



OFFICE OF ENERGY PROJECTS
FEDERAL ENERGY REGULATORY COMMISSION
JULY 2012



GUIDANCE FOR
SHORELINE MANAGEMENT PLANNING
AT HYDROPOWER PROJECTS



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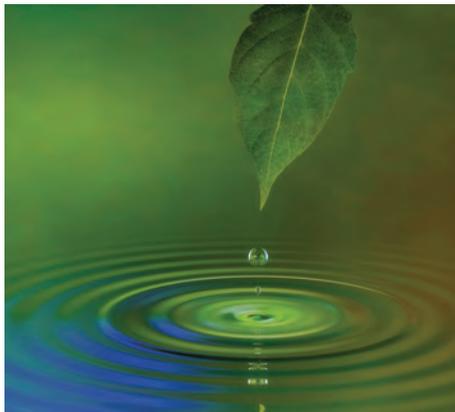


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LIST OF ACRONYMNS

Corps:	U.S. Army Corps of Engineers
EA:	environmental assessment
FERC:	Federal Energy Regulatory Commission (Commission)
FPA:	Federal Power Act
GIS:	geographic information system
NEPA:	National Environmental Policy Act
NGOs	non-governmental organizations
SCORP:	state comprehensive outdoor recreation plan
SHPO:	State Historic Preservation Officer
SMP:	shoreline management plan
THPO:	Tribal Historic Preservation Officer

GLOSSARY TERMS

Cultural Resources: Culturally valued aspects of the environment that generally include historic properties, other culturally valued pieces of real property, cultural use of the biophysical environment, and such “intangible” sociocultural attributes as social cohesion, social institutions, lifeways, religious practices, and other cultural institutions.

Encroachment: Unauthorized use and occupancy of project lands and waters (structures existing either fully or partially within the project boundary) by a third party where the licensee has the necessary rights or ownership of such lands for project purposes, and authority to control uses and occupancies of such lands. A non-project use and occupancy of project property is not an encroachment if it has been appropriately and previously authorized by the licensee or if an entity has the legal right to build on or occupy project property.

Federal Energy Regulatory Commission: An independent federal agency with a mission to regulate and oversee energy industries in the economic, environmental, and safety interests of the American public.

Historic Property: Any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Licensee: Any person, State, or municipality licensed under Part 1 of the Federal Power Act to construct, operate, and maintain a non-federal hydroelectric project.



License article 5: A standard article found in most project licenses that requires a project licensee to acquire and retain fee title or the right to use in perpetuity all property necessary or appropriate to construct, maintain, and operate the project.

Non-project Use: A specific use and occupancy of the project lands and waters that is not related to hydroelectric power production or other project purposes that the licensee may authorize, as long as the use is consistent with the project's purposes and scenic, recreational, and environmental values. Such non-project uses may include, but are not limited to, shoreline facilities such as residential boat docks, retaining walls, and commercial marinas, and may be authorized by the licensee either with or without prior Commission approval depending upon the proposed use and occupancy.

Project Boundary: The project boundary is an administrative marker to clearly delineate those lands necessary for operation and maintenance of the project and for other project purposes, such as recreation, shoreline control, or protection of environmental resources. The boundary does not affect existing property rights.

Shoreline Management Plan (SMP): A comprehensive plan to manage the multiple resources and uses of the project's shorelines in a manner that is consistent with license requirements and project purposes, and addresses the needs of the public.

Stakeholders: Members of the public, agencies, tribes, and organizations with an interest in the Commission's decision.

Standard land use article: Most licenses contain this article, which gives licensees broader authority to authorize relatively

routine non-project uses and occupancies (e.g., riprap, small boat docks, etc.) without Commission approval. This authority may only be exercised if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and environmental values of the project.

State Historic Preservation Officer (SHPO): Under Section 101(b) of the National Historic Preservation Act, the SHPO is appointed by the Governor to administer the State Historic Preservation Program and to reflect the interests of the State and its citizens in the preservation of their cultural heritage. SHPOs have expertise in archaeology, history, architectural history, and historic preservation.

Traditional Cultural Property: A property that is significant because of its association with cultural practices or beliefs of a living community that are rooted in that community's history, and are important in maintaining the cultural identity of the community.

Tribal Historic Preservation Officer (THPO): Under Section 101(d) of the National Historic Preservation Act, each tribal government can designate a THPO and establish a tribal historic preservation program. Like State programs, the National Park Service must approve tribal preservation programs established under Section 101(d). If a tribe has a THPO as defined under Section 101(d), federal projects that take place on that tribe's reservation lands are reviewed only by the THPO, with no SHPO involvement.

Universal Access/Design: Refers to an encompassing design approach that strives to ensure environments are usable by the broadest possible spectrum of people.



INTRODUCTION

The Federal Energy Regulatory Commission (Commission) is responsible for regulating the construction, operation, and maintenance of non-federal hydropower projects. Since each project is unique, the Commission issues a license for each project which identifies all project purposes (such as operation and maintenance, flowage, public recreation, public access, protection of environmental resources, and shoreline control) and specifies any requirements associated with that project. Licensees are responsible for operating and maintaining these projects in accordance with these requirements and for ensuring that project lands and waters are protected and maintained for their designated project purposes. The geographic extent of project lands and waters are generally defined by the project boundary, which includes all lands, waters, and project works and facilities that the Commission identifies in the license as comprising the licensed project. License article 5 is a standard article found in most project licenses that requires licensees acquire and retain sufficient property and rights to construct, maintain, and operate their projects, as identified in their specific license, including any property or rights needed to accomplish all designated project purposes. Typically a licensee will own or have the necessary rights to all submerged lands and any lands that fall within the operating levels of the reservoir, as well as a shoreline buffer (the exact boundary will be specified in the license).



Consistent with these license responsibilities, a licensee may authorize specific uses and occupancies of the project shoreline that are not related to hydroelectric power production or other project purposes (non-project uses). Non-project uses may include, but are not limited to, shoreline facilities such as residential boat docks, retaining walls, and commercial marinas, and may be authorized by the licensee either with or without prior Commission approval depending upon the proposed use and occupancy. Licensees have an ongoing responsibility to supervise and control such shoreline developments to ensure that they are not inconsistent with project purposes, including protection and enhancement of the project's scenic, recreational, and environmental values. As a general policy, the Commission does not allow non-project uses (i.e., the interest of adjacent property owners) to override the general public's recreation use and enjoyment of project lands and waters.

In recent years, the Commission has received an increasing number of applications for shoreline development activities at licensed projects. Many of these applications have been for residential and commercial dock construction. This increase in development pressure on shorelines for non-project uses and occupancies is fueled largely by increasing demand for water-oriented recreation and waterfront property. As demands for residential development near projects increase, there is a corresponding increase in demand for additional recreational devel-

opment of project lands and waters. Such development takes advantage of access to or views of project waters and exists because of its proximity to the water. Private recreational facilities include resorts, marinas, dry docks, boat services and sales, golf courses, and campgrounds. Public recreational facilities include parks, forests, campgrounds, picnic areas, trails, hunting areas, fishing areas, and nature preserves.

As development pressure on lands adjacent to or near project lands increases, a wider range of stakeholders are becoming involved in the Commission's review processes. In recent years, the Commission has noticed an increase in the number of stakeholder comments and inquiries regarding shoreline issues.



Stakeholders such as federal, state, and local agencies, along with homeowners' associations, environmental groups, hunting and fishing clubs, water-based recreation groups, real estate interests, and the general public, are now frequently participating in the review of shoreline development applications. Many of these stakeholders have different and sometimes conflicting concerns. Local governments often support development activities adjacent to projects because these activities can potentially increase tax bases, provide jobs, and boost local economies. The real estate and construction industries also often support waterfront development. Groups whose concerns center on the effects of waterfront development on natural resources include federal, state, and local government resource agencies, environmental groups, and a variety of recreation and sporting interests. Other groups may be concerned about public safety, watercraft traffic, noise levels, crowding, incremental development, and commercial navigation.

Licensees have a responsibility to ensure that shoreline development activities that occur within a project boundary are consistent with project license requirements, purposes, and operations. As development and multiple uses of the shoreline continue to grow, licensees will face more and more challenges related to the effects of such development on project lands and waters, including public recreational use and environmental resources.

A comprehensive plan, such as a shoreline management plan (SMP), can assist a licensee in meeting its responsibilities throughout the term of its license. An SMP is a comprehensive plan to manage the multiple resources and uses of the project's shorelines in a manner that is consistent with license requirements and project purposes, and addresses the needs of the public. The Commission expects all licensees developing comprehensive plans to involve the public and allow for agency consultation, review, and comment.

This guidebook has been written to assist both licensees and stakeholders. It is intended to provide general guidance regarding the development of an SMP, including identifying potential pitfalls and how to avoid them, knowing what to expect from the Commission and consulting agencies, understanding ways to involve the public in the SMP development process, and learning how to implement, monitor, and enforce the SMP once it is in place. This document is not intended to provide detailed, step-by-step instructions on how to develop and implement an SMP, but instead is a basic framework to guide licensees and stakeholders. The SMP planning process allows for project stakeholders to participate in the development of an SMP. Licensees will need to determine how the information in this guidebook applies to each individual project.

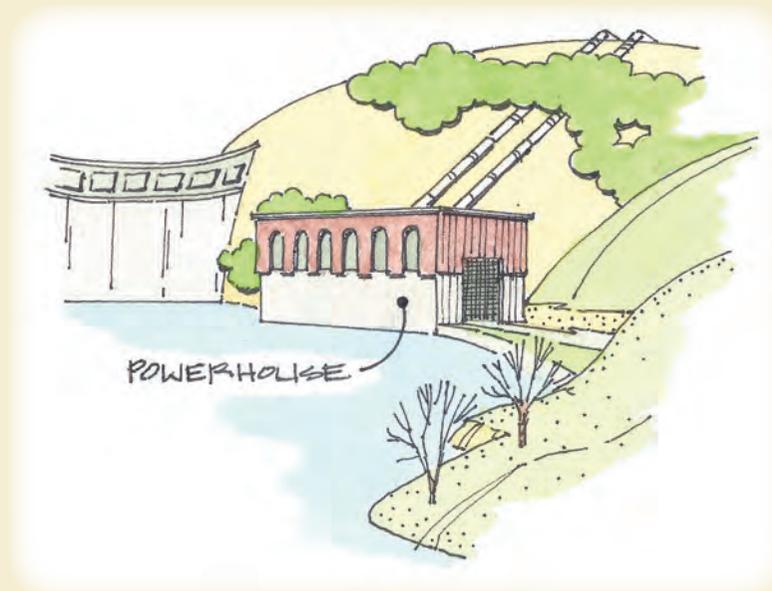


CHAPTER I THE HISTORY AND REGULATORY BASIS FOR SHORELINE MANAGEMENT

The Federal Power Act

The Federal Water Power Act of 1920, as subsequently amended by the Federal Power Act of 1935 (FPA), authorized the Commission to regulate non-federal hydroelectric projects. Included in the Commission's regulatory mandate are specific requirements for protecting non-power resources, including fish and wildlife habitat, irrigation, water supply, recreation, flood control, and water quality. The FPA, and subsequent amendments, sets the stage for shoreline management planning for licensed hydroelectric developments. Section 10(a)(1) of the FPA charges the Commission with ensuring that all licensed projects:

“be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of waterpower development, for the adequate protection, mitigation, and enhancement of fish and wildlife (including related spawning grounds and habitat), and for other beneficial public uses, including irrigation, flood control, water supply, and recreational and other purposes referred to in section 4(e); and, if necessary, in order to secure such a plan, the Commission shall have authority to require the modification of any project and of the plans and specifications of the project works before approval.”



In addition, section 4(e) of the FPA, as amended by the Electric Consumers Protection Act of 1986, requires that the Commission, when issuing a license, give “equal consideration to the purposes of energy conservation, the protection, mitigation of, damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of other aspects of environmental quality.”



Public Recreation

Public recreational opportunities are an important project purpose under the FPA and have a direct connection with public access and shoreline development around project reservoirs. Over the years the Commission's policies on public recreation have evolved. In response to the growing demand for outdoor recreation in the United States after World War II and specific actions to address this increased demand by Congress and President Kennedy in the 1960s, the Federal Power Commission (later becoming the Federal Energy Regulatory Commission) issued Order No. 313 in 1965. Order 313 outlines the Commission's policy on recreation to seek within its authority the ultimate development of recreation resources consistent with area needs. This mandate is implemented through license conditions and Commission regulations (Chapter 18 of the Code of Federal Regulations) that require recreation plans, public access and other recreation measures at licensed projects.

Order 313 added Section 2.7 to the Commission's regulations, which provides specific regulations to ensure the ultimate development of recreation resources at licensed projects consistent with area recreation needs. These requirements, among other things, outline a licensee's general responsibilities to provide suitable recreation development and public access at its project. Under Section 2.7, licensees are to acquire sufficient land within the project boundary to assure optimum devel-

opment of recreation resources, consistent with the primary purpose of the project and area recreation needs. Licensees are also to develop suitable recreational facilities and to make provisions for adequate public access, including consideration of the needs of persons with disabilities.

License Article 5 and the Standard Land Use Article

There are two standard license articles found in most Commission project licenses that relate directly to shoreline management planning: license article 5 and the standard land use article.

License Article 5

License article 5 requires a project licensee to acquire and retain fee title or the right to use in perpetuity all property necessary or appropriate to construct, maintain, and operate the project. Project boundaries are used to designate the geographic extent of the hydropower project that the Commission determines a licensee must own or have the necessary rights to on behalf of licensed project purposes. In general, the licensee must hold sufficient property or rights to the lands and waters within the project boundary to carry out project purposes, including but not limited to, operation and maintenance, flowage, recreation, public access, protection of environmental resources,



and shoreline control. Section 21 of the FPA provides that if a licensee is not able to obtain the property rights necessary to operate and maintain a licensed project by negotiation, it may use the power of eminent domain in federal or state court to acquire those rights.

Licensees are expected to have sufficient property and/or rights necessary to accomplish all project purposes required under their project licenses and to supervise and control lands and waters within the project boundary to protect and maintain such project purposes. In this regard, a licensee must identify and resolve any encroachments (i.e., unauthorized structure or use and occupancy of project property or interest necessary to accomplish project purposes) found on such property. A non-project use and occupancy of project property is not an encroachment if it has been appropriately and previously authorized by the licensee or if an entity has the legal right to build on or occupy project property.

License article 5 also states that licensees cannot dispose of (i.e., convey) project interests without Commission approval, unless permitted under specific requirements of the license. Thus, a licensee must retain all project property and interests needed to accomplish project purposes and may not dispose of any project interests that are necessary for it to properly implement the requirements of its license, including project purposes.

Standard Land Use Article

In an order issued in 1980 involving the Brazos River Authority (Project No. 1490), in Texas (11 FERC ¶161,162)(see Appendix D), the Commission began including a standard land use article in licenses. This standard land use article, subject to specific license conditions, gives licensees much broader authority to act on relatively routine shoreline matters without Commission approval and allows the licensee to grant permission to applicants for specific non-project related uses. This authority may only be exercised if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and environmental values of the project.

Paragraph (a) of the standard land use article authorizes the licensee to grant certain types of use and occupancy of project lands and waters without Commission approval. Licensees must ensure that the proposed uses are consistent with the purposes of protecting and enhancing the environmental values of the project, monitor the authorized uses, and take any lawful actions necessary to correct instances of non-compliance.

Paragraph (b) identifies certain types of use and occupancy of project lands and waters that may be granted without prior Commission approval, including: landscape plantings, non-commercial boat docks that accommodate no more than 10 watercraft (encouraging multiple use facilities when feasible),





retaining walls and similar erosion control structures (after inspecting the site and determining that such measures are necessary and no alternatives exist), and wildlife enhancements. The licensee may, among other things, establish a program for issuing permits for approved uses and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the licensee's costs of administering the permit program.

Paragraph (c) allows the licensee to convey easements, rights-of-way, or leases of project lands for uses such as roads, bridges,

under-and-above ground utility structures, or pumping structures allowing up to one million gallons per day withdrawals from a project reservoir. The licensee is required to file a report with the Commission by January 31 each year briefly describing all conveyances it granted under paragraph (c) during the prior calendar year.

Paragraph (d) allows the licensee to convey land rights for certain specific uses as long as the licensee notifies the Commission of its intent at least 60 days prior to the conveyance. These uses, while generally serving municipal and state infrastructure



needs, may also include private or public marinas accommodating 10 watercraft or fewer, certain recreational development, and other uses that meet specific criteria.

Paragraph (e) contains additional conditions which apply to any intended conveyance under paragraphs (c) or (d) of the article, including consultation with appropriate state and federal natural resource agencies, determination that the conveyance does not include lands needed for public recreation at the project, and required covenants in the instrument of conveyance. The paragraph also identifies the Commission's right to require licensee actions to correct violations of article terms and conditions for the protection and enhancement of the project's scenic, recreational and other environmental values.

Paragraph (f) states that conveyance of project lands under the article does not in itself change the project boundary; rather, project boundaries may only be changed upon Commission approval of revised project boundary maps (Exhibit G drawings), and only if the lands are determined to not be necessary for project purposes.

Paragraph (g) confirms that the licensee does not have the authority to apply the article to any public lands and reservations owned by the United States that may be included within a project boundary.

Evolving Management and Planning at Project Shorelines

Shoreline management is not a new Commission initiative. The need to protect the shoreline land around project reservoirs has long been recognized by the Commission. The Commission's early attempts to encourage licensees to manage shorelines came in the form of buffer zone management plans, resource plans, and even the exhibit R (which was a recreation and public use plan). In most cases, buffers incorporated into resource plans during the licensing process were established to protect specific resources, such as water quality, wildlife, aesthetics, recreation, or cultural resources. Typically, these earlier resource plans did not consider multiple resources along the shoreline in a comprehensive manner, even though the management of individual resources often influenced how project shorelines were managed. Interest in multiple non-developmental resources such as recreation, cultural resources, aesthetics, and fish and wildlife habitat, has increased over the years to the point where these resources are now given considerable attention by licensees and the Commission.

As stakeholder interest in non-developmental resources increased, so did applications to the Commission for shoreline development at the project. Through the issuance of the 1980 order involving the Brazos River Authority, the Commission responded to the increasing number of shoreline development



applications by including in the license the standard land use article, which gives licensees broader authority to act on relatively routine shoreline matters. However, the purpose for the permitting systems mentioned in the standard land use article was not to manage shorelines comprehensively, but instead to allow the licensee to have basic oversight of the use of project shorelines. Many licensees used their permitting databases to track shoreline developments.

As waterfront development at licensed projects increased, the Commission and many licensees realized that more comprehensive approaches to shoreline management were needed. Although permitting systems began to address and direct development, these systems, like the single-resource management plans, were not designed for comprehensive management. The Commission, licensees, and stakeholders alike have found that a comprehensive, resource-based planning approach is appropriate for most SMPs. Most, if not all, projects will experience conflicting demands regarding how to manage project shorelines. By developing and using an SMP at the earliest possible time, a licensee will have a tool to guide comprehensive management of the project's shoreline.

It is important to note that state or local zoning ordinances should not be used as a substitute for the project's SMP, including the project's shoreline classifications. Shoreline classifica-

tions are specific to project land, independent of any adjacent state or county land use designations or zoning. Licensees are ultimately responsible for managing project shoreline resources consistent with project purposes and its license obligations. Because shoreline use classifications are resource driven, it is possible that the shoreline use classifications are not always consistent with adjacent zoning classifications. The Commission



encourages licensees to work closely with local jurisdictions in designating shoreline classifications; however, as the license holder, the licensee ultimately decides the shoreline classification designations it proposes to include in the project's SMP.



CHAPTER 2 PRE-PLANNING ACTIVITIES

Prior to preparing an SMP, the licensee should undertake a number of pre-planning activities. These activities will help the licensee guide, define, and establish the parameters of the plan. These pre-planning activities can be extremely valuable for the licensee for a number of reasons:

- To define what it hopes to accomplish with an SMP by clarifying and developing goals (broad and long term) and objectives (measurable)
- To identify the issues and conflicts that will need to be addressed in the SMP
- To assess the extent of existing information relating to the SMP and the extent of new information to be gathered
- To gather and organize enough background information to allow the licensee to meet with relevant agencies and stakeholders to determine the likely scope and complexity of the SMP.

One of the primary purposes of this guidebook is to educate both licensees and stakeholders about how to participate in the SMP planning process. When stakeholders with different views work together during the development of an SMP, they often are able to create plans that are acceptable to most, if not all, of the participants. This balanced approach helps the licensee meet its license obligations and project purposes, protects envi-

ronmental resources, allows the public to enjoy those resources, helps to support local economic interests, and is vital for the long-term success of an SMP.

The following sections describe the components of the pre-planning phase of the development of an SMP.

Goals and Objectives

Goals are statements that help define what the licensee wants to accomplish with an SMP. Goals can be fairly general policy statements or intentions to pursue. Objectives are measurable action items that, when completed, help to achieve the goal. Examining the project license will help the licensee establish goals and objectives for the SMP. In general, a licensee's overall goal for an SMP is to develop a tool that will help it fulfill its license responsibilities and obligations for the project, including protecting and enhancing the project's environmental, scenic, and recreation values. In addition to an overall goal of achieving license compliance, a licensee should establish other goals, as appropriate, related to the protection of project specific purposes and resources.

Developing goals and objectives during the pre-planning



phase will help determine the form and level of complexity that will be required for the SMP. For example, at a project where the primary goal of the planning effort would be to develop a permitting system for shoreline structures, the SMP would be relatively straightforward, whereas, for a project with multiple goals dealing with a variety of issues and resources, the SMP could be quite complex. Examples of goals that might be developed for a complex project might include: (1) determining what the shoreline should look like in 25 years, (2) improving public access to the upper part of the project, (3) protecting shoreline wildlife habitat, and (4) creating a public education program to encourage SMP compliance. Below is an example of an SMP goal and matching objectives:

Goal 1: Create a public education program to encourage plan compliance.

- Objective 1: Write and distribute a semiannual newsletter.
- Objective 2: Establish a “model” shoreline area with plantings from a suggested plant list.
- Objective 3: Meet annually with community groups to update them on progress and changes and to get feedback.
- Objective 4: Develop a website and email listserve as tools to communicate with interested parties.
- Objective 5: Hold a minimum of four community meetings per year to educate the public regarding the location of the project boundary.

The goals and objectives that are developed during the pre-

planning phase may evolve or change during the development of the SMP as various stakeholders become involved. However, it is important for the licensee to have a clear set of goals and objectives early in the development process prior to stakeholder involvement. A clear set of goals and objectives will help ensure that the SMP meets the needs and capabilities of the licensee (i.e., license compliance), while allowing the interests of stakeholders to be taken into consideration during the SMP development process.

Gathering Information

Because it is likely that multiple resource concerns and interests will have to be taken into account when developing an SMP, it is critical for the licensee to have a thorough understanding of existing shoreline conditions. Gathering shoreline information will help identify issues early and allow the licensee to have meaningful discussions with stakeholders about the project. These discussions will help determine the issues to be addressed in the SMP and give an early indication of the necessary level of complexity for the SMP.

If the licensee is preparing or has recently prepared a relicense application, data needed to inform the development of an SMP may already be available, such as studies prepared for relicensing proceeding. Existing project records, such as permit inventories or FERC Form 80s (Licensed Hydropower Development



Recreation Report, 18 CFR §8.11), may also be excellent sources of information. Federal, state, and local resource agencies can also provide data such as state comprehensive outdoor recreation plans (SCORPs), or maps and aerial photography showing the locations of wetlands, cultural resources, threatened and endangered species habitat, zoning classifications, and real estate plats. Other data sources could include non-governmental organizations such as environmental groups, recreation user groups, chambers of commerce, and homeowners' associations.

The Commission does not necessarily expect licensees to perform extensive surveys to identify existing conditions for the

development of an SMP. The Commission encourages the use of existing relevant data as a means to minimize costs. However, as circumstances dictate, issues that must be addressed in the SMP may require the licensee to perform surveys of existing conditions.

The following is a brief discussion regarding the types of information that may be useful to obtain in the pre-planning phase of the SMP development. Collecting this information prior to meeting with agencies and other stakeholders may promote informed discussions between all interested entities at the beginning of the process.



Lands

Consistent with its license responsibilities, including those contained in standard article 5, and because the SMP will guide management of the project shoreline for multiple resource objectives, it is critical that the licensee know the exact location of and the existing use and characteristics of lands and waters within the project boundary. The licensee should have a clear understanding of the following details regarding project lands: (1) the type of uses and facilities located along project shorelines, (2) the project purposes served by all project lands, and (3) the ownership and interests in project lands and waters. A licensee should document the specific location of the project boundary, and the type, condition, and location of all existing uses and occupancies (including structures) that occupy project lands and waters. The types of facilities commonly found on project shorelines include private and public piers, boat docks, boat ramps, marinas, erosion control structures, and public recreation areas. The licensee must then differentiate between authorized and unauthorized uses and occupancies within the project boundary.

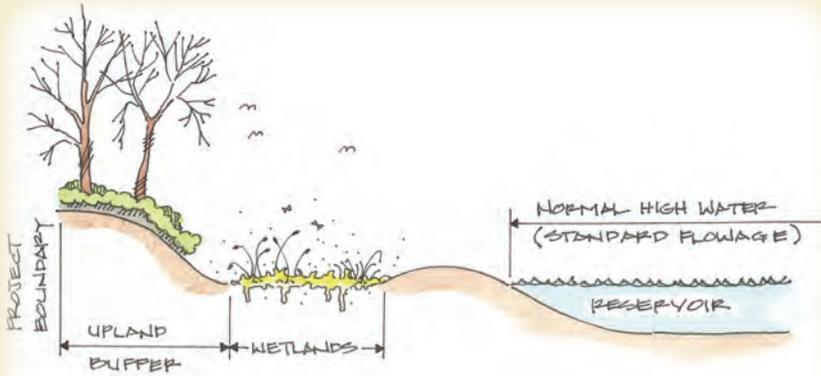
The licensee must also have an understanding of lands adjacent to the project boundary because development activities on these lands can affect lands within the project boundary. Therefore, it is important to be familiar with ownership patterns

and land uses on adjacent lands. Information regarding land ownership and use should be available from local or regional entities such as planning, zoning, and building departments and agencies. Land ownership can be an indication of potential future uses. All public land (and the agencies managing these lands) should be identified. It is not necessary to identify individual, small private land owners, but private owners owning significant amounts of land adjacent to the project should be identified. As with land ownership, the licensee should have an understanding of current land uses on adjacent properties. Typical adjacent land uses include residential (primary and second home/vacation), forestry, recreation, conservation, agriculture, and industrial. Development density on adjacent lands is useful to understand development patterns, distribution, and trends near the project. Adjacent lands at many projects will likely have been assigned land use designations and/or zoning designations by city, county, or state entities. These designations influence the type and intensity of development that has, and could, occur on adjacent lands.

Natural Resources

Agencies, including the Commission, and other interested entities are frequently concerned about the potential effect of shoreline development on natural resources such as vegetation, wildlife, and aquatic species. Natural resource issues related to





NATURAL AREAS / UNDISTURBED BUFFERS BETWEEN THE PROJECT BOUNDARY AND RESERVOIR PROVIDE SIGNIFICANT ENVIRONMENTAL RESOURCES CRITICAL TO THE PROTECTION OF FISH AND WILDLIFE

project shorelines will almost certainly play a major role in the development of land use classifications for an SMP. It is therefore important that the licensee have background information regarding shoreline natural resources prior to any discussions with agencies or stakeholder groups. In accordance with project purposes (i.e. environmental protection), and project-specific fish and wildlife license requirements, a licensee should identify project lands and waters that provide for the protection and enhancement of fish and wildlife resources, such as wildlife management areas, shoreline buffer zones, or designated fish or wildlife habitats.

The vegetation found along project shorelines and adjacent uplands serves as habitat for terrestrial and aquatic wildlife species. Removal of native shoreline and aquatic vegetation can result in a loss of valuable habitat used by fish and wildlife for cover, food, nesting areas, and rearing areas for young. Even seemingly minor activities, such as clearing underbrush or building piers can affect some species.

Because different types of habitat have different values for wildlife and aquatic species, it is important to understand the relative value of the habitat found along project shorelines. Areas of undisturbed vegetation, wetlands, riparian areas, and certain types of aquatic vegetation typically have high value as habitat. Existing information may be adequate, but in many cases, an inventory may be required. The level of effort for the inventory will depend upon available information, input from agencies, the complexity of the project's shoreline vegetation and plant communities, and the potential level of impact on such resources, and cost. In addition to having an understanding of the project's existing habitat, the licensee should be aware of the presence, or potential presence, of plant, animal, and fish species that are listed as threatened or endangered species by federal or state agencies. The presence, or potential presence, of these species could have shoreline management implications.



Water Quality

Maintaining good water quality in the waters of a hydroelectric project is essential for meeting certain project purposes, such as environmental protection and public recreation (e.g., fishing, swimming, and wildlife viewing). Water quality maintenance also protects and enhances a project's natural resources, such as wetlands and aquatic habitat, and some non-project uses, such as drinking water supply and adjacent property values. Given the importance of maintaining good water quality, a licensee should be aware of the potential effects of both shoreline protection activities and shoreline development activities.

For example, maintenance of shoreline buffer vegetation allows natural filtration of sediment and other pollutants from runoff that enters project waterways, and should therefore be encouraged. Some non-project uses, such as habitable structures and septic systems, can harm water quality by releasing untreated waste into project waters if not properly constructed or maintained. Similarly, poorly-managed gasoline docks at marinas can harm water quality through spillage of fuels and lubricants. These and similar issues should be considered during the development of a project SMP so that the SMP can be used to clearly determine if and under what circumstances specific non-project uses should be allowed on project waters and adjacent lands.

Recreational Use

In addition to having an understanding of the type and location of existing public recreation facilities, access areas, and areas specifically reserved for future public recreation use and development within the project boundary, the licensee should have an understanding of other recreation issues that might be relevant. In particular, the licensee should keep in mind that, as





a general policy, the Commission does not allow private recreation interests and development, such as residential or commercial boat docks or marinas, to override the general public's recreation use and enjoyment of project lands and waters (see Appendix D). Other recreation issues that might be relevant include recreational use patterns, overcrowding, navigational safety issues, conflicts and competition among user groups, user attitudes and preferences, and the need for facilities which provide universal access. Such issues should be taken into consideration during the development of an SMP. The licensee should also be aware of plans for potential future recreation developments or changes to existing facilities that may need to be addressed in an SMP.

Socioeconomics

A general understanding of the social and economic conditions of the area around a project is important for licensees. Changing demographic and economic conditions can influence demands on projects and on adjacent lands. For example, projects that are located in areas that may not be otherwise economically robust are sometimes seen as important income generators for the local economy. Projects with recreation opportunities may bring tourist dollars into the local economy and attract real estate development, both of which can provide jobs and increase tax bases. Many areas near projects are experiencing second-home development and primary-home development for retirees. An understanding of these social and economic trends and factors can give the licensee an indication of how local jurisdictions and interest groups may view shoreline management planning and what issues may be important to these groups. While an understanding of the economic and social interests of these stakeholders can be helpful in the development of an SMP, it is important to recognize that the primary goal of the SMP is to assist the licensee in its management of project lands and waters to comply with its license conditions and meet designated project purposes, such as public recreation use and the protection of environmental resources. While the presence of a project reservoir and its shoreline resources may attract real estate development around the reservoir and



indirectly benefit the local economy, such economic benefits do not represent a licensed project purpose, and should not be allowed to override designated project purposes.



Aesthetic Resources

The licensee should understand the project's aesthetic resources, including areas of the project that are considered to have high aesthetic value, the distinguishing characteristics which underlie those values, and the populations that value the aesthetic resources. During a recreation experience, individuals consciously or subconsciously evaluate aesthetic resources by assessing sights, smells, and sounds. Vegetated shorelines, clean water, the presence of wildlife, scenic views of water, and the smell of evergreen trees can positively influence a recreational experience, whereas eroded shorelines, high density development, the smell of motorboat exhaust, and light pollution can have a negative impact. The sounds of people recreating or from shoreline development can be interpreted positively or negatively by participants. Aesthetic resources are complicated because the perceptions of impacts are influenced by personal experience, but the licensee needs to have an understanding of how the development and operation of a project, as well as shoreline development, impacts those resources.

While a project license allows a licensee to authorize certain third-party uses and occupancies of project lands and waters, such non-project uses may only be authorized in accordance with the applicable license requirements, and only if the use does not adversely affect the protection and enhancement of



the project's scenic, recreational, and environmental values. In this regard, any vegetation removal or cutting on project lands associated with such non-project uses (i.e., a view corridor for a private residence), may not override the preservation of aesthetic resources along a reservoir shoreline in that area needed to protect and enhance the project's scenic values.

Cultural Resources

The presence of cultural resources, including historic properties and traditional cultural properties at a project can significantly influence shoreline management decisions. Typically, a project license has specific requirements (e.g., a specific license article, Programmatic Agreement, or historic properties management plan) related to the identification and protection of cultural resources. Such requirements may include a list of acceptable ground-disturbing activities, provisions for handling unanticipated cultural resource discoveries, or other helpful guidance regarding cultural resources along the shoreline. The licensee should have an understanding of whether or not there may be cultural resources present near project shorelines. The above license requirements, as well as the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), and local preservation groups, are good sources of information on the presence or likely presence of cultural resources near or along the shoreline.

Identifying Preliminary Stakeholder Concerns, Goals, and Issues

While the licensee will be the primary entity responsible for formulating, developing, implementing, and monitoring the plan, successful SMPs are created with input from various stakeholders. While it is possible that there will be issues that cannot be resolved in the way that all stakeholders would like, a variety of interested stakeholders will influence the form of the plan, possibly have a part in implementing the plan, and may be involved in plan monitoring and modification. It is important to identify potential stakeholders and their concerns, goals, and issues as early as possible so that the licensee has a better idea of where there may be agreement or disagreement among stakeholders and with the licensee. This early identification or scoping process should not be confused with the more formal public involvement process that occurs during the development of the SMP. Preliminary scoping efforts of stakeholders will allow the licensee to formulate ways to address stakeholder concerns, goals, and issues during the more formal planning process, while ensuring that the SMP meets its primary purpose of helping the licensee fulfill its license responsibilities and designated project purposes.



Examples of Potential Stakeholder Issues:

- Increasing public access to project waters on the north shore of the project.
- Preventing construction of new docks in water willow beds or fish spawning areas.
- Limiting the maximum allowable size, spacing, etc., of boat docks.
- Encouraging shoreline development to increase the local county tax base.
- Requesting dock permits to be re-assigned when associated real estate is transferred to a new owner.
- Reducing private development restrictions on project lands and waters for adjacent property owners.



Identifying stakeholders and issues during the pre-planning phase can be done in a number of ways. Informal telephone conversations or meetings with federal, state, and local agencies can help identify agency concerns and identify other potential stakeholders. Likewise, informal conversations and meetings with non-governmental organizations (NGOs), such as homeowners' associations, environmental groups, chambers of commerce, and marine contractors can also help identify stakeholders and their issues.

Potential Resource Agency Issues or Preferences

- Maintaining shorelines in as natural a state as possible to preserve fish and wildlife habitat.
- Establishing a shoreline buffer zone of limited or no development to protect habitat.
- Restricting vegetation clearing within the buffers or along the shoreline.
- Preferring "soft" erosion control techniques (e.g., vegetative plantings) to "hard" erosion control techniques (e.g., retaining walls).
- Developing "fish friendly" design standards for docks.
- Requesting inventories of existing amounts of shoreline vegetation.
- Identifying shallow-water fish spawning and nursery habitat locations.



CHAPTER 3 PREPARING A SHORELINE MANAGEMENT PLAN

In most cases, there will not be a clean break between the pre-planning phase and the actual preparation of the SMP. The pre-planning work will help identify conditions, situations, and trends that will determine the level of complexity required for an SMP. Before starting the preparation phase in earnest, the licensee should have: (1) defined goals and objectives, (2) an understanding of the sufficiency of existing data and data that need to be obtained, and (3) an understanding of the issues that will likely have to be addressed in preparing the SMP. The following sections discuss the components of preparing an SMP.

Stakeholder Involvement in the Planning and Development Process

As mentioned in Chapter 2, stakeholder involvement in the development of comprehensive plans is needed to ensure that all relevant issues are raised and addressed. The level of stakeholder involvement will vary from project to project. However, it is in the licensee's interest to include stakeholders early in the SMP preparation process for a number of reasons. If stakeholders are given the opportunity to comment or offer input on the SMP late in the process, they may not have an understanding or appreciation of the issues that were involved and considered in

the development of the SMP. By including stakeholders early in the process, they will be better informed and be able to participate in a more meaningful way in the process. This can have many positive benefits, including reducing potential resistance to the SMP and having stakeholders serve as information liaisons and project advocates with the general public. In addition, stakeholders (particularly agencies) will likely have information that is useful in the SMP development process.

Types of Stakeholders

The stakeholders who are likely to be involved in the development of an SMP are generally government agencies, Indian Tribes, NGOs, and individuals. All of these stakeholders will have a desire to influence the management direction of the SMP, and frequently stakeholders have differing interests. Because the level of stakeholder participation in the SMP process can often vary, it is important that both the licensee and the stakeholders have an understanding of roles and responsibilities.

Federal Agencies – Federal agencies often represent the general public. Their involvement in the development of an SMP varies depending upon the project and the potential effect of the SMP





on agency interests or lands. The U.S. Fish and Wildlife Service, which is responsible for protecting endangered fish and wildlife species, is often a participant in the development of SMPs. The National Park Service has a broad interest in the provision of outdoor recreation opportunities nationwide. The U.S. Forest Service, the Bureau of Land Management, the Bureau of Reclamation, and the Bureau of Indian Affairs may be involved, but generally only if the lands they manage might be affected by the provisions of the SMP. The U.S. Army Corps of Engineers (Corps) may also need to be consulted if the project is subject

to Corps' jurisdiction; or if current or future activities on project lands and waters fall under the Corps' oversight responsibilities.

Indian Tribes – Federally-recognized Indian Tribes may also need to be consulted if the SMP could affect their lands, treaty rights, or traditional cultural properties.

State Agencies – Each state is unique in regard to the statutory roles and responsibilities of its agencies. In general, state agencies responsible for parks and recreation, fish and wildlife, water



quality, and cultural resources are most likely to be involved in the SMP planning process. For some projects, the participation of state agencies that are responsible for forestry, transportation, and economic development is also warranted.

Local Jurisdictions and Agencies – Local jurisdictions and agencies may have an interest in working with licensees on SMP-related issues. These entities may include regional councils, county agencies, and/or municipal departments that are responsible for planning, zoning, building inspection, parks and recreation, environmental and water quality, economic development, and law enforcement.

NGOs and Interest Groups – There are a wide variety of NGOs and other interest groups that could become involved in the development and/or review of an SMP. NGOs could be local, state, or national interest groups, and their perspectives could vary greatly. Local interest groups (e.g., lake conservation groups) can add valuable local expertise and interest, and can represent local perspectives.

Individuals – Individuals may be interested in becoming involved in the development of an SMP for a number of reasons. Adjacent landowners (of undeveloped land, primary homes, and second homes) would be among the individuals potentially most affected by an SMP. Licensees should attempt to inform

these individuals of opportunities to become involved in the SMP planning process and of any changes being considered that could affect them. In addition, the licensee's public outreach program should make information available to interested members of the general public. Other individuals that live in the vicinity of the project and use it for recreation, commerce, or simply enjoy the project's aesthetic qualities may also become involved in the development of an SMP.

Opportunities for Stakeholder Involvement

There are various ways in which stakeholders, including the public, can become involved in the planning and development of an SMP, and the licensee can receive stakeholder input. Stakeholder involvement can happen at numerous planning stages and through a variety of formal and informal interactions and relationships. Several stakeholder involvement techniques are discussed below.

During the development of an SMP, the licensee may choose to hold a series of informal public meetings. Such informal meetings promote interaction among the various stakeholders and can range in size from a few individuals to hundreds of people.

In addition to regular public meetings, it may be appropriate to develop focus groups or create working groups consisting of interested participants that concentrate on specific issues.



The use of regularly scheduled focus group or working group meetings can be extremely useful. Participants who represent a variety of interests can provide valuable information and assistance in the development of the SMP. However, it is important that the role of these stakeholders is clear from the beginning. Meetings allow stakeholders with opposing viewpoints to get to know each other and understand differing opinions, as well as gain a better understanding of the licensee's license responsibilities and obligations. Other stakeholder input measures may also include surveys, interviews, the use of professional facilitators, etc.

It is important to note that stakeholders may have further opportunities to comment on an SMP after it is filed with the Commission for approval.

Items Typically Included in Shoreline Management Plans

If required by the project license, an SMP should, at a minimum, address the specific requirements described in that article. Although there is no set format for an SMP, certain items should be considered for inclusion in the document.

An executive summary generally consists of several paragraphs summarizing the purpose of the SMP, goals and objectives

of the SMP, some of the main issues involved in developing and implementing the SMP, how issues were resolved, a brief description of shoreline use classifications, where the classifications generally occur (including reference to the project land use classification map that is included later in the SMP), and a brief description of all types of permitted uses. A summary of other relevant project-related information, such as project purpose, history, and operations may also be appropriate to include.

A description of the stakeholders that were involved in developing the SMP can illustrate the means and process involved in developing the SMP and may give many of the stakeholders that participated in the process an acknowledgment for their effort.

An SMP should include descriptions of the planned land use classifications, maps identifying the locations of the land use classifications, how these use classifications were defined and delineated, and descriptions of activities and uses that would be allowed in those classifications. In addition to land use classifications, an SMP should contain sections on management policies, permits, and guidelines. Samples of permit applications and required drawings are often included to give the reader an idea of the level of detail that is necessary for permit approval.

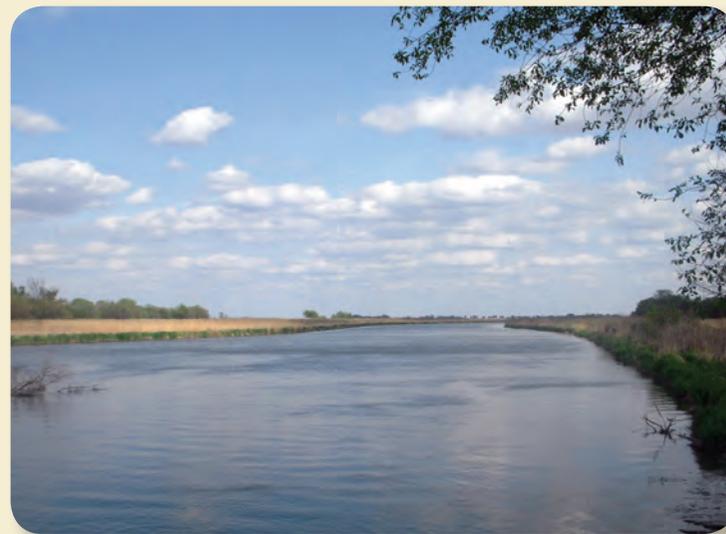


Descriptions of monitoring programs, schedules, and enforcement provisions allow property owners adjacent to project lands and waters to understand ways in which they can participate in monitoring and enforcement activities, and the scope of those activities. Descriptions of enforcement provisions can also educate these adjoining property owners about the ramifications of not following provisions established in the SMP.

While a licensee may develop general shoreline management guidelines for all hydropower projects in their portfolio, an SMP should be developed for each project which addresses features and provisions unique to that project. Each SMP should be reviewed every five to ten years and may need to be updated to address new or changing conditions at the project.

Shoreline Use Classification Strategies

Shoreline use classifications are areas within the project boundary designated for certain existing and future uses consistent with the goals and objectives of the SMP. These classifications are not assigned to lands outside the project boundary, but instead refer to the use of project shoreline property. They are specific to project land, independent of any adjacent state or county land use designations or zoning. It is important to note that state or local zoning ordinances should not be used as a substitute for the project's SMP. Licensees are ultimately



responsible for managing project shoreline resources consistent with project purposes and its license obligations.

The assignment of use classifications to project shorelines is often the cornerstone of an SMP. In many cases, the process of developing shoreline use classifications will be the most scrutinized aspect of the SMP. By using sound information to help make resource-based decisions, and by including stakeholders in the SMP process, the eventual designation of shoreline use classifications should satisfy a licensee's obligations under its project license, as well as consider the interests of stakeholders involved in the development of the SMP. Because shoreline



use classifications are resource driven, it may be possible that the shoreline use classifications are not always consistent with adjacent zoning classifications. However, shoreline classifications are ultimately a tool to aid the licensee in fulfilling its license responsibilities and may not be consistent with every stakeholder's interests.

Because of the amount of development that has occurred along the shores of many projects, natural resource agencies

and stakeholders with environmental protection interests often want to restrict or control shoreline development. At the same time, parties interested in business and economic development may desire the ability to continue to develop project shorelines. Developing and assigning shoreline use classifications often requires balancing demands for preserving shoreline habitat with pressures to allow shoreline development. At most projects, balancing conflicting desires will be a challenge. Developing a shared vision for the appropriate degree of shoreline develop-



ment and density of recreation use on the reservoir, reflected in a clear set of well-defined shoreline classifications, will greatly increase the acceptance and effectiveness of the SMP.

Currently, there are no standard descriptions for shoreline use classification systems used by licensees at Commission-regulated projects. These systems can be called shoreline management zones, shoreline use designations, or another appropriate descriptor. However, the following are commonly employed shoreline use classifications and associated allowable uses which are offered here as examples:

- Residential – community and individual docks associated with residential development
- Commercial – private boating and recreation facilities and commercial services (e.g., fuel, supplies, and food)
- Environmental or Natural – natural resource protection and limited to no shoreline development
- Recreation – public recreation facilities and access areas
- Project Operations or Infrastructure – areas needed for power production (including tailrace) or rights of way used for transmission lines, cell towers, roads/bridges, wind turbines, pipelines, and utilities
- Other – project specific classifications as needed

The number of classifications can depend upon factors such as shoreline complexity, extent of existing development, future

development pressures, the licensee's goals and objectives for the project shoreline, and the presence of sensitive fish and wildlife species or habitats. The allowable and prohibited uses for each classification should be clearly specified in the SMP. The appropriateness of various combinations of shoreline classifications should also be addressed, such as a commercial marina adjacent to an environmental area or the density of commercial marinas.

Shoreline Management Policies, Permits, and Guidelines

License article 5 requires licensees to acquire, and retain through the term of the license, all property rights necessary for the construction, operation, and maintenance of the project. Because most or all shoreline is typically owned by the licensee and is usually open for public recreational access, developing shoreline management policies, permitting systems, and development guidelines is an important part of the SMP development process. A strong set of shoreline policies facilitates successful shoreline management through the establishment of a strong foundation for the SMP. The policy development process requires that the licensee clarify its positions regarding management of the project's shorelines. The policies will serve as the basis upon which permits and guidelines are developed,



and will help interested parties understand why the permits and guidelines are written as they are. The policies should be consistent with, and help reinforce, the licensee's goals and objectives for the SMP, and must be consistent with protecting the scenic, recreational, and other environmental values of the project.

After the licensee's policies have been established, creating permit systems and development guidelines are the next step. These are the primary tools used to control the type, location, design, and material of shoreline development projects. Permits and guidelines may vary considerably, depending on the specific characteristics and requirements of a project, but must be consistent with Commission policies regarding shoreline protection. Projects that are experiencing less development pressure may only require a permitting program with a simple set of guidelines to address a relatively small number of common issues, such as the development of docks and/or erosion control. Projects that are more complex, and/or have a number of different shoreline use classifications, may require the development of both permits and guidelines.

Licensee-issued permits are typically revocable privileges for which adjacent property owners must apply to the licensee if they wish to develop a facility or use (e.g., private boat dock, retaining wall, access path, etc.) on adjoining project lands or

waters either owned by the licensee in fee or for which the licensee has other project-related rights (e.g., flowage) that would give it the authority to control the use of such lands and waters. The permit application typically requires information that the licensee uses to determine the potential effect of the proposed facility on the environment and its consistency with the SMP. Permits often include specifications that regulate the size and location of the proposed shoreline facility along with the type of materials that can be used for its construction. Each permit should include appropriate conditions, such as requirements for construction methods and deadlines for completion of authorized facilities, to protect the scenic, recreational, and environmental values of the project. Imposing deadlines on completing facilities ensures that they are constructed within a timely manner to ensure that they do not result in new or different impacts than anticipated, due to changes in the surrounding environment over time. The SMP's permit requirements and standards for construction may be the same as or more stringent than those of local governments.

SMP guidelines typically prescribe construction methodologies, protection measures, and maintenance practices that would be consistent with the goals of the SMP and individual permits. Guidelines can also identify the various types of permits needed and the application process. Sometimes these guidelines can be generic enough that they can be used by adjacent property





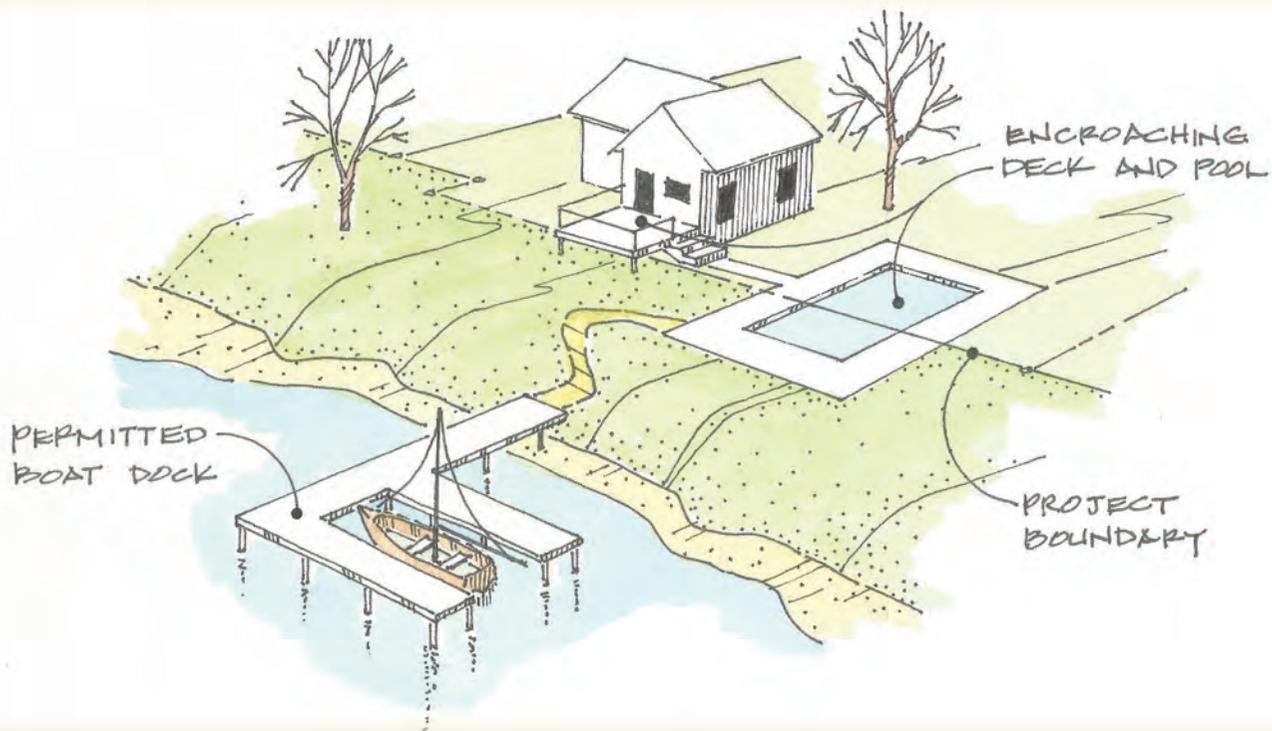
owners to manage their own properties in ways that will help meet the intent of the SMP. One type of guideline that is often developed by licensees describes the kind of development activities that are allowed and not allowed at the project consistent with the classification. By describing the types of allowed and prohibited facilities and activities, adjacent property owners and other stakeholders will know the kinds of shoreline uses that can be developed at the project.

Occasionally, either knowingly or by accident, structures are built by neighboring property owners within the project

boundary on licensee owned lands and waters without proper authorization. Such structures are known as encroachments, and they can negatively affect project purposes. In some cases the impact of an encroachment can be mitigated through the replacement of project lands with in-kind lands that can meet the project purpose that has been negatively affected. In other cases the encroachment may have to be removed. It is critical that SMP guidelines include a section which specifies a process and timeframe for addressing encroachments, including how the licensee will monitor lands inside the project boundary for encroachments (see Appendix D).

It is common for licensees to require reasonable fees for administering a permit program, subject to the requirements in the standard land use article. The licensee may also wish to consider requiring a construction deposit from the adjacent property owner or its contractor before work is allowed to proceed. Typically, licensees will inspect the site prior to allowing construction to begin, and again at the end of the construction period before final approval of the project. If a new development does not meet the requirements set forth in the permit, the licensee has several options to ensure compliance. The length of time that an issued permit is valid varies. Some licensees require annual renewal fees and some do not. In some cases, permits can be transferred to new property owners (usually requiring some type of application, notification, and/or fee on behalf of the





permittee) and in other cases (especially with encroachments) a transfer may not be made.

Some projects have experienced shoreline development over time that, for a variety of reasons, may not conform to the current SMP. In such cases, the SMP should include policies and procedures for managing pre-existing, non-conforming structures (i.e., structures not consistent with the SMP, but built with

the licensee's consent) or encroachments (i.e., structures built on licensee-owned lands without the licensee's consent) on project lands. These policies and procedures should be consistent with current Commission policy.

The SMP should include guidelines for reviewing and updating the document every five to ten years to address new or changing conditions at the project.



CHAPTER 4 COMMISSION REVIEW OF A SHORELINE MANAGEMENT PLAN

An SMP can be considered during a licensing proceeding or required as a post-licensing requirement. In any case, the SMP document and any associated shoreline use regulations, permits, or guidelines must be consistent with the overall requirements of the project's license, project purposes, and current Commission policies, and should address issues raised by interested entities.

A proposed SMP that is considered during licensing would be reviewed, modified, and/or approved as part of the licensing

process. Any necessary information requests, environmental analysis, and public input would typically be included in the broader NEPA document completed for the licensing proceeding.

For a proposed SMP filed with the Commission during the license term, whether pursuant to a licensing requirement or voluntarily by the licensee, the following process applies. Initially, staff reviews the plan to determine if the SMP contains adequate information from which the Commission can base its decisions on the plan. If the Commission determines that there is missing information or unresolved questions or issues, the Commission may request additional information from the licensee that may be necessary to properly analyze the effects of implementing the SMP.

After the SMP is filed with the Commission and found to be complete for consideration, and if Commission staff determines that additional opportunities are needed for the public to comment on the SMP, a public notice would be issued. Such notice would be published in the federal register and local newspapers. During the review and public comment period, as appropriate, interested parties are given the opportunity to file



comments and other information regarding the proposed SMP for the Commission to review and consider.

If Commission staff determines that the SMP has the potential to adversely affect environmental resources at the project, Commission staff will likely prepare a National Environmental Policy Act (NEPA) document, under the Commission's NEPA regulations (18 CFR Part 380). In most cases, the NEPA document will be an environmental assessment (EA) that addresses the potential environmental effects of implementing the SMP on environmental resources within the project area. Resources that are generally examined include water use and quality, fisheries, wetlands, wildlife, threatened and endangered species, land use and aesthetics, recreation, cultural resources, and socioeconomics.

In deciding whether, or under what conditions, to approve the SMP, the Commission will consider the entire record of the proceeding, including the proposed SMP, any comments filed, and the EA (if prepared). The Commission will approve the SMP if it determines that the SMP is consistent with the requirements of the project license and other relevant plans (e.g., Commission approved plans for buffer zones, wildlife habitat, dredging, etc.) and adequately addresses issues raised during the proceeding. The Commission may make modifications to the SMP as appropriate.



The following is an example of language included in a license article requiring an SMP, but such requirements may vary depending on project-specific circumstances:

The Shoreline Management Plan shall be filed for Commission approval and be prepared in consultation with appropriate federal and state resource agencies and entities (specific parties are identi-



fied). The plan shall include, but not be limited to, the following items: (1) a list of land use management objectives and goals; (2) a list and description of the types of land use classifications, to include at a minimum: (a) residential; (b) public recreation access; (c) environmentally sensitive areas; (d) commercial; and (e) project operations; (3) a map or maps that clearly identifies the project boundary and the above land use classifications; (4) a description of the basis for the various land use classifications, including supporting documentation; (5) a description of allowable and prohibited uses for each of the above land use classifications; (6) a description of how the proposed plan is consistent with other Commission-approved resource management plans (historic properties management plan, recreation plan, wildlife resource management plan, etc.) (7) a permitting program for allowable facilities and/or uses of the shoreline, including permit application procedures, monitoring and enforcement provisions; (8) a provision for informing the public of the licensee's procedures for issuance of a permit and/or lease, including the application process; and (9) a provision to review, every 5 years, the adequacy of the Shoreline Management Plan to meet its stated goals and the need for any modifications to the plan.

The licensee shall include with the plan documentation of consultation, copies of recommendations on the completed plan after it has been prepared and provided to any consulting agencies, and specific descriptions of how the agencies' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does

not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific reasons.

The Commission reserves the right to require changes to the plan. Implementation of the plan shall not begin until the licensee is notified by the Commission that the plan is approved. Upon Commission approval the licensee shall implement the plan, **including any changes required by the Commission.**



CHAPTER 5 IMPLEMENTING THE SHORELINE MANAGEMENT PLAN

An SMP is a valuable tool for carrying out many aspects of the license in a comprehensive manner which otherwise may have been handled separately. The following sections describe how a carefully crafted SMP can be implemented in a way that streamlines various license responsibilities.

Using the Shoreline Management Plan to Guide Future Development

SMPs can be used in a number of ways, including helping to guide appropriate future development of project lands. Mea-



asures such as assigning shoreline use classifications and establishing development standards guide future development and set development parameters. With a strong SMP, licensees alone or with other interested stakeholders can develop comprehensive strategies for project shorelines. Potential future uses can be assigned to project areas where those uses would be encouraged. An example might be a cove at a project where the shoreline had been assigned a classification that recognizes its current undisturbed, natural state. If the licensee and stakeholders agree and existing data supports that the cove is not a good location for future development, such as a marina, it could be so indicated in the SMP. Such an indication would alert the development community that the licensee and interested stakeholders would not support future development at that location.

In addition, an SMP can be used to monitor cumulative or project-wide impacts that can result from the incremental impacts associated with individual shoreline facilities that occur over time. By closely monitoring shoreline conditions, a licensee can recognize potential cumulative effects and take appropriate management actions for future development at the project.



Using the Shoreline Management Plan to Carry Out the Intent of the Standard Land Use Article and Other License Requirements

A well-prepared SMP complements the standard land use article. The standard land use article allows licensees to grant permission for certain types of non-project uses without prior Commission approval. The standard land use article allows the licensee to exercise the authority provided to it by this article only if the proposed use of project lands and waters is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. The licensee also has a continuing responsibility under the article to supervise and control the use and occupancies for which it grants permission, and to ensure compliance with the permits and instruments of conveyance that it executed under the article.

While an SMP is typically more comprehensive than the standard land use article, the article can be considered a subpart or underlying component of the SMP. The SMP, in and of itself, does not supersede or change the standard land use article. Implementation of the SMP can help the licensee carry out the intent of the standard land use article and other license requirements in the following ways:

- Help the licensee, Commission, and stakeholders view individual shoreline development proposals from a project-wide or even regional perspective, rather than as independent actions.
- Provide data to track development trends.
- Allow for consistent review and approval of development proposals.
- Identify development proposals (requiring Commission approval) that are inconsistent with the SMP so that they can be modified or conditioned in their early stages to comply with the SMP or rejected before being sent to the Commission for approval. This results in the dismissal of inadequate proposals at the earliest stages.

Enforcement of the Shoreline Management Plan

The project license, particularly the standard land use article, directs licensees to oversee shoreline activities and take action to prevent unauthorized uses of project shorelines. Common infractions include the failure to maintain facilities, unauthorized additions to existing facilities, unauthorized development of new facilities, and unauthorized changes to project shorelines (such as removing vegetation). Examples of common enforcement tools used by licensees include revoking or suspending existing permits, denying future applications for permits, requiring construction deposits, requiring mitigation, removing problem contractors from the list of licensee-suggested contractors, issuing stop work orders (which can result in



unwanted construction delays), and increasing application fees. If necessary, the licensee may require modification or removal of non-conforming structures and restoration of the disturbed shoreline at the owner's expense. The licensee is ultimately responsible for ensuring that uses and activities of project lands and waters are consistent with the approved SMP and other applicable license conditions.

Shoreline Monitoring and Updating the Shoreline Management Plan

Shoreline management is an ongoing responsibility of licensees, and requires an investment of time and money by the licensee. Monitoring activities, such as keeping track of unauthorized shoreline development, may require motor boats, all-terrain vehicles, fine-scale aerial photography, etc. It is in the licensee's best interest to actively and diligently monitor the shoreline and all areas inside the project boundary for encroachments. Other shoreline management activities, such as tracking shoreline development trends, may require publically-available aerial photography, a Geographic Information System (GIS) database, and/or building permit data from local building departments. Although the licensee is ultimately responsible for monitoring, the licensee may consider sharing monitoring duties with other stakeholders to defray expenses and to keep the stakeholders that are participating in the review process involved.

SMPs are evolving documents that need to be flexible. The SMP should be reviewed on a regular basis to determine how effective it is in accomplishing the licensee's goals, and to respond to new or evolving situations or conditions. As conditions change, it may be necessary to make changes to the SMP. Stakeholders that are involved in helping to develop an SMP may very well want to stay involved in the review process. Stakeholder knowledge of the project and experience with the development of the SMP is often valuable. The licensee will likely want to include stakeholders in regular discussions involving the effectiveness of the SMP and possible changes to it. Establishing a formal review and advisory committee composed of stakeholders representing a variety of interests and resources may prove to be beneficial to licensees.

To determine if changes to the SMP are necessary over time, a monitoring and review process should be established. Some SMPs will be simple and will likely have little monitoring actions associated with them, whereas more complex SMPs may have significant monitoring requirements. What is monitored and how often it is monitored may depend in large part upon agreements that were made during the SMP development process between the licensee and stakeholders. The purpose of a monitoring program is to track specific shoreline management-related conditions and situations to determine the level of change that takes place over time. If a changing condition



(e.g., the number of docks in an area) crosses a pre-established threshold, licensee action (e.g., no more docks may be permitted in the area) may be required.

Examples of Data to Track in an SMP Monitoring Program

- Length of disturbed and undisturbed shoreline
- Number of new docks constructed or new permits approved
- Number of boats launched at specific ramps
- Number of permit violations or encroachments
- Changes in land uses adjacent to or near the project
- Unanticipated environmental effects or cumulative effects
- Perceptions of visitor and nearby landowner

An SMP, in whole or in part, should be reviewed periodically (typically every five or ten years). The frequency with which an SMP should be reviewed depends upon several factors, including the rate of change on project lands and adjacent lands as well as the level of stakeholder interest. An SMP for a project located in an area subject to heavy development pressure or high stakeholder interest will likely need to be reviewed and updated more often than an SMP for a project located in an area that is not experiencing rapid change or is not of particular concern to stakeholders.

In reviewing its SMP, the licensee should consult with appropriate agencies and other stakeholders regarding whether or not

the SMP needs to be updated, and then file with the Commission a report discussing its findings. Should an updated SMP be determined to be necessary, the licensee should file with the Commission by the due date a description and explanation of the proposed changes to the SMP, including the reasons for making such changes (e.g., because of land use changes in the surrounding area or the inadequacy of an existing SMP requirement or standard). The licensee should also prepare a complete revised SMP document that includes the proposed changes to facilitate review by the Commission and stakeholders and preserve the continuity of the plan.



CONCLUSION

An SMP can assist a licensee in meeting its responsibilities and obligations under the project license. It can be extremely valuable and useful for managing project resources and in addressing multiple demands for various stakeholders. The process of developing the goals and objectives for the SMP should result in the licensee thinking comprehensively about how it wants to manage its project's shorelines. Developing the SMP can bring to light many issues and concerns that stakeholders have and can result in new ways of addressing those concerns. It can

also help licensees when conflicting demands are placed on the project's resources. An effective SMP can help the licensee control and direct shoreline development in a way that meets project license obligations and purposes and generally addresses stakeholder interests.

Further information regarding shoreline management planning or other Commission-related matters may be found at the website (www.ferc.gov). Please see the <http://www.ferc.gov/industries/hydropower.asp> portion of the website. The eLibrary portion of the website can be used to search for Commission documents and filings for specific licensed projects.



APPENDIX A

KEY LICENSE CONDITIONS

Section 10 (a) (1) and 4(e) of the Federal Power Act

Section 10. (a) (1) That the project adopted, including the maps, plans, and specifications, shall be such as in the judgment of the Commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, for the adequate protection, mitigation, and enhancement of fish and wildlife (including related spawning grounds and habitat), and for other beneficial public uses, including irrigation, flood control, water supply, and recreational and other purposes referred to in section 4(e); and if necessary in order to secure such plan the Commission shall have authority to require the modification of any project and of the plans and specifications of the project works before approval.

Section 4. (e) To issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any State thereof, or to any State or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam, except as herein provided: Provided, that licenses shall be issued within any reservation only after a finding by the Commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as the Secretary of the department under whose supervision such reservation falls shall deem necessary for the adequate protection and utilization of such reservations: Provided further, that no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting the navigation have been approved by the Chief of Engineers and the Secretary of the Army. Whenever the contemplated improvement is, in the judgment of the Commission, desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, a finding to that effect shall be made by the Commission and shall become a part of the records of the Commission: Provided further, That in case the Commission shall find that any Government dam may be advantageously used by the United States for public purposes in addition to navigation, no license therefore shall be issued until two years after it shall have reported to Congress the facts and conditions relating thereto, except that this provision shall not apply to any Government dam constructed prior to June



10, 1920: And provided further, That upon the filing of any application for a license which has not been preceded by a preliminary permit under subsection (f) of this section, notice shall be given and published as required by the proviso of said subsection. In deciding whether to issue any license under this Part for any project, the Commission, in addition to the power and development purposes for which licenses are issued, shall give equal consideration to the purposes of energy conservation, the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of other aspects of environmental quality.

STANDARD ARTICLE 5

The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights or occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

STANDARD ARTICLE 18

So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting; Provided, that the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

STANDARD LAND USE ARTICLE

Article (a) In accordance with the provisions of this article, the Licensee shall have the authority to grant permission for certain types of use and



occupancy of project lands and waters and to convey certain interests in project lands and waters for certain other types of use and occupancy, without prior Commission approval. The Licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the Licensee shall also have continuing responsibility to supervise and control the use and occupancies for which it grants permission, and to monitor the use of, ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the Licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or, if a covenant of a conveyance made under the authority of this article is violated, the Licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, canceling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The type of use and occupancy of project lands and waters for which the Licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) noncommercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 watercraft at a time where said facility is intended to serve single-family type dwellings; (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline; (4) food plots and other wildlife enhancements. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the Licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The Licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the uses and occupancies for which it grants permission are maintained in good repair and comply with applicable state and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the Licensee shall: (1) inspect the site of the proposed construction; (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site; and (3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline. To implement this paragraph (b), the Licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the Licensee's costs of administering the permit program. The Commission reserves the right to require the Licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

(c) The Licensee may convey easements or rights-of-way across, or leases of, project lands for: (1) replacement, expansion, realignment, or maintenance of bridges or roads where all necessary state and Federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead,



or underground major telephone distribution cables or major electric distribution lines (69 kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir. No later than January 31 of each year, the Licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.

(d) The Licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary state and Federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary Federal and state water quality certificates or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary Federal and state approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile (measured over project waters) from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from the edge of the project reservoir at normal maximum surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 60 days before conveying any interest in project lands under this paragraph (d), the Licensee must submit a letter to the Director, Office of Energy Projects, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G map may be used), the nature of the proposed use, the identity of any Federal or state agency official consulted, and any Federal or state approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the Licensee to file an application for prior approval, the Licensee may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraphs (c) or (d) of this article:

(1) Before conveying the interest, the Licensee shall consult with Federal and state fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the Licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved report on recreational resources of an Exhibit E; or, if the project does not have an approved report on recreational resources, that the lands to be conveyed do not have recreational value.



(3) The instrument of conveyance must include the following covenants running with the land: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project; and (iii) the grantee shall not unduly restrict public access to project waters.

(4) The Commission reserves the right to require the Licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised Exhibit G drawings would be filed for approval for other purposes.

(g) The authority granted to the licensee under this article, shall not apply to any part of the public land and reservation of the United States included within the project boundaries.

18 CFR Section 2.7

The Commission will evaluate the recreational resources of all projects under Federal license or applications therefore and seek, within its authority, the ultimate development of these resources, consistent with the needs of the area to the extent that such development is not inconsistent with the primary purpose of the project. Reasonable expenditures by a licensee for public recreational development pursuant to an approved plan, including the purchase of land, will be included as part of the project cost. The Commission will not object to licensees and operators of recreational facilities within the boundaries of a project charging reasonable fees to users of such facilities in order to help defray the cost of constructing, operating, and maintaining such facilities. The Commission expects the licensee to assume the following responsibilities:

(a) To acquire in fee and include within the project boundary enough land to assure optimum development of the recreational resources afforded by the project. To the extent consistent with the other objectives of the license, such lands to be acquired in fee for recreational purposes



shall include the lands adjacent to the exterior margin of any project reservoir plus all other project lands specified in any approved recreational use plan for the project.

(b) To develop suitable public recreational facilities upon project lands and waters and to make provisions for adequate public access to such project facilities and waters and to include therein consideration of the needs of persons with disabilities in the design and construction of such project facilities and access.

(c) To encourage and cooperate with appropriate local, State, and Federal agencies and other interested entities in the determination of public recreation needs and to cooperate in the preparation of plans to meet these needs, including those for sport fishing and hunting.

(d) To encourage governmental agencies and private interests, such as operators of user-fee facilities, to assist in carrying out plans for recreation, including operation and adequate maintenance of recreational areas and facilities.

(e) To cooperate with local, State, and Federal Government agencies in planning, providing, operating, and maintaining facilities for recreational use of public lands administered by those agencies adjacent to the project area.

(f)(1) To comply with Federal, State and local regulations for health, sanitation, and public safety, and to cooperate with law enforcement authorities in the development of additional necessary regulations for such purposes. (2) To provide either by itself or through arrangement with others for facilities to process adequately sewage, litter, and other wastes from recreation facilities including wastes from watercraft, at recreation facilities maintained and operated by the licensee or its concessionaires.

(g) To ensure public access and recreational use of project lands and waters without regard to race, color, sex, religious creed or national origin.

(h) To inform the public of the opportunities for recreation at licensed projects, as well as of rules governing the accessibility and use of recreational facilities.



APPENDIX B

EXAMPLE LIST OF COMMISSION APPROVED SHORELINE MANAGEMENT PLANS*

Project Number	Licensee	Project Name	State	Megawatts	Commission SMP Approval Date
459	Ameren Missouri	Osage	MO	176.2	7/26/2011, 11/10/2011 (rehearing)
619	Pacific Gas & Electric	DeSabra-Centerville	CA	84.8	1/9/2009
1893	Public Service Co. of New Hampshire	Merrimack River	NH	29.9	8/16/2010
2000	New York Power Authority	St. Lawrence -FDR	NY	912	2/9/2005 (land use plan)
2030	Portland General Electric	Pelton Round Butte	OR	46.9	1/27/2009, 2/12/2009 (errata), 2/5/2011 (revision)
2042	Pend Oreille County PUD	Box Canyon	WA	72	7/3/2007
2197	Alcoa Power Generating Inc.	Yadkin	NC	216.4	11/9/2000
2206	Carolina Power and Light	Yadkin Pee Dee	NC	108.6	11/24/2004
2210	Appalachian Power	Smith Mountain	VA	636	7/5/2005
2232	Duke Energy	Catawba-Wateree	NC/ SC	732.6	10/15/2003
2452	Consumers	Hardy	MI	29.6	3/5/1997
2599	Consumers	Hodenpyl	MI	17	3/5/1997

* As of the publication date of this document, this is a partial list of Commission or delegated orders acting on proposed shoreline management plans for various licensed projects located throughout the United States. While every project is unique, these orders provide examples of a variety of approved shoreline management plans. Please view the Commission's website for other project-specific orders on proposed shoreline management plans.



APPENDIX C

LINKS TO OTHER USEFUL COMMISSION GUIDANCE DOCUMENTS*

- Shoreline Development Applications
 - <http://ferc.gov/industries/hydropower/gen-info/guidelines/smpbrochure.pdf>
- Managing Hydropower Project Exhibits - Drawings Guide
 - <http://ferc.gov/industries/hydropower/gen-info/guidelines/drawings-guide.pdf>
- Recreation Development at Licensed Hydropower Projects
 - <http://ferc.gov/industries/hydropower/gen-info/guidelines/recreat-dev-hydro-licen.pdf>

* Given that guidance documents are released or updated periodically, please view the Commission's website for the latest guidance documents.



APPENDIX D

EXAMPLE LIST OF COMMISSION AND DELEGATED ORDERS ON SHORELINE MANAGEMENT TOPICS*

Project Number	Licensee	Project Name	State	Mega-watts	Commission Order Date	Topic
1490	Brazos River Authority	Morris Sheppard	TX	22.5	5/15/1980	Introduced the standard land use article which gives licensees broader authority to authorize routine non-project uses without prior Commission approval.
1490	Brazos River Authority	Morris Sheppard	TX	22.5	6/25/2009	Denial of a licensee's request to remove lands from the project boundary that are reserved as a buffer strip, and to add nearby park lands into the project boundary.
1940	Wisconsin Public Service Co.	Tomahawk	WI	2.6	6/14/2011	Approval of a licensee's request to remove lands not needed in the project boundary and add lands needed in the project boundary (i.e., wetlands and lands within the 100-year floodplain).
459	Union Electric Co.	Osage	MO	242.6	11/10/2011	Order on rehearing of an SMP proceeding regarding the treatment of encroachments within the project boundary. Addresses issues such as property rights, lands to be included in the project boundary, definition of an encroachment, etc.
2210	Appalachian Power Co.	Smith Mountain	VA	636	11/10/2010	Denial of a licensee's request for a variance from the SMP to construct a dock in an area classified for environmental protection because the sensitive resources would not have been protected, the permittee illegally removed vegetation, and the dock would have been poorly sited.
2165 et. al	Alabama Power Co.	Warrior River, etc	AL	n/a	7/6/2011	Approval of a licensee's procedure for permitting small (i.e. <500 cubic yards) dredging activities without prior Commission approval.
1984	Wisconsin River Power Co.	Petenwell and Castle Rock	WI	35	4/29/2009	Denial of a licensee's request to convey fee title ownership to a private buyer for an existing marina because the subject lands were needed for project purposes (recreation, public access, and protection of shoreline resources)



Project Number	Licensee	Project Name	State	Mega-watts	Commission Order Date	Topic
199	South Carolina Public Service Authority	Santee-Cooper	SC	134.5	11/24/2010	Denial of a licensee's request to change the land use classification of lands within to project boundary from forestry management area to residential leases.
2525 et. al	Wisconsin Public Service Co.	Caldron Falls, etc	WI	n/a	9/15/2003	Order on rehearing which addresses a licensee's request to sell land to a state natural resource agency. Discusses project purposes, project boundary, and whether the subject lands are needed for project purposes.
2004	City of Holyoke Gas and Electric	Holyoke	MA	43	10/31/2008	Approval of a licensee's request to remove from the project boundary lands owned in fee by a private party because the lands were not needed for project purposes.
2232	Duke Energy Carolinas, LLC.	Catawba-Wateree	NC	732	4/11/2011	Approval of a licensee's request to authorize a non-project use of project lands and waters. This proceeding is representative of a typical process for authorizing a marina facility.
2459	West Penn Power Company	Lake Lynn	PA & WV	51	12/22/1997	Denial of a request for rehearing related to Commission approval of a recreation plan. Addresses the importance of public access for recreation versus the rights of private landowners.

* This is a partial list of orders acting on proceedings before the Commission that address specific shoreline management or development topics. While the cases in question are project-specific, these orders help to inform the reader of Commission or Commission staff's general view or policies regarding particular issues or topics. Every project is unique and thus the discussion/findings in these orders may not be applicable to every licensed project.





GUIDANCE FOR SHORELINE MANAGEMENT PLANNING AT HYDROPOWER PROJECTS

JULY 2012

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