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FERN RIDGE OPERATIONAL MANAGEMENT PLAN

SECTION 2.9 - SHORELINE MANAGEMENT

SECTION 1 - INTRODUCTION

1.1 PURPOSE OF THE SHORELINE MANAGEMENT PLAN

The purpose of this operational management plan is to provide a framework for the implementation of Portland District policy at Fern Ridge Lake, Oregon with regard to ER-1130-2-406, Shoreline Management at Civil Works Projects, (Draft dated 4/24/87).

1.2 AUTHORITY

The authority for developing and implementing this Shoreline Management Plan is contained within Section 4 of the Flood Control Act of December 22, 1944. (58 Stat. 889) as amended.

1.3 REFERENCES

- a. Section 4, 1944 Flood Control Act, as amended (16 USC 460d).
- b. Section 501 Independent Offices Appropriation Act of 1951 (31 USC 483a).
- c. Section 10, River and Harbor Act of 3 March 1899 (33 USC 403).
- d. National Historical Preservation Act of 1966 (P.L. 89-665; 80 Stat. 915) as amended (16 USC 470 et seq.).
- e. National Environmental Policy Act of 1969 (42 USC 4321, et seq.).
- f. Clean Water Act (33 USC 1344, et seq.).
- g. Title 36, Chapter III, Part 327, Code of Federal Regulations, "Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers."
- h. Executive Order 12088 (13 Oct. 1978).
- i. 33 CFR 320-330, "Regulatory Programs of the Corps of Engineers."

- j. ER-1130-2-400, "Management of Natural Resources and Outdoor Recreation at Civil Works Water Resource Projects." (1 June 1986)
- k. ER-1130-2-406, "Shoreline Management at Civil Works Projects"; (Draft, dated 4/24/87).
- l. Fern Ridge Lake Master Plan for Resource Use, May 1988.
- m. Fern Ridge Lake Operational Management Plan, April 1988.
- n. Water Resource Development Act of 1986, P.L. 99-662, Section 1134(d).
- o. EM-385-1-1 (Rev. Oct 1987), Safety and Health Requirements Manual, U.S. Army Corps of Engineers.

1.4 PRIVATE RECREATION FACILITIES

Facilities and/or activities to be managed under this plan include all those erected and maintained by private individuals on public shoreline and water areas for their private use. These facilities include but are not limited to boat houses, boat docks and mooring facilities of any kind; vegetative modifications to include such activities as limited mowing, selective removal of vegetation, planting trees or shrubs, cutting vegetation to develop and maintain pedestrian access paths and, removal of dead and diseased trees for public safety.

1.5 PROGRAM BACKGROUND

Fern Ridge Lake Project was authorized by Congress in the Flood Control Act adopted 28 June 1938. The authorized purpose of the project is for flood control, irrigation and navigation. Other purposes, encouraged and developed for collateral use, are public use, recreation and fish and wildlife management. The project was constructed in 1940 and 1941 and became operational in December of 1941. The private facilities presently located at Fern Ridge were permitted largely through real estate instruments in furtherance of early project recreational development plans. Several quasi-public facility developments at Fern Ridge are administered under long-term real estate lease instruments and are not within the scope of this shoreline management program.

ER-1130-2-406 "Lakeshore Management at Civil Works Projects", date 13 December 1974, provided policy and guidance for a program put into effect at Fern Ridge on an informal basis early in 1975. This policy was developed subsequent to a public meeting held in Elmira, Oregon during April 1975. In August 1981 it was deemed necessary to clarify and further document the direction of the program through a position paper, "Lakeshore Management Program - Private Exclusive Use", dated August 11, 1981 (Appendix). Section 6, Public Law 97-140, approved December 29, 1981 effectively established a moratorium against the forced removal of existing facilities in accordance with

the Portland District policy until after 31 December 1989. This constraint against implementation of the policy was effectively made permanent in early 1987 through implementation of Section 1134 (d), P.L. 99-662.

With the interpretation of the 1986 legislation and the issuance of a draft ER-1130-2-406 "Shoreline Management at Civil Works Projects", revised 4/24/87, it was considered timely to undertake a review of the Portland District policy and develop a Shoreline Management Plan for Fern Ridge Lake.

1.6 PUBLIC PARTICIPATION

On February 18, 1988 a public meeting was held in Eugene, Oregon at which time the major elements of the proposed Fern Ridge Lake Shoreline Management Plan were presented. Approximately 70 people were in attendance. The proposed plan was summarized in a flier and mailed along with the public meeting announcement approximately three weeks before the meeting. Additional details and maps of the proposed shoreline allocation were presented at the meeting. Questions, comments and suggestions were solicited from those present. Response to the proposals made were favorable with a number of questions for clarification of specific details. One comment letter was received subsequent to the meeting regarding the boundary of one of the proposed limited development areas.

Preceding the initiation of this Shoreline Management Plan development process, public comments were solicited in response to the (Draft) Fern Ridge Lake Master Plan for Resource Use during the winter and spring of 1987. Adjacent residents' desire to retain the existing private boat docks and add new facilities were expressed. The proposed land use plan was modified to accommodate some of these well established use patterns. This Shoreline Management Plan has been developed within the framework of the Fern Ridge Master Plan.

SECTION 2 - OBJECTIVES OF THE PLAN

2.1 GENERAL

The primary objective of this plan will be to achieve a balance between public use, enjoyment of project benefits and long-term resource protection. Public access to and exit from shorelines shall be preserved. Private exclusive uses of public property will be managed to gain maximum benefits to the general public. This plan provides for the protection of public lands as well as private investments and honor any written commitments which have been made.

Specific goals relating to various aspects of the Shoreline Management Program are discussed below. Some of these objectives may be achieved only over the long term with consistent application of the criteria established within this plan.

2.2 COMMERCIAL CONCESSIONS

Maximum efforts will be put forth to attract and encourage concessionaire development of suitable water related services and facilities for the general public. The demand for these facilities at Fern Ridge is significant and the development and use of these areas should be encouraged where practical as an alternative to private structures.

2.3 COMMUNITY MOORING FACILITIES

As an alternative to private and exclusive use facilities, community mooring structures will be encouraged where practicable. Within limited development areas established under this plan, permit applications for community moorage facilities may be considered for certain sites. Consolidation of existing and proposed structures will be encouraged in order to provide the maximum amount of moorage in the smallest number and size of facilities.

2.4 PRIVATE EXCLUSIVE USE

Private and exclusive use facilities generally are not considered to be in the best interest of the general public. Due to the adjacent shoreline development at Fern Ridge it is essentially impossible to permit such use in an impartial manner. The primary objective with regard to private exclusive use is to honor past commitments implicit in the issuance of existing permits for mooring facilities. With the exception of those areas designated as Limited Development, the existing private moorage structures and associated intensive landscaping and/or vegetative modifications will be eventually eliminated and the shoreline restored to a natural condition more consistent with the primary management objectives for the unit.

2.5 PUBLIC INVOLVEMENT

As public use trends change and necessitate revision of this Shoreline Management Plan, maximum participation in the formulation thereof shall be encouraged to insure that future policy changes are responsive to the public and community interests and consistent with other identified project resource uses. Public input to this planning process will be solicited during plan formulation and accepted verbally during scheduled public meetings and in writing for a minimum of 45 days subsequent to meetings.

SECTION 3 - DESCRIPTION OF SHORELINE

3.1 GENERAL

Fern Ridge is a wide shallow reservoir situated on the Long Tom River 23.6 miles above its confluence with the Willamette River. The total shoreline distance around the lake at a normal full pool of 373.5 feet (mean sea level) is approximately 32 miles. Much of the land inundated by the reservoir is flat to gently sloping; thus small changes in pool level greatly alter the total pool area and shoreline location. The authorized purposes of the project include flood control, irrigation and navigation. The shoreline around Fern Ridge is characterized by a transition from upland forest to open lowland prairie to marshland and open water. This transitional vegetation provides valuable wildlife habitat along most of the undeveloped portions of shoreline. Notable exceptions are where adjacent development for public and private recreation facilities and flood control structures has occurred within a few feet of the water edge.

3.2 PRESENT LAND USE

Fee owned lands and waters at Fern Ridge total 11,821 acres. Approximately 9,300 acres of this area is inundated when the reservoir is at normal full pool, 373.5 m.s.l. Developed high density public use areas and private recreational lease areas include approximately 400 acres. Wildlife management, environmentally sensitive and low density recreation lands comprise the remaining approximately 2100 acres. (Ref. Fern Ridge Lake MPRU for additional land use information)

3.3 EXISTING ACCESS

Vehicular access to the lake is provided primarily on the north and southwest shorelines at designated public use areas. There are several remote access points, however, in order to protect wildlife habitat and other resource values only foot access is allowed to most shorelines. Seven boat launching areas are provided along the shoreline. Four of these boat ramps with seven launching lanes are available to the general public.

3.4 PRIVATE DEVELOPMENT

Private residential development around Fern Ridge Lake has occurred primarily along the east and west sides of the Jeans Peninsula, along the West Shore Unit north of Moyer Lane, in the town of Elmira adjacent the Applegate Unit, the Shore Lane Unit south of Orchard Point, and along the Amazon Dike #2 Unit of the east shore of the lake. Private residential development will continue and the associated uses of project lands and resources will increase proportionately.

3.5 DEVELOPED MOORAGE FACILITIES

There are currently 31 private and 3 community mooring facilities on Fern Ridge Lake. Additionally, public and quasi-public/private facilities provide moorage space to lake users in the following areas.

AREA	TYPE	NO.MOORAGE
Fern Ridge Shores	Private Concession	98
Eugene Yacht Club	Private Club	78
Tri-Pass Ski Club	Private Club	61
Richardson Park	Lane County	256
Orchard Point Park	Lane County	181
TOTAL:		674

Dry boat storage facilities surrounding the lake have undergone expansion in recent years and the presence of seven boat launching sites is considered adequate to meet current demand. Demand for additional moorage space on the lake is not demonstrably high at the present time as evidenced by the 10% to 15% vacancy of moorage spaces at Orchard Point Park over the last several years. Many factors affect occupancy rates: low water levels, weekend weather patterns, time of season, etc. While the available commercial moorage may not meet the specific needs or desires of many potential patrons, (e.g., location, security, accessibility, cost, etc.) this will always be a problem in attempting to meet the needs of diverse user groups. In light of this marginally significant vacancy rate the remaining private facilities on the lake are supporting only about 5% of the total moorage space available. Private development is not an efficient allocation of shoreline for the purpose of providing boat moorage. Emphasis will therefore be placed upon maximum utilization and expansion of community and commercial facilities as some private structures are gradually eliminated.

SECTION 4 - SHORELINE ALLOCATION

4.1 GENERAL

In furtherance of the Shoreline Management Plan objectives the shoreline of Fern Ridge Lake has been divided into categories standardized by the Corps nationwide. (Ref. ER-1130-2-406) These categories reflect land use classifications established in the Fern Ridge Lake Master Plan for Resource Use; however, they pertain specifically to activities and management options addressed in this Shoreline Management Plan. A detailed map of the lake showing the shoreline allocation for Fern Ridge is included in the appendix.

4.2 CLASSIFICATIONS

a. **Limited Development:** Limited development areas are designated where private shoreline use facilities and/or activities may be allowed consistent with other provisions of the Shoreline Management Plan. Modification of vegetative communities by individuals may be allowed only following the issuance of a permit. Potential low water conditions and underwater topography as well as other pertinent factors will be carefully evaluated before floating facilities are permitted. Only shoreline areas within the "Recreation" land use classification under the Master Plan may be considered for this allocation.

b. **Public Recreation:** Public recreation areas are set aside for commercial concessionaire facilities, Federal, State or other similar areas for public use. No private floating facilities will be permitted within or near designated or developed public recreation areas. No modification of land forms or vegetative characteristics is permitted by private individuals or groups of individuals in public recreation areas.

c. **Protected Shoreline:** Protected shoreline areas are those areas set aside to maintain or restore aesthetics, fish and wildlife, cultural, or other environmental values. Shorelines may also be so designated to protect development in areas that are subject to excessive siltation, rapid dewatering, or exposure to high winds and waves. No private floating recreation facilities will be allowed in protected shoreline areas. Some modification of vegetative communities by private individuals may be permitted if it is determined that the activity will not adversely impact the environment or physical characteristics of the area designated as protected.

d. **Prohibited Access:** Prohibited access areas are those in which public access is not allowed for safety reasons or for the protection of unique resources. These areas could include hazardous areas near dams, spillways, critical wildlife habitat or historic properties. Mooring of private floating facilities or modification of land forms and vegetative communities is not allowed in such areas.

4.3 ALLOCATION RATIONALE

Two shoreline areas at Fern Ridge are designated as Limited Development under the allocation plan. Both of these areas (the Shady Rest Area and the west shoreline of the Jeans Peninsula) enjoy a "Recreation" land use classification under the Master Plan. This classification is essentially a prerequisite to the Limited Development allocation, which provides for the continued use and development of private recreation facilities.

Establishing the exact geographical limits of these areas has been a difficult task requiring the consideration of numerous factors both on and off project lands. In response to expressed concerns over the exact limits of the Jeans Peninsula west shoreline unit, a rationale was prepared which presents the basis for the decision to include only the area encompassed by the existing facilities. (Ref; appendix)

The West Shore and the Shore Lane management units containing the remaining existing private moorage facilities not located within Limited Development areas were designated as Protected Shoreline in furtherance of the Wildlife Management land use classification established in the Master Plan. The dispersal of these developments along the shoreline prevents their consolidation into a Limited Development area. The proximity of these areas' to commercial moorage and public launching facilities at Richardson Park and Orchard Point Park does not support the development of additional private moorage facilities. Long range wildlife management objectives for the unit are considered attainable particularly as the existing private developments are gradually removed and the shoreline restored to a more natural condition.

All shoreline areas which are currently developed and managed or leased for future development of parks and recreation facilities are included within the Public Recreation allocation. Only that portion of the shoreline immediately in front of the spillway section of the dam is designated as Prohibited Access in furtherance of project security and public safety interests. This Prohibited Access area is delineated by security fencing and a barrier float system across the concrete spillway structure.

SECTION 5 - IMPLEMENTATION

5.1 GENERAL

Attainment of the shoreline management objectives at Fern Ridge will require implementation of specific development restrictions. Constraints inherent in the shoreline allocation plan in addition to those imposed by recent legislation must be applied to existing developments and activities as well as those that may be proposed in the future.

5.2 MOORAGE FACILITIES WITHIN LIMITED DEVELOPMENT AREAS

Private moorage facilities which are located within areas allocated for Limited Development will be allowed to remain as long as they are maintained in substantial compliance with the terms of their respective permits. In the event of revocation or surrender of the permit, the site may again be made available for private development in accordance with the provisions of this plan.

5.3 EXISTING FACILITIES OUTSIDE OF LIMITED DEVELOPMENT AREAS

Existing private moorage facilities that are located in areas not allocated for Limited Development will be re-permitted to new owners and allowed to remain. Section 1134(d) P.L. 99-662 of the Water Resources Development Act of 1986, provides that floating facilities lawfully installed as of 17 November 1986, may not be removed if the following three conditions are met:

- a. Such property is maintained in a usable and safe condition.
- b. Such property does not occasion a threat to life or property.
- c. The holder of the permit is in substantial compliance with the terms of the permit.

The primary long-term goal with regard to these facilities, is to eventually remove them from the project. P.L. 99-662, as interpreted, is designed to protect existing facilities, regardless of their location, except where necessary for higher public use. The presently developed shoreline that is not allocated for limited development under this plan will be reclaimed for higher public uses designated in the Fern Ridge Master Plan (e.g., wildlife management). In the event of revocation or surrender of the permit for the existing structure, the facility will be removed from public hands at the owners expense and the site will no longer be available for private development. Provisions outlined in Section 6.1 will apply in the event ownership of an existing structure changes.

5.4 COMMUNITY MOORAGE FACILITIES

Permits may be granted for community moorage facilities to individuals and corporate entities. As it pertains to this management plan the term "community boat moorage facility" shall be defined by the following constraints:

- a. A minimum of (4) four participants/members shall be necessary to support and use the facility for seasonal boat moorage in order for an applicant to qualify for a permit under the community moorage concept.
- b. Participation/membership shall be open to the public and maintained at optimum levels in light of the facilities' designed capacity (i.e., 75%). Participant eligibility and criteria shall be established in the permit application, statement of intent or operating policy submitted by the applicant and assimilated as a condition of the shoreline use permit.

Failure of the permittee to operate the facility under the community moorage concept within the constraints established will render the permit null and void. In such an event the structure must be removed from project lands or undergo appropriate structural modifications and be re-permitted via the application evaluation process as a private moorage facility.

5.5 VEGETATION MODIFICATION

Permits for the modification of vegetation on project lands may be granted to private individuals in those areas allocated for Limited Development or as Protected Shoreline. Justification for the issuance of the permit must be responsive to the established management objectives for the shoreline area where the activity is requested. Currently there are 27 Vegetation Modification Permits and most of the 31 Dock Permits include an Addendum for vegetation modification to access docks.

Permitted activities may include, but are not necessarily limited to, maintaining pedestrian access paths, mowing for fire protection or noxious weed control; hazard tree pruning or removal; and delineation of project boundary lines.

Intensive turf management or landscaping which creates the appearance of private ownership of public lands will not be permitted. Existing permitted landscaping activities which are beyond the scope of that currently justified in the Shoreline Management Plan will fall under a grandfather provision. This means the permit will continue to be renewed under the terms of the original permit until the development is no longer maintained or until death of the permittee and his/her legal spouse. At such time the permit terms and the scope of activity allowed at the site will be revised to reflect a more current management philosophy for private use of public lands under this plan.

Permittees will be required to delineate the government property line, surveyed and marked by the government, in a clear but unobtrusive manner in accordance with this

management plan and the conditions of the permit. Methods of delineation may include but are not limited to boundary plantings, fencing, signing, marker posts, etc., and shall be accomplished at no cost to the government. Vegetative modification permits granted under this plan will be specific regarding the activities authorized, their frequency and location.

5.6 OTHER FACILITIES WHICH MAY BE PERMITTED

Applications for proposed facilities not specifically addressed by this management plan, but otherwise within the scope of the Shoreline Management Program may be considered with regard to the proposed facilities' compatibility with other shoreline uses, potential adverse impacts to the environment, and public/user safety concerns. Where appropriate, criteria set forth in this management plan will be used in the evaluation of a proposed activity. Other structures for which shoreline use permits may be issued include, but are not limited to the following:

- a. **Ski Jumps:** Temporary seasonal permits will be issued for ski jumps upon approval of plans, specifications, and an operation and maintenance program submitted by an organization or club. Permits will not be issued for ski jumps proposed by an individual for private use.
- b. **Slalom Courses:** Temporary seasonal permits will be issued for slalom courses upon approval of plans, specifications and a maintenance program submitted by an organization or club. Permits will not be issued for slalom courses proposed by individuals for private use.
- c. **Mooring Buoys:** Temporary seasonal permits may be issued for mooring buoys upon approval of plans and location. Mooring buoys will only be permitted within Limited Development and Protected Shoreline areas where all pertinent moorage evaluation criteria are satisfied in addition to the assessment and determination of acceptable environmental impacts to the proposed site.
- d. **Duck Blinds:** Duck blinds will be allowed on the lake during duck hunting season. Temporary permits will be issued after approval of plans and location. No permanent duck blinds will be allowed on the lake and all temporary blinds must be removed from the lake within five calendar days after the close of the duck hunting season. After approval and issuance of a permit, blinds may be placed on the lake not to exceed 30 days prior to the opening of the duck hunting season. The installation of items conducive to human habitation will not be allowed.

5.7 SAFETY INSPECTIONS

Of paramount importance in the management of facilities under this shoreline management program is the safety of the public and facility users. All structures and activities authorized under a shoreline use permit are subject to inspection by a Corps of

Engineers Park Ranger or other duly authorized representative of the District Engineer at least once each year or at such frequency deemed appropriate to insure the safe condition of structures and compliance with the permit terms. The facility type, age, and level of use will generally be the basis for determining the frequency of inspections.

Upon notification of maintenance deficiencies, the permittee should effect repairs or initiate corrective action to the satisfaction of the inspector within 30 days. If serious safety deficiencies are identified, the Park Manager may post and restrict use of the facility until the deficiencies are corrected. A permittees failure to maintain and/or repair a structure or otherwise fail to substantially comply with the terms and conditions of any shoreline use permit may result in revocation of the permit.

SECTION 6 - APPLICATION FOR SHORELINE USE PERMITS

6.1 APPLICATION PROCEDURE

Applications for shoreline use permits must be made in writing to the Park Manager, Fern Ridge Lake Resident Office, 26275 Clear Lake Road, Junction City, Oregon 97448. ENG Form 4264-R (Oct. 87) is the primary application form to be used and may be obtained at the Fern Ridge Lake Resident Office. Two (2) copies of the application and all supporting materials must be submitted by an applicant in order to initiate the review process. Attachments or additions to that information requested on the application form should include complete plans, specifications and site drawings for the proposed facility; certifications where appropriate for special features such as electrical installations; facility operating policy and maintenance program; and justifications or other information necessary to apply the pertinent evaluation criteria presented in this section. Additionally, written documentation should be provided by the applicant regarding their familiarity with and willingness to abide by the standard shoreline use permit terms and conditions as well as other pertinent rules and regulations under Title 36 CFR.

Shoreline use permits will only be granted to individuals or groups with contiguous private property or legal right of access to public lands which are supportive of shoreline use permits.

An evaluation of each complete application submitted will be accomplished and a response to the applicant provided within 30 calendar days of its receipt. Applications for permits for existing or proposed (new) private moorage facilities will be considered on a first come first served basis with priority consideration granted to the new owners of existing facilities only within 30 days of the expiration date, revocation of any other event rendering the permit null and void. This provision places the burden of notification, removal or application for a new permit upon the owner of the facility in accordance with the terms of the permit.

Shoreline use permits are non-transferable and become null and void upon sale or transfer of the permitted facility or the death of the permittee.

6.2 EVALUATION CRITERIA FOR MOORAGE FACILITY PERMITS

All permit applications for private moorage structures whether existing or proposed will be evaluated under the pertinent criteria presented here. Corps of Engineers Park Managers, Rangers and other staff members will conduct the review and evaluation of each application submitted. Each decision will be supported by a sound rationale based upon the assumptions inherent in the Master Plan as well as this Shoreline Management Plan. In no case will a shoreline use permit be granted for a moorage facility until such time as the impacts of the proposed development or continued activity upon the environment have been determined. The following criteria will be applied to each application, and must be substantially satisfied in order for a permit to be issued.

- a. Availability of existing moorage: More weight will be given this consideration in the review of applications for proposed new moorage facilities as opposed to those for existing structures. The foremost objective is to secure maximum storage of boats and related equipment at commercial concession areas. Trends in the availability of existing commercial or community moorage space, which meets the basic requirements of the applicants, will be identified. Applicants will be directed to those areas identified that substantially meet their needs. Documentation should be provided by the applicant stating reasons why the available facilities do not satisfy their requirements.
- b. Location of the facility: Applications must be specific regarding the exact location of a proposed structure. The proposed site must be within a Limited Development area designated by the shoreline allocation presented in Section 4 of this management plan. Structures will not be permitted where located so as to interfere with navigation, existing moorage facilities, special activity areas, or create a safety or health hazard. Moorage facilities or their individual components will not be situated in a manner that is injurious to the environment or aesthetically distracting.
- c. Density of development: The facility density in the designated Limited Development areas at Fern Ridge shall not exceed fifty percent (50%) of the shoreline of that Limited Development Area under consideration for a proposed facility. For the purpose of making this determination, density will be measured by the width of floating facilities and necessary moorage arrangements which restrict the full use of that portion of the shoreline. This width shall include sufficient open water areas for the safe maneuvering of watercraft using each facility. For example, assume the width of a boat dock along the shoreline axis is comprised of an 8 foot wide access walk way in addition to a 25 foot deep moorage slip situated perpendicular to the walk way. This total structure width of 33 feet would be added to that amount of open water required for the safe ingress and egress to the facility, (approximately 75 feet in this instance) for a total of 108 feet of shoreline occupied by the structure. For this Shoreline Management Plan revision (December 2004), the density of development in established Limited Development areas as determined by employing the above principles is as follows:

Shady Rest Limited Development Area

Total length of shoreline = 600 feet

Length of shoreline developed = 247 feet

Percent of shoreline developed = 42 %

Jeans' Peninsula Limited Development Area

Total length of shoreline = 4,420 feet

Length of shoreline developed = 2,292 feet

Percent of shoreline developed = 51.8%

Applications for new moorage structures which would result in a total percentage of shoreline development greater than 50% as determined by this evaluation will not be approved.

- d. Special requirements: Special requirements which necessitate particular design features and/or moorage for certain types of craft may be considered during the review of an application. For example: What is the type of watercraft and how frequently will it be used? What factors necessitate the installation of a boat lift, covered moorage slip or other special feature as opposed to a standard open floating moorage arrangements? Are accommodations for handicapped users justified? Why is electrical service to the dock necessary?
- e. Facility design: Plans and specifications for a proposed facility will be reviewed with respect to public and user safety as well as hazards posed to the environment. New facilities will not exceed the minimum size required to moor the owner's boat(s) plus storage for items essential to watercraft operation (e.g., oars and life preservers, etc.).

Designs which give the appearance of converting public property on which the structure is located to private, exclusive use will be avoided. Docks with enclosed sides will not be permitted. Floating structure moorings must not obstruct the free use of the shoreline, nor damage vegetation or other natural features. Electrical service installations must be certified to meet current electrical codes. A real estate instrument may be required to accommodate the installation of specific design features including but not necessarily limited to utility lines serving structures allowed under a shoreline use permit. Other design criteria and special conditions may be applied by the District Engineer as deemed appropriate.

6.3 JUSTIFICATION FOR VEGETATION MODIFICATION PERMITS

Applications for vegetation modification permits must be responsive to the management objectives for the area in which the activity is requested. Permits will not be issued in Protected Shoreline areas until the environmental effects of the proposed activity have been determined. Some of the more common activities and criteria to be used in the evaluation follow:

- a. Pedestrian access paths may be maintained in some locations in furtherance of the stated objective of preserving public access to the shoreline. In general, these paths should not exceed six (6) feet in width and should follow a meandering route to the lake avoiding sensitive wetland areas, dense woody vegetation, and any need for land form modification. Paths may be mowed a maximum of three (3) times per year and cleared of debris or brush as necessary to permit safe access, however they may not be surfaced or paved with any material unless specifically authorized in the shoreline use permit. Access paths are

intended for pedestrian use only. Design and/or use for motorized vehicle access will not be permitted.

b. Fire protection is a valid justification for some activities such as mowing and discing. The standard mowing width for a fire protection buffer zone is twenty feet on the inside of the government boundary line only adjacent to the feature or structures on private property requiring protection (e.g., houses, outbuildings, etc.). A ten-foot wide buffer will be permitted for private property boundary line fences. Discing at a specific time of year (usually mid March) may be specified as an option to mowing particularly in instances where wildlife benefits may be realized. Mowing frequency for fire protection will be specified in the shoreline use permit. Maximum mowing will generally range from one (1) to five (5) times per year.

c. Noxious plant control provides justification for a range of possible techniques from mowing to the application of chemical herbicides in some instances. Specific management prescriptions may be developed by the Park Manager authorizing private control of vegetation. Herbicides will be permitted only as a last resort when other alternatives are not feasible.

d. Hazard tree pruning and removal may be approved on a case by case basis under the terms of a shoreline use permit and site management prescription. Hazard trees will be evaluated and prescriptions prepared by a Park Ranger. Evaluation will be based upon a standardized scoring system incorporating tree location and condition. No work of any kind beyond that specified in the permit will be allowed.

e. Some activities, where deemed appropriate, may be permitted in order to maintain and improve wildlife habitat only in conjunction with vegetative modifications for other purposes. The activities authorized will be prescribed in consideration of adverse impacts that vegetation modifications may have upon local wildlife and plant populations. The timing, frequency and extent of activity may be critical with respect to nesting upland birds, waterfowl and mammal species inhabiting the shoreline area. Habitat management activities may include but are not limited to mowing, discing, maintaining brush piles, artificial nesting structures, planting vegetation for food and cover, habitat fencing and restricting activities or access in order to protect critical habitat.

f. Other justifications for vegetation modifications may be appropriate in specific situations. Erosion control and bank stabilization objectives may justify plantings or maintenance efforts in selected areas. Private individuals may be authorized to implement specific site prescriptions provided there is no significant land form modification required.

SECTION 7 - PERMITS

7.1 SHORELINE USE PERMITS

Shoreline use permits are issued and enforced in accordance with provisions of Title 36, Chapter III, Part 327.19 of the Code of Federal Regulations. Permits will be issued by the Portland District Engineer or his duly authorized representative prior to the commencement of any activity thereby authorized. Wherever practical, moorage, vegetation modification and other activities will be consolidated on one permit for each responsible applicant. Supplements or amendments to existing shoreline use permits may be appropriate when modifications are necessary. Permits may be issued for a term of one to five years, however to reduce administrative costs, only five year permits will be granted unless the nature of the activity requires annual re-issuance.

Shoreline use permits are non-transferable. Upon the sale or other transfer of the permitted facility or death of the permittee and his/her legal spouse, the permit is null and void.

The conditions of the permit for shoreline use (appendix) must be substantially adhered to in order to maintain the permit. These conditions prescribe appropriate activities and uses, maintenance, construction time frames and removal requirements and responsibilities in the event of permit revocation or expiration. A permittee must be thoroughly familiar with these and such other terms and conditions prescribed by the District Engineer and acknowledge their willingness to abide by these guidelines at the time a permit is issued.

7.2 OTHER TYPES OF PERMITS

a. Real estate Instruments: Commercial development activities and those not covered by the Shoreline Management Plan, but involve grade cuts, fills, or other changes in land form, or appropriate land based support facilities required for private floating facilities, will continue to be covered by a lease, license or other legal grant issued through the appropriate real estate element.

b. Department of the Army Permits: Dredging, construction of fixed structures, including fills and combination fixed-floating structures and the discharge of dredged or fill material in waters of the United States will be evaluated under authority of Section 10, River and Harbor Act of 3 March 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344).

7.3 PERMIT FEES

Fees as prescribed by a separately published fee schedule (Appendix) will be collected for shoreline use permits prior to their issuance. Fees are established on a

nationwide basis and may be expected to increase substantially in the near future in order to recover costs to the government for administering the shoreline management program. At present the shoreline use permit fee for boat moorage facilities is \$10.00 for renewal and \$5.00 per year for inspection totaling \$35.00 for a five year permit term. No fees are currently charged at Fern Ridge for vegetation modification permits. As a minimum, the first year's fees must be paid in advance of issuing a permit.

7.4 PERMIT TAGS

Identification tags for permitted floating structures will be provided for each permittee. The tags are to be displayed where they can be checked visually with ease from the lake side of the structure. Tags will be fabricated of 3M sign material of approximately 5 inches by 8 inches in size as shown in the appendix.

FERN RIDGE LAKE SHORELINE MANAGEMENT PLAN

APPENDIX

ER-1130-2-406 Shoreline Management at Civil Works Projects, (DRAFT) dated 4/24/87.

Guidance for Shoreline Use Permit, ENG Form 4264-R, Oct. 87.

Conditions of Permit for Shoreline Use.

Shoreline Use Permit Fee Schedule. (PROPOSED RULE AUG. 1990)

Permit Tag (SAMPLE)

Shoreline Allocation Map

Lakeshore Management Program - Private Exclusive Use August 11, 1981.

Rationale for Establishing the Boundaries of the Jeans' Peninsula West Shoreline, Unit "P"
Fern Ridge Lake.

Title 36 Code of Federal Regulations, Part 327.

Fern Ridge Lake Shoreline Management Plan, 1992 Progress Addendum

Administrative Interpretations for the Moorage of Vessels, Willamette Valley Projects, 3
April 1995.

Fern Ridge Lake Shoreline Management Plan Addendum, November 1977

**SHORELINE MANAGEMENT PLAN ADDENDUM
FERN RIDGE LAKE OPERATIONAL MANAGEMENT PLAN**

November 1997

Section 2.9.1 - Shoreline Management Plan Addendum

Purpose of the Addendum:

Pursuant to guidance outlined in Engineering Regulation 1130-2-406 Shoreline Management at Civil Works Projects, Shoreline Management Plans are to be reviewed at least once every five years and revised as necessary. This addendum is intended to summarize this periodic review process and outline the issues which have developed and informal public involvement which has occurred subsequent to the 1992 review.

Shoreline Allocation:

The current level of development within each of the designated Limited Development Areas as of 20 November 1997 is outlined below.

Shady Rest

Total length of shoreline = 600 feet

Length of shoreline currently developed = 247 feet

Percent Developed = 41%

Jeans Peninsula

Total length of shoreline = 4420 feet

Length of shoreline developed = 2144 feet

Percent Developed = 48.5%

Permit Status:

Permits for Private Moorage Structures - 29

Permits for Community Moorage Structures - 3

Permits for Water Ski Facilities - 1

Permits for Mooring Buoys - 1

Permits for Vegetation Modification - 26

(not including that associated with moorage facilities)

A review of the 1988 Fern Ridge Lake Shoreline Management Plan and 1992 Progress Addendum documents in context of the subsequent nine years of management experience acquired by the Project since the plan adoption, revealed a need to address several new or recurring issues which pertain to the program. Generally these issues fall under the general headings of Limited Development Area boundaries, Density of Development, Watercraft Moorage Guidelines, and Other Shoreline Management Plan Related Actions. In virtually all other respects the implementation and administration of the Plan since 1988 has generated relatively little controversy among the general public and adjacent private property owners and permittees. The program objectives and guidelines are still

valid and based upon current regulatory guidance, sound rationalizations, and thorough evaluations of natural resource potential.

LDA boundaries:

Perhaps one of the most contentious issues from the outset of the Shoreline Management Program has been the determination of Limited Development Area Boundaries. Since the plan was adopted, residential development of private lands adjacent the Project boundary at several locations has continued to grow. Residents at locations including Winter Lane, just southwest of the Jeans Peninsula LDA; between Jeans Road and Conrad Road, northeast of the Jeans LDA and; the Timberline Drive area just south of Zumwalt Park have expressed interest in improved shoreline and lake access for recreational purposes. Expressed desire for private boat moorage structures in proximity to ones residence typifies this continuing interest. A number of new as well as long time lake shore residents believe that by virtue of their investment in property adjacent public lands that they are entitled to a permit for private boat moorage facilities.

The establishment of the existing LDAs in 1988 resulted in the exclusion of several long established residents from consideration for the granting of a shoreline use permit. With few exceptions, however, new residents have invested in homes and property adjacent the Project with full awareness of the Shoreline Management Plan shoreline allocation provisions and their consistency with the Fern Ridge Land Use Plan.

A review of the rationalization for the existing LDA boundaries identifies several primary considerations in determining the unit boundaries. Virtually all of these factors remain essentially unchanged excepting the adjacent private property residential zoning and development. With respect to wetlands, wildlife species and habitat values, the critical functions of the undeveloped Project lands and shoreline beyond the LDA boundaries as buffers against the adverse effects associated with the increase in residential development is perhaps of even greater importance than over a decade ago. The presence of an active Bald eagle nest noted when the Jeans Peninsula LDA's northern boundary was established in 1988, while at the time an important legal consideration, is to a large degree irrelevant to the discussion at present.

At present, greater consideration should be afforded the stated objectives of the Shoreline Management Plan as these are designed to further the land use plan presented in the Fern Ridge Lake MPRU in establishing and reviewing the LDA boundaries. The progress toward achieving these stated objectives should form the basis for rationalizing significant changes in the plan provisions or the shoreline allocation. The plan objectives are presented below:

2.1 General

The primary objective of this plan will be to achieve a balance between public use, enjoyment of project benefits and long term resource protection. Public access to and exit from shorelines shall be preserved. Private exclusive uses of public property will be managed to gain maximum

benefits to the general public. This plan provides for the protection of public lands as well as private investments and honor any written commitments which have been made.

Specific goals relating to various aspects of the Shoreline Management Program are discussed below. Some of these objectives may be achieved only over the long term with consistent application of the criteria established within this plan.

2.2 Commercial Concessions

Maximum efforts will be put forth to attract and encourage concessionaire development of suitable water related services and facilities for the general public. The demand for these facilities at Fern Ridge is significant and the development and use of these areas should be encouraged where practical as an alternative to private structures.

2.3 Community Mooring Facilities

As an alternative to private and exclusive use facilities, community mooring structures will be encouraged where practicable. Within limited development areas established under this plan, permit applications for community moorage facilities may be considered for certain sites. Consolidation of existing and proposed structures will be encouraged in order to provide the maximum amount of moorage in the smallest number and size of facilities.

2.4 Private Exclusive Use

Private and exclusive use facilities generally are not considered to be in the best interest of the general public. Due to the adjacent shoreline development at Fern Ridge it is essentially impossible to permit such use in an impartial manner. The primary objective with regard to private exclusive use is to honor past commitments implicit in the issuance of existing permits for mooring facilities. With the exception of those areas designated as Limited Development the existing private moorage structures and associated intensive landscaping and/or vegetative modifications will be eventually eliminated and the shoreline restored to a natural condition more consistent with the primary management objectives for the unit.

2.5 Public Involvement

As public use trends change and necessitate revision of this

Shoreline Management Plan, maximum participation in the formulation thereof shall be encouraged to insure that future policy changes are responsive to the public and community interests and consistent with other identified project resource uses. Public input to this planning process will be solicited during plan formulation and accepted verbally during scheduled public meetings and in writing for a minimum of 45 days subsequent to meetings.

The 1988 shoreline allocation was largely responsive to these stated objectives, and to the extent consistency with the Fern Ridge Master Plan could be maintained. Although legislative constraints imposed by Section 1134 (d), P. L. 99-662, in essence preclude the need to protect existing facilities through the shoreline allocation plan, the implicit commitments associated with the existing facilities at the time, as well as the inherent inequities and limited opportunities derived through policies of granting private moorage facility permits are recognized. Furthermore, the shoreline allocation plan acknowledged the relative merits of fostering the development of commercial and community type moorage facilities as opposed to private, in the event additional moorage facilities to serve lake users is deemed appropriate.

It is noteworthy that the current level of development within the Jeans Peninsula Unit has reached the maximum permissible under the provisions of the plan. This condition of limited opportunity has not existed before. Although the plan objectives state rather clearly that private facilities are not considered to be in the best interests of the public, here to fore there has been little incentive for shoreline use permittee's to work toward development and management alternatives designed to maximize opportunities and benefits to the general public. Specifically, the consolidation of private facilities and/or the development of community type moorage facilities has not occurred since Plan implementation. Beyond ownership of a private moorage facility, the implicit commitment in the issuance of a permit for a facility by the Government represents a substantial value, and even more so when there are no more permit opportunities available. If opportunities for the development of private individual structures are continually provided where demand exists, there will most certainly be little incentive for community proposals, particularly where real property values inevitably associated with a permit interest are considered. The stated objectives of the Plan are not short sighted. If allowed sufficient time, legitimate needs for moorage opportunities will be recognized and accommodated through commercial or community type facility development.

Notwithstanding the views and desires of a select few, in the final analysis, delineation of LDA boundaries has little or no bearing on individuals' expressed desire for private moorage, the presence or absence of active Bald eagle nest sites, the suitability of a particular site for development, or the fact that a new residential area has developed adjacent the Project. It is clear that private use facilities are not an efficient or appropriate disposition of public lands at Fern Ridge and that a program which strives to expand opportunities for such private development is untenable.

Density of Development:

The criteria for the density of facility development within established LDA's have presented few difficulties since Plan adoption, however, there are instances where private moorage permit applicants have been limited in their opportunities to locate structures immediately in front of their property due to space constraints. In these few instances, however, it has not been demonstrated that as a result those desiring convenient boat moorage have been deprived of it. The availability of community and commercial opportunities has been sufficient to meet these identified needs.

The Shady Rest LDA at level of development of 41% is somewhat unique in that the existing facilities are both Community Type facilities which appear to be adequate to meet the present and future requirements of the adjacent community and priority user groups identified by the permittee's. In view of the inherent constraints with respect to continued residential development and public access in this area, it is unlikely that there will be sufficient justification to develop additional private or community moorage facilities within this LDA.

Having approached the maximum permissible density of development, for practical purposes, within each of the designated LDA's, henceforth the development of additional moorage opportunity on Fern Ridge Lake must be accomplished through the preferred alternatives of facility consolidation or expanding commercial facilities. There appears little justification at present for modifying the established density criteria. The allowances made for the purpose of accommodating ingress and egress of watercraft from facilities contingent upon a particular facility design have been demonstrated to be sufficient in their application since Plan approval. The maximum percentage of allowable shoreline development within an LDA is established by regulatory guidance and has also been fairly responsive to the issues of shoreline aesthetics and environmental impacts associated with development. In general, the current level of development has provided sufficient opportunity for specialized private watercraft moorage to serve those with access to the water.

Watercraft Moorage Guidelines:

The desire by individual shoreline residents to moor their recreational watercraft on or adjacent the shoreline near their place of residence has become increasingly common since the implementation of the Shoreline Management Plan. It is recognized that when this practice is prevalent at locations, times, and under circumstances outside the scope of authorized recreational watercraft moorage guidelines, problems frequently arise with respect to public safety and environmental degradation. Extreme circumstances of unauthorized watercraft moorage by individuals have been determined, in fact, to be no less than creative attempts to circumvent established constraints on development of moorage facilities imposed by the approved Shoreline Management Plan. Scrutinizing the frequency of use of a particular watercraft or the legal definition of a "boat" to determine compliance with the letter of pertinent regulations makes enforcement difficult at best. The guidelines in effect for the Willamette Valley Projects including Fern Ridge have been adopted as *Administrative Interpretations for the Moorage of Vessels*. These

interpretations have been articulated as a means to provide guidance to vessel owners and operators regarding the spirit and intent of applicable provisions of Title 36 Code of Federal Regulations, Part 327. These interpretations were adopted as an addendum to the Fern Ridge Shoreline Management Plan in May of 1995. These guidelines have proven reasonably effective in communicating with the majority of shoreline property owners with respect to the watercraft moorage issue.