Sower Blvd
Frankfort, KY 40601

Kentucky Flood Control Advisory Commission
1024 Center Drive Suite 340
Frankfort Kentucky 40601

KY Division of Water
200 Fair Oaks Lane
Frankfort, Kentucky 40601

Kentucky State Conservationist
771 Corporate Drive, Suite 210
Lexington, Kentucky 40503

Clinton County Farm Service Agency
801 B Tennessee Rd
Albany, Kentucky 42602-0000

KY Dept Environmental Protection
300 Sower Blvd, 2nd Floor
Frankfort, Kentucky 40601

Russell County EMS
108 Ferco Way
Jamestown, Kentucky 42629

Kentucky Heritage Council
ATTN: Craig Potts, Executive Director
300 Washington Street
Frankfort, Kentucky 40601

Local/Non-Government Organizations: Kentucky

Kentucky Heritage Land Conservation Fund
#2 Hudson Hollow Road
Frankfort, Kentucky 40601

The Nature Conservancy
David Phemister, State Director
114 Woodland Avenue
Lexington, Kentucky 40502

Trout Unlimited
PO Box 6001
Louisville, KY 40206

Kentucky/Tennessee Marina Association
Michelle Edwards
15616 State Route 120
Providence, KY 42450

Marina @ Rowena
11565 KY HWY 558
Albany, Ky 42602
(606) 206-7488

Beaver Creek Marina
8929 West Highway 92
Monticello, Ky 42633
(606) 348-7280

Conley Bottom Marina
736 Highway 1275 North
Monticello, Ky. 42633
(606) 348-6351

Jamestown Resort & Marina
3677 South Highway 92
Jamestown, Ky. 42629

Lee's Ford Marina Resort
451 Lee's Ford Dock Rd.
Somerset, Ky. 42502

Lake Cumberland Marina
2108 Highway 1383
Russell Springs, Ky. 42642

Burnside Marina
680 W. Lakeshore Drive
Burnside, Ky. 42519
(606) 561-4223

Grider Hill Marina
115 Grider Hill Lodge Road
Albany, Ky. 42602

Lake Cumberland State Dock
5465 State Dock Road
Jamestown, Ky. 42629

Wolf Creek Marina
782 Island Ramp Road
Nancy, Ky. 42544
(270) 866-3634

Media Outlets: Kentucky

Clinton County News
166 N. Washington St.
P.O. Box 360
Albany, Kentucky 42602

The Times Journal
Po Box 190
Russell Springs, Kentucky 42642

Lake Cumberland Broadcasters, LLC
2804 South Highway 127
Russell Springs, Kentucky 42642

WANY-AM & FM
PO Box 400
Albany, Kentucky 42602

POSTMASTER
United States Post Office
Albany, Kentucky 42602-9998

POSTMASTER
United States Post Office
66 FAIR OAKS DR
Jamestown, Kentucky 42629

APPENDIX D

Cultural Resources

INTRODUCTION

Section 106 of the National Historic Preservation Act (§ 306108) is the main section of legislation that drives consideration of cultural resources in plan formulation. Section 106 requires federal agencies to consider the effects of their undertakings on historic properties and notify the Advisory Council on Historic Preservation. Historic properties are buildings, structures, sites, objects, districts, or landscapes that meet specific criteria, have significance, and maintain integrity. 36 C.F.R. § 800 directs a four-step process for Section 106 compliance.

Step 1 – Establish the Undertaking, identify appropriate State Historic Preservation Office (SHPO) and other consulting parties. If the undertaking lacks the potential to cause effects to historic properties, then Section the 106 process is concluded.

Step 2 – Determine the Area of Potential Effects (APE), identify historic properties, evaluate significance.

If the undertaking has the potential to cause effects to historic properties, assuming such properties are present, then the federal agency must determine the APE and identify historic properties. If the APE lacks historic properties, and consulting parties agree, then the Section 106 process concludes with a “no historic properties affected” determination and the Section 106 process is complete.

Step 3 – Assess effects.

If historic properties are present, then the federal agency evaluates the effects of the undertaking on the historic properties. If after consultation, all consulting parties agree that there is no adverse effect to the historic properties, then the Section 106 process concludes with a “no adverse effect to historic properties” determination and the Section 106 process is complete.

Step 4 – Resolve adverse effects.

If the assessment of effects determines that a historic property would be adversely affected by the undertaking, then the project determination is “adverse effects to historic properties. To conclude Section 106 the federal agency must notify and invite the Advisory Council on Historic Preservation to consult. The resolution of adverse effects, determined through consultation, will be memorialized in a Memorandum of Agreement or Programmatic Agreement. The agency is then responsible for fulfilling the terms of the Agreement.

SECTION 106 CONSULTATION FOR THE WOLF CREEK SHORELINE MANAGEMENT PLAN UPDATE

The proposed action alternative has the potential to affect historic properties. USACE defined the Area of Potential Effects (APE) as the visual line of sight encompassing the proposed dock expansion areas. Given that the footprint of each dock is water based, the USACE recommends that the dock expansions lack the potential to directly affect archaeological resources and no direct effect APE was proposed.

USACE archaeologist, Crystal Geiger, conducted a site visit on August 28, 2023 to visually inspect areas included in the update and identify the potential for changes to the visual line of

sight or effects to historic properties. The steep slopes and dense vegetation preclude visual effects and the presence of existing community docks and facilities indicate that any proposed dock expansions are commensurate with the surrounding viewshed. A review of the Kentucky (KY) Office of State Archaeology (OSA) site files was conducted on May 31, 2023. Data was obtained from the KY OSA in association with the 2009 Lake Cumberland drawdown survey. A search of USACE-Nashville files and survey records was also performed in May 2023. Large portions of the shoreline were previously subjected to a cultural resource survey in 2011. URS Group, Inc. completed the survey of Lake Cumberland shoreline within Wolf Creek Dam and provided those results in a report titled, An Archaeological Reconnaissance and Assessment of Selected Drawdown Areas within Wolf Creek Dam/Lake Cumberland Shoreline (URS 2011, on file with the Kentucky Office of State Archaeology). The 2011 survey revealed a highly eroded shoreline with many of the archaeological sites identified as lacking the integrity for further research. Ms. Geiger confirmed the extensive shoreline erosion on the August 28, 2023 site visit. A review of the existing condition, location, and documentation suggested that the potential for intact cultural material deposits or archaeological sites in the APE is low. Therefore, in accordance with 36 CFR 800.4(d) (1), the USACE made the determination that no historic properties will be affected by the proposed Undertaking. No further consideration of archaeological resources is recommended.

USACE coordinated these findings and determination the Kentucky SHPO on September 1, 2023. USACE is awaiting comments from the Kentucky SHPO on the determination of “No historic properties affected” for the Proposed Action.

USACE provided these findings and determination for review and comment to those Federally Recognized Tribes who requested consulting party status during Section 106 initiation or provided no response. Section 106 coordination occurred with the Absentee-Shawnee Tribe of Oklahoma, Cherokee Nation, Eastern Band of Cherokee Indians, Eastern Shawnee Tribe of Oklahoma, Shawnee Tribe, and the United Keetoowah Band of Cherokee Indians on September 1, 2023.

The USACE has made a determination of “No historic properties affected” (36 CFR800.4(d)(1)). The USACE is awaiting tribal comment prior to concluding Section 106 responsibilities. Table B.1 summarizes the consulting parties and their responses.

Table B. 1 Summary of Section 106 consultation

Consulting Party	Initiation Date	Response	Section 106 Coordination Date	Comments
Absentee-Shawnee Tribe of Oklahoma	19 July 2023	No response	1 September 2023	
Cherokee Nation	19 July 2023	No response	1 September 2023	
Eastern Band of Cherokee Indians	19 July 2023	No response	1 September 2023	
Eastern Shawnee Tribe of Oklahoma	19 July 2023	No response	1 September 2023	
Kentucky State Historic Preservation Office	19 July 2023	No response	1 September 2023	
Shawnee Tribe	19 July 2023	No response	1 September 2023	
United Keetoowah Band of Cherokee Indians	19 July 2023	No response	1 September 2023	