

CONSTRUCTION AND USE PROCEDURES (SMP APPENDIX C)

**LAKE GASTON AND ROANOKE RAPIDS LAKE
CONSTRUCTION AND USE PROCEDURES (SMP APPENDIX C)**

1.0 GENERAL REQUIREMENTS

1.1 Purpose

Virginia Electric and Power Company and its successors, successors in interest or title and assigns (“the Company”), doing business as Dominion North Carolina Power, operates a hydroelectric project (“the Project”) pursuant to a license issued by the Federal Energy Regulatory Commission, using Lake Gaston and Roanoke Rapids Lake (“the Lakes”) and the surrounding shoreline. The Company owns the land up to the Project’s boundary, as provided by the federal license, along the shoreline of the Lakes (“the Company’s Property”). The Company has developed a Shoreline Management Plan (SMP) to maintain the Project, to allow public access and enjoyment of the Lakes, and to protect the environmental integrity of the Lakes.

These Construction and Use Procedures (“the Construction and Use Permitting Procedures,” “the Construction and Use Procedures” or “the Procedures”) have been developed by the Company, representatives from local, state, and federal governmental authorities, and representatives of the communities surrounding the Project. The objectives of the Procedures are to protect environmental resources around the Lakes and to permit use of the Company’s Property by the public. While these Procedures are designed to complement and incorporate the requirements of federal and state laws and regulations, they also incorporate the Company’s policies in reference to the Company’s Property. As such, these Procedures are administered in the sole discretion and authority of the Company.

In regulating the Company’s Property, the Company may, in its sole discretion and authority, issue a license (“a license”) or a Construction and Use License Agreement to an adjacent property owner (“the Applicant,” “the Permittee,” or “the Licensee”) permitting such Licensee to construct upon or use the Company’s Property, provided the Licensee enters into a Construction and Use License Agreement with the Company and complies with these Procedures.

1.2 Allowable Activities

The Procedures cover the following activities:

- ◆ **Construction and Use of Piers, Docks, Boatslips and Boathouses**
- ◆ **Construction and Use of Bulkheads and Riprap Placement**
- ◆ **Dredging and Stump Removal**
- ◆ **Vegetation Removal / Trimming and Landscaping**

- ◆ **Issuing New License for a Previously Licensed Activity (License Transfer)**

1.3 License Transfer

Anytime ownership of a previously licensed or unlicensed structure changes, the new owner is required to apply for a Construction and Use Agreement Transfer.

1.3.1 Required Information for Construction and Use Agreement Transfer

Proof of ownership, subdivision name and lot number, street address of structures to be transferred (if no address is available then driving directions to the site are required), drawing of existing improvements including square footage, owners contact information including address and telephone number.

1.4 Shoreline Management Classifications

The Lakes’ shorelines have been classified into either General Development Areas or Special Management Areas. General Development Areas are areas that were subdivided and platted as such by the surrounding five counties prior to May 31, 1998 or that have been subsequently identified by ecologists as being areas on which certain development activities are compatible with or will have little or no detrimental impact upon the environmental conditions thereon and habitat established thereon. Special Management Areas are shoreline areas that warrant special protection because of their importance for wildlife and fisheries habitat. Special Management Areas are subdivided into Limited Use, Sensitive and Undevelopable Areas, as indicated on the Special Management Area Map located at <https://www.dominionenergy.com/lakes-and-recreation/lake-gaston-and-roanoke-rapids-lake-nc/construction-use-and-procedures> or at Dominion’s Shoreline Management office located at 100 Oakwood Avenue, Roanoke Rapids, NC (see Glossary in Section 8.0 for definitions of each area classification).

The Company *may*, in its sole discretion and authority, issue a license to Applicants permitting them to construct upon or to use the Company’s Property within both General Development Areas and Special Management Areas. However, additional requirements apply to Special Management Areas. The additional requirements are noted in Sections 3.0 through 6.0 of these Procedures.

1.5 Prohibited Activities

Fences, walls, utility sheds, garages, swimming pools, sand beaches, (no sand from outside sources to maintain existing beaches), individual boat ramps, animal shelters, TV satellite dishes, septic tanks or fields, structures used for human habitation, and other non-permitted structures shall not be

**LAKE GASTON AND ROANOKE RAPIDS LAKE
CONSTRUCTION AND USE PROCEDURES (SMP APPENDIX C)**

allowed on the Company’s Property. No discharges from any source are allowed into the lake waters.

No vessel, boat, dock, platform, blind, buoy, decoy, water toy or other item may remain moored, anchored, or otherwise attached to Project lands for over 24 hours unless attached to a Dominion licensed structure.

Submersible pumps may not be placed in the Project lakes.

Vegetation removal and construction of walkways or boat docks are prohibited in Special Management Areas designated as sensitive areas.

1.6 Penalties for SMP Violations

The Company will, in its sole discretion and authority, pursue any remedies related to violations of the Shoreline Management Plan for the Lakes project areas.

Remedies may include the assessment of actual damages and all administrative costs associated with the infraction. Administrative costs will include, but are not limited to, staff time, attorney’s fees, expert witnesses, and consultants. Minimum administrative fees for violation of the provisions contained in the Shoreline Management Plan shall be \$1,000.00.

Damages related to the unauthorized removal of vegetation from Dominion property will be assessed based on the ornamental value or the timber value, whichever is greater.

Additionally, the Company may withhold license approval for structures on those lands where violations have occurred until such time as the Company is satisfied that all violation impacts have been mitigated.

Assessment of these penalties shall be at the Company’s sole discretion.

1.7 Location of Activity

To the extent feasible, any structure built by the Licensee upon the Company’s Property must be built on that part of the Company’s Property adjacent to the Licensee’s property and between the imaginary lines created by extending the side lot lines of the Licensee’s property into the water (“the Extended Side Lot Lines”). If the Extended Side Lot Lines do not provide the Licensee an adequate construction area The Company has the authority, in its sole discretion, to decide where the structure may be placed, and any such decision shall be final. No structures should be closer than 15 feet to another structure to allow proper navigation.

Notwithstanding any provisions in the Procedures or in any Construction and Use Agreement to the contrary, the use of the Extended Side Lot Line is for reference purposes only

and shall give no right or interest in the Company’s Property to the Licensee, the Licensee’s neighbors, or the respective successors, successors in title or assign of the Licensee or its neighbors. After the location of a structure has been approved or designated by the Company, a Licensee may remove (but not relocate) the structure it has constructed on such location, provided that the Licensee shall remove such structure and restore the Company’s Property in a matter and to a condition satisfactory to the Company, in its sole discretion. In no event, however, shall any neighbor of a Licensee, or the respective successors, successors in title or assigns of a Licensee’s neighbors have the right to require the relocation or removal of any such structure.

1.8 Allowable Period for Construction

All permitted construction shall be completed within one (1) year of the date the Construction and Use License Agreement is executed by the Company. If construction is not completed within the required time frame, the Company may determine the construction to be out of compliance and may remove or require the Licensee to remove any improvements from its lands at the Licensee’s expense.

Completion is defined as all components of a structure are complete including decking and roof, if applicable.

1.9 Cautions

For purposes herein the maximum normal water level (“MNWL”) is defined as 200 feet above mean sea level for Lake Gaston and 132 feet above mean sea level for Roanoke Rapids Lake.

The Applicant is cautioned that water levels in the Lakes can fluctuate within the following limits (elevations are in feet above mean sea level, measured at the dams):

Condition	Lake Gaston	Roanoke Rapids Lake
Normal Fluctuation	200.0 High 199.0 Low	132.0 High 127.0 Low
March 1- June 15	201.0 High 199.0 Low	132.0 High 127.0 Low
Abnormal Fluctuation	203.0 High 195.0 Low	132.75 High 127.0 Low
100-Year Flood Event	204 High	134 High

It is possible that structures may be damaged by high water levels or by wavewash from passing vessels. The issuance of a Construction and Use License Agreement does not relieve the Applicant from taking necessary steps to ensure the integrity of the structure and the safety of moored boats.

All structures, especially bulkheads, shall be constructed so as not to adversely affect the shoreline contours or slopes of lands owned by the Company or adjoining lot owners, nor cause excessive diversion of storm water run off onto

**LAKE GASTON AND ROANOKE RAPIDS LAKE
CONSTRUCTION AND USE PROCEDURES (SMP APPENDIX C)**

adjoining lots. The Company shall make the final judgment as to the configuration, length, height, and location of these structures based on circumstances particular to that location. Top of bulkhead shall not exceed height contour of land behind bulkhead.

1.10 Grandfathered Structures and Landscaping and Nonconforming Structures

It is the intent of these Procedures to regulate and preserve the recreational and natural environmental attributes of the Lakes by allowing Grandfathered Structures and Landscaping and certain Nonconforming Structures, as herein defined, to remain upon the Company’s Property subject to these Procedures.

1.10.1 Grandfathered Structures

A “Grandfathered Structure” is a pier, dock, boatslip, boathouse, bulkhead, or riprap that (i) was built upon the Company’s Property according to the terms of a license (i.e., Construction and Use Agreement or Construction and Use License Agreement) issued by the Company and (ii) remains or will remain on the Company’s Property in its current location according to a license issued to the structure’s current owner. Subject to the terms of the license, a Grandfathered Structure may remain upon the Company’s Property for its useful life so long as the structure remains in compliance with the size requirements and other building specifications set forth in the construction procedures in effect at the time the structure was built.

1.10.2 Grandfathered Landscaping

“Grandfathered Landscaping” includes any landscaping conducted on the Company’s Property with the Company’s permission under previous Company regulations. An adjacent property owner may maintain the Company’s Property in a manner consistent with the Grandfathered Landscaping as long as no trees or limbs are cut. Tree or limb cutting requires a Construction and Use License Agreement.

1.10.3 Nonconforming Structures

A “Nonconforming Structure” is a pier, dock, boatslip, boathouse, bulkhead or riprap that was built upon the Company’s Property (i) without a license issued by the Company, (ii) is not in compliance with the Company’s current size requirements or other building specifications, (iii) does not, in the Company’s sole discretion, threaten the recreational and environmental attributes of the Lakes, and (iv) remains or will remain upon the Company’s Property in its current location pursuant to a Construction and Use License Agreement issued to the structure’s current owner. The Company retains the sole right to determine whether any structure is a Nonconforming Structure.

A Licensee of a Nonconforming Structure shall not increase its size or magnitude, nor shall the Licensee move the Nonconforming Structure from one location to another. All Nonconforming Structures may remain on the Company’s Property according to the terms of the Construction and Use License Agreement and these Procedures, with the exception of current size requirements and other building specifications.

1.10.4 Repairs of Grandfathered Structures and Nonconforming Structures

A Licensee must maintain, and make ordinary repairs to, all Grandfathered Structures and Nonconforming Structures to prevent dilapidation, unsafe conditions, or unsightliness on the Company’s Property. When major repairs become necessary, the Licensee must repair the structure according to the requirements of these Procedures, including size requirements and other building restrictions. A “major repair” is a repair of any Grandfathered Structure or Nonconforming Structure, whether occasioned by dilapidation, casualty, damage, or otherwise, requiring the Licensee to replace more than fifty percent (50%) of the structure, as determined by the Company. If major repairs are required to a bulkhead, the Licensee shall, in addition to the repair of the bulkhead, place riprap along the repaired portion of the bulkhead according to the Procedures.

Regardless of whether the repair is a “major repair” or is part of the ordinary maintenance and repair, the Licensee shall not replace any structure, or part of any structure, with materials prohibited by these Procedures. The Licensee shall contact the Company for guidance prior to making major repairs to any Nonconforming Structure or Grandfathered Structure.

Any changes / repairs / modifications to an existing structure that effect an existing identification tag, the tag shall be replaced after the repair is complete.

1.11 Disputes, Enforcement and Assumption of Risk

1.11.1 Enforcement

The Procedures are enforceable only by the Company, and no Applicant, Permittee, Licensee or other person or entity shall have any standing, right or authority to enforce or to require the Company to enforce any of the Procedures.

1.11.2 Disputes

Notwithstanding any provisions in the Procedures or in any license or Construction and Use License Agreement to the contrary, unless the Company, in its sole discretion and authority, elects to do so, the Company will not become involved in or agree to be a party to any disputes or

**LAKE GASTON AND ROANOKE RAPIDS LAKE
CONSTRUCTION AND USE PROCEDURES (SMP APPENDIX C)**

agreements between or among any property owners, Licensees, Applicants, Permittees, associations, groups or organizations of property owners or communities or otherwise or any entities or committees of any such associations, groups or organizations or any other persons or entities whatsoever and no Licensee, Applicant or Permittee shall make the Company a party to any dispute or legal proceeding.

2.0 APPLICATION PROCEDURES

2.1 Required Permits and Licensees

Before construction of new or modification to existing recreational facilities and for removal or trimming of any vegetation on the Company’s Property, the Applicant is required to apply for and receive an approved Construction and Use License Agreement from the Company. The approval process may take up to 45 days. In addition, permits from some or all of the following agencies may be required:

2.1.1 U.S. Army Corps of Engineers (“USACE”). If the construction or modification exceeds the USACE general permit, the Company will advise. If the construction or modification falls within the USACE general permit, the Company will forward the Applicant’s proposed construction plans to the USACE before the Company issues a Construction and Use License Agreement for the construction or modification of recreational facilities. No Construction and Use License Agreement will be issued if the plans are rejected by the USACE.

2.1.2 Local County (i.e., building permit). Subsequent to the Company approvals, the Applicant shall obtain the necessary approvals from local county officials and/or property owner associations.

2.1.3 Other agencies that require permits particular to that location or situation.

2.2 Permitting, Inspection and Approval

The following describes the process that is used to issue and approve a Construction and Use License Agreement for the construction or modification of recreational facilities and for removal of any vegetation. If the Applicant has previously obtained a Construction and Use License Agreement or is familiar and comfortable with the procedure, the Applicant may eliminate Step 2. First-time Applicants should participate in all Steps.

2.2.1 Step 1 - Obtaining Application Package

Applicants may contact the Company by telephone, mail, fax, or in person to request a Construction and Use License Agreement package to construct new or modify existing

recreational facilities, to remove vegetation, or to transfer a Construction and Use Agreement to a new property owner. The Company may be reached at:

Dominion Energy North Carolina
100 Oakwood Avenue
Roanoke Rapids, NC 27870
Telephone: 252-535-6161
Fax: 252-535-6164

After receiving and reviewing the Construction and Use License Agreement package, the Applicant may schedule a pre-application meeting with the Company’s representative by calling 252-535-6161 Monday through Friday.

2.2.2 Step 2 - Pre-Application Meeting

At the pre-application meeting, the Company reviews the Construction and Use License Agreement application to ensure consistency with the Company’s policies and to help the Applicant understand what is required to obtain a Construction and Use License Agreement. The Company gives the Applicant a list of contractors that do work around the Lakes and have agreed to abide by the Company’s regulations. The Company will also inform the Applicant of permits from other agencies that will likely be required. It is the Applicant’s responsibility to ensure that the Applicant’s proposal meets all agency permit requirements and subdivision covenants. The Applicant shall be required to affirm that he/she understands the requirements as set forth herein, regardless of whether the Applicant declined the pre-application meeting.

2.2.3 Step 3 - Submitting the Application

The Applicant submits by mail or in person the completed Construction and Use License Agreement to the Company. The completed Construction and Use License Agreement is also required for transfer of a license to a new owner. In addition, the Applicant submits the appropriate fee. This application must include:

2.2.3.1 The original completed and signed Construction and Use License Agreement and two (2) copies.

2.2.3.2 Three (3) copies of the construction plans and drawings for the proposed facilities. Drawings shall not exceed 8 1/2”x14” in size (use multiple sheets if needed) and shall be drawn to scale. The drawing(s) shall show the size (including the footprint area in square feet) and dimensions of all proposed construction or modification (including the access footpath) and the location in relation to the Applicant’s property line, Extended Side Lot Lines, a north arrow, and the MNWL contour line. The distance the proposed structure will extend into the water from the MNWL contour line shall be shown on the drawing(s). The 6-foot access path must also be shown. If the lot is in a cove,

**LAKE GASTON AND ROANOKE RAPIDS LAKE
CONSTRUCTION AND USE PROCEDURES (SMP APPENDIX C)**

a drawing must show the distance across the cove at the proposed construction location. The plans will also include the name of the lot owner, telephone number, lot number, subdivision, street name, county, state, and names of the adjacent lot owners. Directions to property must also be included.

2.2.3.3 Three (3) copies of a replanting plan (including drawings) for replanting shoreline vegetation destroyed or damaged by construction activities, replanting vegetation due to clearing for lake access, and replanting vegetation due to clearing of underbrush. See Section 6.0 entitled “Specifications for Vegetation Removal / Trimming and Landscaping” and Section 7.0 entitled “Replanting Specifications” in these Procedures for information on what is required in a replanting plan.

2.2.3.4 The application fee, personal check, certified check, or money order, made payable to Dominion North Carolina Power.

2.2.4 Step 4 - Processing the Application for a Construction and Use License Agreement

After receiving the Construction and Use License Agreement application, the Company begins its review process. The Company reviews and approves the configuration and location of all structures before sending out permit applications to the USACE and environmental resource agencies, if required. If the Company does not approve the configuration and location of the proposed activity and the application is denied, the Company will contact the Applicant by mail stating the reason for the denial. The Applicant may then schedule a meeting with the Company to show how he/she proposes to comply.

Once the Company tentatively approves the application (subject to final inspection), the Company then forwards the application to the pertinent agencies. The Company will facilitate the USACE permitting process if the proposed construction falls within the scope of the USACE’s general permit. The following steps describe the process for obtaining a Construction and Use License Agreement:

2.2.4.1. The Applicant submits the completed application package to the Company.

2.2.4.2. The Applicant must mark all property lines with high visibility surveyor’s tape and permanently mark with metal rods the property line between the Company’s Property and the Applicant’s property. The lot number must be clearly posted at both the roadside and water’s edge.

2.2.4.3. After the application is received, it is assigned an identification/tracking number.

2.2.4.4. The Company reviews application and pre-inspects lot and proposed structure location(s) for approval.

2.2.4.5. Two copies of the application are sent to the USACE with an approved Construction and Use License Agreement if required. The Applicant is responsible for all filing fees associated with the USACE permit, if required.

2.2.4.6. The Applicant submits additional information if required and/or corrects if necessary.

2.2.4.7. USACE issues its permit and sends an approved Construction and Use License Agreement directly to the Applicant if required. The Company will also notify the local jurisdiction in the city or county the permitted activities will occur. The Applicant is responsible for obtaining all local city or county construction permits prior to beginning any construction or modification activities. The Applicant is also required to post within 20 feet of the construction, in plain and clear view, any and all permits required for the proposed activities including vegetation trimming until all activities are completed and inspected including a copy of the Construction and Use License Agreement for existing structures when doing repairs.

2.2.5 Step 5 - Inspection and Approval

Within ten (10) days of completion of the construction activity, the Applicant shall return the Completion of Activity Form to the Company. The Company will conduct a site visit to verify compliance with the terms and conditions of the Construction and Use License Agreement and these Procedures. If the Company finds that the Applicant has not complied, it may require modifications to bring the structures into compliance. Additional inspections may be necessary, and the Applicant shall be charged accordingly.

After final inspection by the Company, the Company will permanently post an identification tag on the completed permitted structure. The identification tag will aid the Company in inspecting and maintaining an inventory of licensed structures.

When replacing old structures or making repairs, the metal ID tag that is on the existing structure shall be removed from the old structure and placed on the new structure or portion thereof. Failure to replace the tag may result in assessment of additional fees.

If the ID number has faded and is no longer legible, contact Dominion at (252) 535-6161, extension 3 and request a new tag. The tag will be sent via USPS.

**LAKE GASTON AND ROANOKE RAPIDS LAKE
CONSTRUCTION AND USE PROCEDURES (SMP APPENDIX C)**

3.0 SPECIFICATIONS FOR CONSTRUCTION AND USE OF PIERS, DOCKS, BOATSLIPS AND BOATHOUSES

3.1 Specifications

Piers, docks, boatslips and boathouses shall be constructed, located, and maintained according to the following specifications.

3.1.1 Each waterfront parcel or residential lot shall be limited to the construction of only one (1) pier, dock, boatslip and/or boathouse combination structure.

3.1.2 Structures shall not extend further into the water than necessary for ingress/egress of motorized crafts, up to a maximum of ¼ the width of a cove or creek at MNWL. It is the Applicant's or his/her contractor's responsibility to measure the distance across a cove or creek and show on the drawings. Structures shall not interfere with navigation, ingress, or egress by the boating public, or to the adjoining properties, or in any manner present a safety hazard. There must be a 3-to-5-foot offset from the edge of the water. Only 6 feet of the structure should touch land.

3.1.3 Only one walkway leaving the shore shall be permitted per structure. The walkway shall not exceed 6 feet in width, nor be less than 4 feet in width.

3.1.4 Four (4) two-inch minimum diameter white reflectors shall be affixed to each pier or dock. A reflector shall be placed at each of the two end corners of the dock farthest from the shoreline, and a reflector shall be placed along each side of the dock, within one foot from each end corner of the dock.

3.1.5 The Company recommends that handrails be installed on walkway sections of pier structures for safety reasons.

3.1.6 The footprint of an Applicant's structures and boatslip areas (excluding the access pier) shall not exceed 1,250 square feet. The Company reserves the right to limit the size, configuration, or location of any and all structures or not allow construction on the Company's Property. Stairs to upper decks are included in the total square footage if the stairs extend over water outside the upper or lower deck.

3.1.7 The maximum height of any and all structures shall not exceed 16 feet above MNWL elevation 200 for Lake Gaston and elevation 132 for Roanoke Rapids Lake.

3.1.8 Boatslips and boathouses shall not be constructed over native vegetated wetlands or water willow beds. Walkways and stick piers may extend over native vegetated wetlands. Such walkways or piers must extend beyond the outer edge of waterwillow and vegetated wetlands. They shall be elevated sufficiently, a minimum of 4 feet, to prevent total

shading of vegetation, substrate, or other elements of the aquatic environment. Boatslips or beaching of boats are not allowed in vegetation beds.

3.1.9 Decking for piers, docks, decks, boatslips and boathouses shall accommodate loads not less than 50 pounds per square foot.

3.1.10 Wood shall be pressure-treated except in areas of boathouses or boat shelters protected from the weather. Metal or pre-cast concrete pilings are acceptable. Creosote timber shall not be used.

3.1.11 Metal pilings or beams shall be supported by material section thickness of at least 3/16 inch.

3.1.12 Enclosed storage areas may be permitted on docks but shall not exceed 100 square feet in size and shall be located no further than 10 feet from the back of the structure as measured from the landward side. The storage area may be enclosed with siding or screening or a combination of both. However, structures, whether located on the Company's Property or over water, shall not be used for human habitation and shall not be equipped with household fixtures such as sinks, showers, flush toilets, etc. The bulk storage of petroleum and chemical products is not permitted on these structures or the Company's Property, nor are sanitary sewer lines or drain fields allowed. Gas cans up to a total of 6 gallons are allowed.

a. An enclosure is any structure that obstructs visibility from the lake through the structure from 202 to 208 msl.

3.1.13 Except for storage areas described in Section 3.1.12, docks and boathouses shall not be enclosed except that sides may extend a maximum of 3 feet down from the top to protect boats from rain and sun.

3.1.14 All floating piers, docks, etc. shall have their flotation units constructed of material and in such a manner that they will not become waterlogged or sink when punctured or exposed to the water for an extended time.

3.1.15 All installation of electrical devices must meet or exceed minimum National Electrical Code Standards for Wet Location, Marinas and Boatyards and the following additional requirements:

3.1.15.1 All wiring must be underground and follow access path;

3.1.15.2 Service poles must have a minimum size of 6 inches square or 6-inch diameter, 12 feet high, anchored 3 feet in the ground, and must be pressure-treated wood;

3.1.15.3 Receptacle height is a minimum of 3 feet above the deck;

**LAKE GASTON AND ROANOKE RAPIDS LAKE
CONSTRUCTION AND USE PROCEDURES (SMP APPENDIX C)**

3.1.15.4 All receptacles must be ground fault protected;

3.1.15.5 Lighting must be on pressure-treated wooden poles and be at least 12 feet above ground when on land, and at least 8 feet above a dock structure;

3.1.15.6 All fixtures and lights must be approved for wet locations and shall not be mounted to extend beyond the outer perimeter of the boat dock; and g) all lighting must be aimed downward.

3.2 Community Docks

The Company encourages the construction of community docks, rather than individual docks for Limited Use Management Areas. The Company may approve community docks in Special Management Areas on a case-by-case basis, but the number of boatslips cannot exceed the number of waterfront lots which would use the community docks.

Non-waterfront lots. In General Development Areas, a developer will dedicate a waterfront lot adjacent to the Company’s Property for lake access by non-waterfront property owners. Such an adjacent property would be entitled to a boat ramp and finger pier or a boat ramp and boat dock. The boat dock must not exceed the 1,250 square-foot size restriction for an individual boat dock specified above. The boat dock must also conform with the Specifications for Construction and Use of Piers, Docks, Boatslips and Boathouses in Section 3.0, Vegetation Clearing for Lake Access set forth in Section 6.0, and Replanting Specifications set forth in Section 7.0. On-site parking may be provided on the adjacent property as long as there is an approved erosion and sediment control plan.

3.3 Commercial Docks and Marinas

Licensing of commercial docks and marinas will be handled on a case-by-case basis. In general, licensing of commercial facilities will be done in a manner consistent with these Construction and Use Procedures. Community docks are not considered commercial development for purposes of these Construction and Use Procedures unless the total number is greater than 10.

4.0 SPECIFICATIONS FOR CONSTRUCTION AND USE OF BULKHEADS AND RIPRAP PLACEMENT

Bulkheads have a negative effect on fisheries; therefore, new bulkheads are not allowed. Riprap placements are preferable to bulkheads. Rip rap is required waterward of any new bulkheads. The Company, in order to prevent, control, or minimize shoreline erosion may allow riprap under some conditions, after review. Applicants are encouraged to use less disruptive shoreline erosion control measures to protect shorelines. The Company can advise Applicants on other

techniques that can be used to protect shoreline. riprap shall be constructed, located, and maintained according to the following specifications.

4.1 Bulkheading shall only be allowed in areas classified by the Company, in its sole discretion and authority, as severely eroding (scarp greater than 2 feet). Bulkheading will be permitted only when it is not practical to utilize natural means (e.g., vegetation or riprap) to control erosion.

4.2 Riprap alignments shall not extend farther than an average distance of 2 feet waterward and a maximum distance of 5 feet from the MNWL contour and shall not extend more than necessary to control erosion along the shoreline. If more than 500 feet of bulkheading or riprap is proposed, an USACE individual permit will be required in addition to the Construction and Use License Agreement. Riprap shall be placed at the base of all bulkheads, for the purpose of providing aquatic habitat, and shall extend a maximum of three (3) feet waterward of the bulkhead at a slope no steeper than 2:1.

4.3 The clearing and trimming of vegetation on Company Property is not allowed unless approved by the Company prior to removal. When removal of vegetation is necessary to gain access to the shoreline to install riprap, the applicant is required to submit a plan that clearly delineates vegetation that will be removed. The Applicant is also required to submit a replanting plan which describes what shall be replanted and location of the new vegetation. Both removal and replanting shall be consistent with Section 6.0 of these procedures entitled “Specifications for Vegetation Removal / Trimming and Landscaping”. Access across the Company’s Property may be gained to the shoreline by clearing up to a 12-foot-wide construction path, along with a revegetation plan to replant 6 feet of the construction path. All trees, shrubs, and ground cover that are requested to be removed, must be marked with surveyor’s ribbon prior to initial inspection by the Company’s representative. All revegetation activities must be complete prior to the Company’s final inspection.

4.4 Bulkheads must be a solid structure constructed of pressure treated wood (creosote timber shall not be used), formed or fabricated sheeting or slabs, or similar materials designed for this application. Structures made of tires, rubble, petroleum-based products, scrap machinery, tree trunks, limbs, cinder blocks, or similar materials are not considered bulkheads and are not allowed on the Company’s Property.

4.5 Bulkheads must be structurally tight and driven into the lakebed a depth sufficient to prevent premature undercutting of the structure. Filter cloth shall be placed at the back of bulkheads to prevent seepage of backfill material through the bulkhead. All nuts, bolts, nails, cables, straps, etc. used to secure and support bulkheads shall be

**LAKE GASTON AND ROANOKE RAPIDS LAKE
CONSTRUCTION AND USE PROCEDURES (SMP APPENDIX C)**

galvanized or similarly plated to prevent premature corrosion.

4.6 Not more than an average of one cubic yard of fill material per running foot of shoreline shall be placed into the Lakes. Not more than an average of one cubic yard of fill material per running foot of shoreline shall be placed as backfill for riprap.

4.7 All bulkhead and riprap fill material must be obtained from an upland source and confined landward of bulkheads.

4.8 All fill material, including riprap material, discharged into the Lakes must be free from pollutants in toxic amounts. The use of metal products, organic materials, petroleum-based materials or unsightly debris is prohibited.

4.9 Riprap material must consist of clean rock designed for this application, and of sufficient size and shape to withstand wave action unique to that location. Materials such as tires, rubble, petroleum-based products, scrap machinery, tree trunks, limbs, or similar materials are not considered riprap and are not allowed on the Company's Property or in the Lakes.

4.10 Riprap is required to meet the following specifications: a) 5-to-15-inch diameter size riprap shall be used; b) the slope of the riprap shall be no steeper than 2:1; c) the minimum thickness of the riprap layer shall be 2 times the average stone diameter; and d) the riprap shall extend down into the lake at least 1 vertical foot and at least 2 feet (along the slope) below water elevation 199 feet mean sea level for Lake Gaston and 129 feet mean sea level for Roanoke Rapids Lake.

4.11 When riprapping, a filter cloth shall be placed under the riprap and between the riprap and backfill material to prevent seepage of backfill material into the Lakes and premature undercutting of the riprap.

4.12 Excavation activity must not occur during the months of March, April, May, and June because of potential impact to fish spawning areas.

4.13 No excavation is permitted except for that specifically required for installation of a bulkhead wall, riprap, deadmen and connecting cables, and to contain sloughing on steep bank areas. The containment of sloughing areas may be allowed to prevent the collapse of bank areas and may be permitted by the Company on a case-by-case basis.

4.14 All excavated material shall be placed landward of the MNWL contour on high ground and confined by adequate dikes or other retaining structures to prevent erosion and sedimentation into adjacent waters or wetlands.

4.15 Excavation within vegetated wetlands is not permitted.

4.16 If a bulkhead is damaged or otherwise is in danger of collapse or failure (e.g., a bulkhead is leaning because of failing ties), and if immediate repair thereof would benefit water quality by preventing erosion, the Company may allow repairs during March, April, May, or June if in the Company's opinion such repairs should not be delayed until July or later. Such permission shall require protection through sediment and erosion control means. All work must be conducted from the landward side of the bulkhead (i.e., "in-water" work is prohibited).

4.17 Any bulkhead repair requires the installation of rip rap in front of the bulkhead

5.0 SPECIFICATIONS FOR DREDGING AND STUMP REMOVAL

Dredging has a negative impact on aquatic resources, and therefore, is discouraged. The Company may approve dredging under certain conditions after review. Dredging activities that propose to remove more than 4,350 sq feet of material shall require additional environmental review by the USACE. Approved dredging activities shall be conducted according to the following specifications.

5.1 All dredging activities including stump removal require an approved Construction and Use License Agreement from the Company.

5.2 Dredging shall not be conducted in Sensitive Areas. This includes removal of stumps for purposes of installing bulkheading, riprap, or docks. Limited dredging and stump removal may be allowed in Limited Use Areas.

5.3 Dredging shall be conducted only to the extent necessary for the ingress/egress of motorboats to the Applicant's boathouse or pier.

5.4 All dredging shall be conducted between offsets of 15 feet from the Extended Side Lot Lines. By obtaining written consent from an adjoining property owner, dredging may be conducted up to the Extended Side Lot Line.

5.5 Dredging activities shall not adversely affect the shoreline contours or slopes of the Company's Property.

5.6 Dredging shall not be allowed below the following elevations:

Lake Gaston	195.0 feet
Roanoke Rapids Lake	123.0 feet

In the proximity of the shoreline and existing or proposed structures there may be further limitations on the depth and slope of proposed dredging. The Company shall make the final determination based on the circumstances particular to that location.

**LAKE GASTON AND ROANOKE RAPIDS LAKE
CONSTRUCTION AND USE PROCEDURES (SMP APPENDIX C)**

5.7 All dredged excavation lines shall not have a slope steeper than 1:1.

5.8 Maintenance dredging to previously authorized structures shall be restricted to those areas necessary for ingress/egress and all dredged material shall be disposed of at an upland site off the Company's Property, and proper siltation erosion controls shall be used to prevent sedimentation to any surface waters, wetlands, or the Company's Property.

5.9 Dredging shall not occur during the months of March, April, May, and June because of potential impact to fish spawning areas.

5.10 Dredging shall be limited to channelward of the normal pool elevation. Dredge depths shall not exceed those (depths) of receiving waters channelward of the work and shall be accomplished in a manner that, if the Lakes were drained, water would not be trapped within the dredged area.

5.11 All excavated material shall be contained by an approved erosion and sedimentation control method, shall not be stored on the Company's Property, and shall be placed on high ground and confined by adequate dikes or other retaining structures to prevent erosion and sedimentation into adjacent waters or wetlands. The application shall include a map to spoil storage area.

5.12 Excavation within vegetated wetlands is not authorized.

5.13 The temporary placement or double handling of excavated or fill material waterward of the normal pool elevation is not authorized.

5.14 For construction access a replanting plan is required that meets the standards set forth in Section 6.0 entitled "Specifications for Vegetation Removal/Trimming and Landscaping" and Section 7.0 entitled "Replanting Specifications."

6.0 SPECIFICATIONS FOR VEGETATION REMOVAL / TRIMMING AND LANDSCAPING

Any vegetation proposed to be removed or trimmed shall conform to the following specifications. These specifications have been developed to preserve the natural beauty of the Lakes, and to minimize environmental impacts including water quality degradation, soil erosion, siltation of the Lakes, and loss of wildlife and fisheries habitat. There are three types of activities covered by these Vegetation Removal/Trimming and Landscaping specifications: 1) Vegetation Clearing for Lake Access; 2) Vegetation Management for Aesthetic Purposes; and 3) Clearing of Underbrush. The Applicant must submit three copies of a drawing indicating the Applicant's clearing plan.

6.1 Vegetation Clearing for Lake Access

One of the purposes of the Specifications for Vegetation Removal / Trimming and Landscaping is to protect shoreline vegetation while allowing the clearing of a footpath across the Company's Property by the Applicant to provide access to the shores of the Lakes. These specifications cover both temporary access for the construction of piers, docks, boatslips and boathouses; bulkheads and riprap; and permanent pedestrian access for the Applicant.

The following specifications for Vegetative Clearing for Lake Access apply.

6.1.1 In Sensitive Special Management Areas, no additional clearing of the Company's Property for access shall be permitted on lots that currently have a minimum 6-foot-wide cleared footpath from the Applicant's property across the Company's Property to the Lakes. On lots that have had no vegetation cleared prior to February 1,1998 on the Company's Property, no cleared footpath to the shoreline may be permitted. Within Limited Use Areas, a six-foot wide footpath is permissible. The footpath shall include a meander, if possible. The footpath should avoid wetlands and other sensitive habitats.

6.1.2 For construction activities within General Development Areas, a 12-foot-wide construction access opening may be allowed if necessary and approved by a Company representative. Applicants are encouraged to locate their permanent 6-foot-wide cleared footpath within the construction access opening. The Applicant is required to replant the 6 feet of cleared area beyond the 6-foot-wide permanent footpath. Applicants may choose to replant the entire 12-foot-wide construction access opening. A replanting plan is required to be submitted and conform to Section 7.0 of these procedures entitled "Replanting Specifications." For Sensitive Areas, no vegetation removal shall be permitted.

6.1.3 The 6-foot-wide footpaths that are permitted to be established on the Company's Property shall be located so that they avoid, when possible, removing trees that are greater than 6 inches in diameter (at 5 feet above the base). For each tree greater than 6 inches in diameter (at 5 feet above the base), which is proposed (and permitted by the Company) to be removed to create the footpath, three 15 gallon (or approved balled and burlapped) trees from the approved Company planting list shall be planted within the Company's Property (or near it on the Applicant's property if space is limited on the Company's Property) to replace each removed tree.

6.1.4 In a general development area the 6-foot-wide walkway may be composed of porous materials such as wood, gravel, paving stones, concrete pavers. Paving stones and concrete pavers shall be placed in a manner to allow

**LAKE GASTON AND ROANOKE RAPIDS LAKE
CONSTRUCTION AND USE PROCEDURES (SMP APPENDIX C)**

water to run off and be absorbed into the ground. Wood walkways may be permitted and will be approved on a case-by-case basis. Wooden walkways, if approved, (a) must be at least two (2) feet above ground elevation (a) constructed so that no more than a 6-foot-wide area is cleared to allow for construction (b) post-construction requires re-establishment of a permeable, stabilizing ground cover under the walkway (i.e., pine straw) and (c) once the walkway is completed the only trimming allowed around the walkway is to keep vegetation off of the walkway, poured concrete paths are not permitted.

6.2 Vegetation Management for Aesthetic Purposes

The following specifications for the removal or trimming of vegetation and landscaping apply to protect shoreline vegetation. Any clearing permitted by the Procedures is subject to a requirement that density of trees and/or canopy cover comparable to that existing prior to clearing must be maintained.

6.2.1 In Sensitive areas, no vegetation shall be trimmed or removed for aesthetic purposes.

6.2.2 For Limited Use Areas, (if approved by a Company representative), trimming may be allowed within a 100-foot-wide zone on Company Property where the depth of Company Property is less than 150 feet. No trimming shall be allowed within 6 feet from MNWL. No shrub or tree removal shall be allowed for aesthetic purposes in Limited Use Areas

6.2.3 In General Development Areas, an area of between 2½ feet and 20 feet above the ground may be partially cleared of vegetation, including tree limbs (“the Cleared Area”). The purpose is to maintain ground cover and low growing shrubs (for erosion control and wildlife habitat) and tree canopy.

6.2.4 In a general development area, if pre-approved by the company some undesirable underbrush such as briars and poison ivy may be removed. Only with specific pre-approval will the company allow removal of mast producing vegetation above 1’ in diameter measured 2 feet above the ground. (Mast producing vegetation is vegetation that produces acorns and nuts used by wildlife for food.)

6.2.5 Any vegetation to be removed within the Cleared Area shall be flagged with high visibility surveyors/engineers tape. Prior to removal of any flagged vegetation the Company will inspect and photograph the site to assure only the approved vegetation was removed when Company conducts its final inspection.

6.2.6 In General Development and Limited Use Areas, when partially clearing or maintaining the Cleared Area, chain saws, bushes, and brush saws may be used. No disturbance of the natural leaf bed, burning of debris or herbicide

treatment shall be allowed on the Company’s Property. Any use of equipment, other than hand-held tools, must be approved by a Company representative

6.2.7 In all areas, no trees may be removed from the Company’s Property without the consent of the Company. The removal of trees is generally approved only in cases where the trees are dead, damaged, or diseased or present a safety or property hazard.

6.3 Use of Heavy Equipment

Use of heavy equipment on company property is strongly discouraged. Use of heavy equipment will be considered when safety is at issue and will not be considered when in a Sensitive or Limited Use area.

6.3.1 Any use of heavy equipment on company property must be approved by a Company representative.

6.3.2 Use of any heavy equipment on Company property shall gain access to the shoreline area where work is to be performed by a single access point. This access point shall be within the 12-foot-wide construction access opening. All guidelines set out in Section 6.0 *Vegetation Clearing for Lake Access* and Section 7.0 *Replanting Specifications* must be followed.

6.3.3 If approved by a Company representative, matting must be placed anywhere track equipment will be used. Matting may be required where other types of heavy equipment are used.

6.4.4 When heavy equipment use is requested, the applicant shall supply an additional drawing that clearly delineates the areas where the matting will be placed and the heavy equipment used.

6.5 Clearing of Underbrush

The purpose of this category is to assure that the clearing of “undesirable” underbrush or understory plants (such as poison ivy and briars) on the Company’s Property by Applicants is compatible with the shoreline management responsibility established by the Company for the Lakes. The Company has a responsibility to protect water quality, wildlife and fisheries resources and the habitats they require.

The following specifications apply to the clearing of underbrush in General Development Areas. No underbrush shall be cleared in Special Management Areas.

6.5.1 The clearing of any underbrush vegetation must be approved by the Company prior to removal.

**LAKE GASTON AND ROANOKE RAPIDS LAKE
CONSTRUCTION AND USE PROCEDURES (SMP APPENDIX C)**

6.5.2 Plants that are removed (except in the Cleared Area described above) must be replaced by replanting plants from the Company’s approved plant list.

6.5.3 All replanting must conform to Section 7.0 of these Procedures entitled “Replanting Specifications.”

7.0 REPLANTING SPECIFICATIONS

7.1 General

The purpose of these Replanting Specifications is to provide Applicants with requirements for replanting areas of the Company’s Property that are altered by the Applicant. Typically, these activities specifications would include:

7.1.1 Replanting areas of shoreline property that were cleared/damaged in providing access to or during the construction of bulkheads and riprap; piers, docks, boatslips and boathouses; or dredging activities.

7.1.2 Replanting areas of the Company’s Property that had certain types of undesirable plants removed by the Applicant.

7.1.3 Replanting of the Company’s Property by Applicants in order to improve the aesthetic appearance of the shoreline and Lakes.

7.1.4 Replanting of the Company’s Property by Applicants to enhance environmental conditions such as improving or providing wildlife habitat and reducing runoff and pollution into the Lakes.

The goal of the Replanting Specifications is to reestablish a natural shoreline condition. This is achieved in several ways. The first way is by using plant species that are native to the general region. The second way is by permitting the use of appropriate non-native plant species that provide value such as wildlife habitat, erosion control, or filtering runoff into the lakes. The third way is by encouraging the replication of the plant spacing patterns currently found near the site when replanting. For example, if winterberry is currently found near the site in large groupings, replanting with winterberry in large groupings would be encouraged. Finally, and most importantly, the goal of replanting is to provide a diversity of plants with high value to wildlife.

7.2 Plant Standards

Suggested plant species are included in the enclosed Plant List for Planting on the Company’s Property at the Lakes (Appendix 2). The list contains plants that are approved for use on the Company’s Property and includes characteristics and benefits of the approved plants.

7.3 Survival Rates

Applicants that are required to replant the Company’s Property are responsible for a plant survival rate for trees and medium to large shrubs (shrubs that will eventually grow to 10 feet in height or taller as defined in the enclosed list) of 100 percent at the second-year anniversary of the initial planting. If trees and large shrubs do not survive to the second-year anniversary, they must be replaced. A survival rate of 90 percent is required for ground covers and medium to small shrubs (shrubs that will ultimately grow less than 10 feet in height as defined in the enclosed list). The Company will periodically check shoreline plantings for survival during annual inspections and may require replanting if new plants have died.

Replanting Plan

There are three primary purposes for the Replanting Plan. The first purpose is to assist the Company in reviewing the Applicant’s proposal during the approval process. An easy-to-understand planting plan makes the approval process more efficient. The second reason is to assist the Company during field inspection that the plan was followed. The final reason is so that the Company will have an accurate record (along with photographs) for future inspections of the Company’s Property.

Applicants submitting the Replanting Plan for approval must include three (3) copies of the Plan. The Replanting Plan must be legible, easy to read and must include the following items (see Figures 1 and 2 for examples). Drawings shall not exceed 8 1/2” x 14” in size (use multiple sheets if needed).

- MNWL contour line.
- Property line.
- North arrow.
- Scale of 1 inch = 10 feet or larger scale.
- Existing vegetation to remain – common name, specific location and size of trees greater than 6” in diameter measured 5 feet above the base, and common name and general location of shrubs to remain.
- Common name of proposed plants.
- Specific location of proposed plants.
- Size of proposed plants.
- Numbers of proposed plants to be planted.

7.4 Replanting Along Bulkheads

To construct bulkheads, it is usually necessary to clear vegetation as far back as 15 feet from the shoreline. In addition, access across the Company’s Property from upland areas is required for construction equipment to reach the shoreline. Replanting these areas within one month of completion is required in order to help reduce erosion into the Lakes (unless the Company approves a later planting time). Erosion control measures required by the USACE must also be followed. Plant species and patterns that were

**LAKE GASTON AND ROANOKE RAPIDS LAKE
CONSTRUCTION AND USE PROCEDURES (SMP APPENDIX C)**

found along the shoreline prior to clearing should be replanted to the extent possible.

7.5 Replanting Along Cleared Construction Access Paths

Access paths to the shoreline for any type of shoreline construction (piers, docks, bulkheads) may be entirely replanted or used for siting the footpath access. This will minimize clearing natural vegetation on the Company's Property.

Most construction operations will require clearing a path wider than 6 feet in order to get equipment to the shoreline. The Company may allow construction paths up to 12 feet in width in General Development Areas. Upon completion of construction activities, portions of the construction path not used for the construction access path must be replanted. The footpath access may be located anywhere within the boundaries of the wider construction access.

Plants selected from the approved list are to be used for replanting the construction access. Replanting must occur within one month of the completion of construction operations unless the Company approves a later planting time.

7.6 Shoreline Understory Replanting

Removal of "undesirable" native/naturalized plants (brambles, poison ivy, etc.) within the Company's Property by the Applicant may be approved as described in Section 6.0 of these Procedures entitled "Specifications for Vegetation Removal / Trimming and Landscaping." In general, removal of shoreline vegetation is discouraged in order to protect wildlife habitat and to provide erosion/runoff control. When "undesirable" plants are removed, they are to be replaced with an equal number of comparable plants. In areas of the Lakes where there has been development and there are only remnants of native vegetation left on the Company's Property, it may be possible to clear some existing native/naturalized vegetation. In these areas, replanting using plants from the enclosed list must occur within one-month of removing vegetation.

8.0 GLOSSARY OF TERMS

This Glossary of Terms is intended to provide a general guide to understanding some of the terms used in the Construction and Use Procedures. This Glossary of Terms shall not restrict or modify, in any way, the meaning of any term used in the Construction and Use Procedures or the Construction and Use License Agreement.

8.1 Access Pier means that portion of a pier extending from land over water to one's dock, boatslip, or boathouse.

8.2 Construction and Use Agreement or Construction and Use License Agreement means the agreement between the Company and the owner of a structure that gives the owner permission to construct and/or use a structure located upon the Company's Property during the owner's period of ownership of the structure.

8.3 Construction and Use Permitting Procedures or Construction and Use Procedures or Procedures means the set of regulations, established by the Company and updated from time to time, that govern construction upon or use of the Company's Property.

8.4 Extended Side Lot Lines mean the imaginary lines created by extending the side lot lines of the Licensee's property into the water. The Extended Side Lot Lines are used only for reference purposes in allowing construction upon the Company's Property.

8.5 Federal Energy Regulatory Commission or FERC means the agency of the federal government that issued a license to the Company to operate a hydroelectric facility upon the Lakes and that regulates the Company's operation of the facility.

8.6 General Development Area means an area of the Company's Property, as designated by the Company and regulatory authorities, in which the reasonable construction of certain structures, or the performance of certain activities, is compatible with or will have little or no detrimental impact upon the current environmental conditions and habitat established within the area.

8.7 Grandfathered Landscaping means any landscaping conducted on the Company's Property with the Company's permission under previous Company regulations

8.8 Grandfathered Structure means a structure built upon the Company's Property with the Company's permission under previous Company regulations. Such a structure will be allowed to remain for the natural life of the structure, subject to the terms and provisions of the Procedures and the Construction and Use Agreement.

8.9 Licensee, Applicant, or Permittee means the individual to whom the Company has given permission to construct or use a structure upon a portion of the Company's Property.

8.10 Nonconforming Structure means a pier, dock, boatslip, boathouse, bulkhead or riprap that was built upon the Company's Property (i) without a license issued by the Company, (ii) is not in compliance with the Company's current size requirements or other building specifications, (iii) does not, in the Company's sole discretion, threaten the recreational and environmental attributes of the Lakes, and (iv) remains or will remain upon the Company's Property in

**LAKE GASTON AND ROANOKE RAPIDS LAKE
CONSTRUCTION AND USE PROCEDURES (SMP APPENDIX C)**

its current location pursuant to a Construction and Use License Agreement issued to the structure's current owner.

8.11 Nonconforming Vegetation Removal, Landscaping and Plantings refers to any such activity conducted upon the Company's Property without the Company's permission

8.12 Limited Use Area means an area of the Company's Property, as designated by the Company and regulatory authorities, that warrants special protection because of the importance of the area to wildlife and fisheries habitat. Construction in a Limited Use Area is subject to more strict regulation than exists in a General Development Area and less strict regulation than exists in a Sensitive Area.

8.13 Sensitive Area means an area of the Company's Property, as designated by the Company and regulatory authorities, that is incompatible with future development because of the adverse effects of such development upon the wildlife and fisheries habitat existing in these areas. Construction in a Sensitive Area is not allowed. Any place where the Company's Property is 150' deep or more will be treated as a sensitive area.

8.14 Special Management Area means an area of the Company's Property warranting special protection because of the importance of the protection of wildlife and fisheries habitat in that area. All Special Management Areas are either Limited Use Areas, in which some development is discouraged, or Sensitive Areas, in which development is prohibited.

8.15 Undevelopable Area means an area of the Company's Property warranting special protection because it has been or likely would be determined to be a wetlands area; located in or near an area with special historical or archeological features; is near a public recreation area; or the area has been specifically protected per agreement with FERC or another regulatory authority.

8.16 U. S. Army Corps of Engineers or USACE means the agency of the federal government that regulates navigability of the Lakes.