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of Engineers**  
Pittsburgh District

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# Lakeshore Management Plan

**Part II.7.A of the Operational  
Management Plan**

**Berlin Lake  
Ohio**

SHORELINE MANAGEMENT PLAN  
PART II.A. OF THE OPERATIONAL MANAGEMENT PLAN  
BERLIN LAKE, OHIO

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SHORELINE MANAGEMENT PLAN  
PART II.7A OF THE OPERATIONAL MANAGEMENT PLAN  
BERLIN LAKE, OHIO

1. INTRODUCTION

a. Purpose: This Shoreline Management Plan establishes policy and furnishes guidelines for the protection and preservation of the desirable environmental characteristics of the Berlin Lake shoreline consistent with the project's authorized purposes. This plan also considers means of restoration of the shoreline where degradation has occurred because of private exclusive use.

b. Authority: The authority to establish this plan is Engineer Regulation 1130-2-406, Lakeshore Management at Civil Works Projects, 13 December 1974.

c. References:

- (1) Section 4, 1944 Flood Control Act, as amended, P.L. 87-874.
- (2) 31 U.S. Code, Sec. 9701, Fees and Charges for Government Services and Things of Value.
- (3) The National Environmental Policy Act of 1969, P.L. 91-190.
- (4) The Clean Water Act 33 U.S.C. 1251 et seq.
- (5) Title 36, Code of Federal Regulations, Chapter III, Part 327, "Rules and Regulations Governing Public Use of Water Resource Development Projects administered by the Chief of Engineers."
- (6) Executive Order No. 11752.
- (7) 33 CFR Sec. 209.120, "Regulatory Program of the Corps of Engineers."
- (8) Title 15, Page's Ohio Revised Code, Annotated, Section 1501.10, Lease Provisions Ohio Revised Code Conservation of Natural Resources.
- (9) Public Law 97-140, Section 6, 16 USC 460d.
- (10) Section 1134(d) of The Water Resources Development Act of 1986, Public Law 99-662, 16 USC 460d.

d. Applicability: This plan is applicable to all Berlin Lake project lands held in fee simple title by the U.S. Government (hereinafter referred to

as the Government) exclusive of lands leased for commercial concession activities. Facilities used in connection with commercial concessions are not affected by this plan, as these operations are effectively controlled under their individual lease agreements. Activities upon easement lands will continue to be regulated by the original easement conditions. These restrictions generally require a letter of consent from the Corps for the erection of any structure and prohibit the placement of fill material at or below the flood pool elevation of 1032 mean sea level. Floating facilities moored to easement lands require an individual dock permit from the Pittsburgh District U.S. Army Corps of Engineers.

e. History: Berlin Lake was authorized by Congress under the Flood Control Act of 28 June 1938, P. L. 75-761. Construction of the dam began in 1941 and full operation of the project was accomplished by June 1943. Some water-based recreation and private facilities and uses were developed at the project shortly thereafter. As this trend became more pronounced, permit procedures were begun. Applicants were required to submit plans and specifications of their proposed facilities. If the structural criteria and site location were acceptable and the applicant had a residence adjacent to government property, a permit or license for the facility was then issued. In accordance with Engineering Regulation 1130-2-406, a lakeshore management plan was drafted and placed in effect in September of 1977. The intent of the plan was to establish policies and guidelines for the protection and preservation of the desirable environmental characteristics of the Berlin Lake shoreline. Analysis of the effectiveness of this plan has indicated a need for revision of policies to more appropriately meet the intent of the regulation. All references to lakeshore management are to be changed to shoreline management in 1989.

f. Cultural Resources: Federal laws obligate the Corps of Engineers to protect significant cultural resources eligible for or listed on the National Register of Historic Places. This protection extends to potentially significant resources which are presently undiscovered or which have not been evaluated for National Register eligibility. A number of prehistoric and historic archeological sites have been discovered along the Berlin Lake shoreline, although only a small percentage of the shoreline has been archeologically surveyed. None of these sites have been evaluated for National Register eligibility, but some are felt to be potentially eligible.

The presence of an archeological site does not preclude shoreline development; however, the effect of development on sites must be considered in the permitting process. The evaluation should take into consideration the significance of the site and the potential effect of development. Nondestructive activities, such as mowing, may be permitted regardless of site significance. Some selected destructive activities may be permitted at a significant site if appropriate mitigation is undertaken.

Questions concerning historical or archeological resources should be brought to the attention of the Resource Manager who, in turn, will contact the Environmental Studies Branch, Planning Division for resolution.

g. Berlin Lake Encroachment Policy: The Berlin Lake Encroachment Policy addressing unauthorized structures on fee and easement areas became effective on 28 October 1987. This policy was presented at a public meeting

held on 11 May 1988. The purpose of this policy is to set forth procedures for resolving easement and fee structural encroachments.

(1) Easement Lands: With respect to easement encroachments the above policy was revised on 22 February 1989. Now, lot owners with easement property above elevation 1034 N.G.V.D. will have the option of purchasing the easement for fair market value or accepting a waiver of the Government's easement rights (excluding the right to flood). Those structures at or below the 1034' elevation and at or above the spillway(1032') elevation, may remain subject to a consent. All other encroachments and miscellaneous trespass items, such as picnic tables, barrels, storage, etc. in the easement area must also be removed before the individual's encroachment situation can be considered resolved and a consent granted.

(2) Fee Lands: The policy regarding fee lands has not changed. Structures encroaching on fee land will be dealt with on a case-by-case basis, leaning toward removal. All other encroachments and miscellaneous trespass items or activities must be removed or activity ceased before the encroachment/trespass can be considered resolved for the purposes of granting a shoreline use permit(dock and/or mowing) or real estate instrument for steps,walkways, etc..

The Pittsburgh District Encroachment/Trespass Resolution Action Plan (ERTAP) is the means being used to monitor encroachment/trespass resolution progress.

## 2. OBJECTIVES OF THE PLAN.

a. General: Experience has shown that management is necessary to prevent large sections and possibly all of the Berlin Lake shoreline from becoming congested with private exclusive uses and facilities. The problem created by such facilities is that the general public is excluded from using the shoreline of the lake where such exclusive use or facility is located. Even private mowing of Government land gives the appearance that the land is in private ownership or use and cannot be used by the general public. The intent of this shoreline management plan is to maximize the recreational use and enjoyment of Berlin Lake by all segments of the population and at the same time, promote a greater compatibility between the recreation user, the environment, and the overall project purposes and resources.

The objectives of this plan are to provide the means to manage and protect the Berlin Lake shoreline, establish and maintain acceptable fish and wildlife habitat, preserve aesthetic quality of the natural environment, honor past written commitments to private individuals, and promote the safe and healthful use of the lake and shoreline for all recreational purposes by all members of the public.

b. Commercial Concessions: Boat owners will be encouraged to moor their boats at commercial marinas, utilize dry storage facilities off project lands or trailer their boats to public launching ramps which are provided by the Corps at no charge. Concessionaires will be encouraged to increase their storage capacity based on public demand. Additional concessions will be considered when the need is demonstrated.

c. Private Exclusive Use: Private exclusive use is the use of public lands or waters by a private citizen or organization such that any benefit to be derived therefrom is in the predominate interest of that individual or organization. Private exclusive use may occur as an activity, e.g. mowing, or as spatial use that occurs when facilities, such as steps, docks, lightpoles, etc., are placed upon public lands or waters. Ownership of private land adjoining Government property does not convey any special rights nor privileges on the adjoining public lands and waters. Any exclusive use of public lands or waters will be by permit or outgrant instrument only.

d. Review and Analysis of 1977 Lakeshore Management Plan: Analysis of the 1977 plan has indicated that it is not adequately meeting the intent of the shoreline management regulation. This is substantiated by the fact that the public demand for docking facilities has resulted in the number of permits doubling since the plan has been in effect, overtaxing the available resources. This gradual but constant growth of private exclusive use has created the necessity of policy revisions to protect the resource and to comply with the regulation.

e. Public Involvement: A review of the first Berlin Lake Lakeshore Management Plan approved in September 1977 was initiated on April 1, 1986 with the announcement of a moratorium on the issuance of new boat dock permits starting with the 1986 boating season. The moratorium would be in force until a new plan was approved. The moratorium was put in place to allow the project staff to study conditions on the lake. A first draft plan was completed in the spring of 1987. Some of the issues identified for resolution and restudy were as follows: mowing policy, dock policy, boat club and easement problems, encroachments and trespasses, boundry delineation, shoreline access criteria, dockage privileges, and suspected unauthorized commercial activities.

The above issues were studied in 1987 resulting in the preparation of a second draft in early 1988. This draft plan addressed the above issues and attempted to resolve them.

Eight public informational meetings were held between June 6 and June 16, 1988, four at the project office and four in the nearby communities. The primary purpose of these sessions was to elicit public participation, obtain comments on the proposed changes to the Shoreline Management Plan and discuss other concerns the public may have concerning Berlin Lake. Approximately 180 people attended these sessions. Appropriate news releases were sent out and all affected Congressional elements were notified and invited to the meetings. The Berlin project staff prepared a handout for the public involvement sessions that outlined the Corps' proposed changes to the Plan. The only controversial issue was the proposal stating that as boat club members leave the club, the club docking facility would be reduced in size accordingly. After meetings with the affected boat clubs and interested Congressional elements, this proposal was re-studied, and after due consideration, dropped from the Plan.

The Plan was further revised in accordance with the public comments and revised Corps' proposals which reflected the public's comments. The final Shoreline Management Plan was submitted to Ohio River Division in the Spring of 1989.

### 3. DESCRIPTION OF THE SHORELINE.

a. General: Berlin Lake is located in the Mahoning River basin of Northeastern Ohio. It covers portions of Mahoning, Portage and Stark Counties. Its location is within and near the farthest advance of ancient glacial ice sheets. This glacial influence has resulted in producing a flat to rolling plateau surface. Streams generally have eroded shallow and moderately wide valleys in the plateau. There are several interesting wooded tracts within the reservoir area. These tracts represent an interface between the northern beech-sugar maple and southern oak-hickory communities. These open woods and the clear water lake represent a great recreational asset that is in close proximity to a highly industrialized and populated portion of the State of Ohio.

b. Present Land Use: The Berlin Lake project contains 7,990 acres, of which 6,885.29 acres are owned in fee while the remaining 1,099.66 acres are flowage easements. Of the fee owned land, 73 acres are used for project operations; 189 acres are used for public use as Corps operated recreation areas; 367 acres are leased to the City of Alliance for maintenance of a sub-impoundment water supply; and portions of the remaining fee title land are licensed to the State of Ohio, Division of Wildlife, as a wildlife and public hunting area. The lake has a conservation pool elevation at 1024.7 National Geodite Vertical Datum (NGVD) which creates a pool of 3,590 acres. As the season progresses, the pool is drawn down and consequently the surface of the lake decreases.

c. Private Development: Berlin Lake is located near several large urban areas including Cleveland, Youngstown, Akron, Canton and Alliance. As a result, extensive private development has occurred on a large portion of the shoreline and on the adjoining private land. The fee boundaries are not contiguous to other natural nor man-made boundaries or barriers, such as roads, etc..

d. Existing Public Access: Public access to the project centers around 2 developed Corps recreation areas - Mill Creek and German Church, 2 concessionaire areas, and the Bonner Road Ramp operated by the Ohio Department of Natural Resources. Public access to the majority of the shoreline is generally restricted by the private property surrounding Federal lands.

e. Prior Commitment: Historically private docks have been permitted on Berlin Lake. Prior to the initiation of the lakeshore management plan there were 159 private and community docks under permit on the lake. These private docks provided moorage space for approximately 600 boats. Since that time, the demand for dock permits has more than doubled. It is therefore apparent that the initial plan did not meet the intent of the regulation in reducing the proliferation of private exclusive uses.

It is the intention of the Corps of Engineers to honor past written commitments made to individuals for their private floating structures. The granting of dock permits for these facilities is discussed in paragraph 5.c. Honoring Past Commitments.

f. Indian Lands: There are no Indian lands within the boundaries of the Berlin Lake project.

g. Joint Jurisdiction - Federal: No other Federal jurisdiction exists on the project.

h. Joint Jurisdiction - State: The Ohio Department of Natural Resources, Division of Wildlife, has a license from the Corps of Engineers to manage 6,057 acres for fish and wildlife purposes. The Corps also leases to Ohio DNR 11.5 acres of land known as The Bonner Road Access and Field Station for parks and recreation purposes. This lease runs to 2025.

i. Joint Jurisdiction - Municipal: The Corps of Engineers has leased 367 acres to the City of Alliance for development of a sub-impoundment as a source for a municipal water supply.

#### 4. LAKESHORE ALLOCATION.

a. General: Development of adjoining private land increases the demand for private floating facilities. Therefore, it is readily apparent that a plan for systematic development of the shoreline is essential. The Lakeshore Management Plan is intended to protect the natural beauty of the shoreline and to control the exclusive use of the lakeshore.

b. Allocations: A comprehensive study of the fee lands surrounding the lakeshore resulted in the development of the plan herein for Berlin Lake, which establishes shoreline allocations as shown in Exhibit A and as described below. The projects easement lands have not been included in the lakeshore allocation system. These areas are not owned in fee by the U.S. Government but are areas over which the Corps of Engineers has the right to flood and the right to restrict surface use. Policy concerning permits for private floating structures is addressed in paragraph 5. PERMITS.

(1) Limited Development Areas: Certain private facilities and uses may be permitted in areas designated for limited development. As prescribed by the policies within the plan, the density of floating facilities may vary; but in no case will it exceed fifty percent of the shoreline allocated for limited development when the lake level is at normal summer pool (El. 1024.7). The density of development may be less than fifty percent if public access or the water depth is restrictive and also if the proposed use adversely affects the general public safety, resources of the project or the available recreational opportunities as determined by the District Engineer. Density of floating facilities will be determined in accordance with guidance provided in the current shoreline management regulation. Mowing will be permitted in limited development areas in accordance with paragraph 7. VEGETATIVE ALTERATION.

(2) Public Recreation Areas: Private exclusive use facilities and vegetation modification are not permitted within or adjacent to developed recreation areas, or in areas in close proximity to parks where the structures would detract from the recreational appearance of the park. Existing authorized private facilities located within designated but undeveloped recreation areas will be permitted to remain until such time as recreational development is imminent. In such cases, relocation to a limited development area will be required. Upon the transfer of ownership or death of the present and recorded permittee, surviving spouse or children whose names appear on the

1977 permit, the permit is terminated. No new permits will be issued in undeveloped designated recreation areas, nor will add-on slips be allowed. Vegetation alteration or modification of land form is not permitted in these areas.

(3) Protected Lakeshore Areas: Private exclusive use facilities are not permitted in protected lakeshore areas. Existing authorized private exclusive use facilities located within designated protected lakeshore areas will be permitted until the present permittee's interest is terminated by the sale of property or death of the permittee. These areas were designated to protect aesthetic, environmental, and fish and wildlife values. Other reaches of the shoreline were included under this allocation for physical protective reasons including shallow areas and reaches of the shoreline subject to exposure to winds or currents. Land access and boating are permitted along the shoreline within these areas as long as aesthetic, environmental, and natural resource values are not damaged nor destroyed. A four-foot wide mowing path may be granted in protected areas only after a thorough review is conducted of the long term effects on the environmental and physical characteristics of the area.

(4) Prohibited Access Areas: Private exclusive use facilities are prohibited in these areas. Such areas are so designated for the physical protection of the recreating public or for the protection of unique or fragile ecosystems. Examples of such would be unique fish spawning beds and certain hazardous areas near dams.

c. Shoreline Allocation Master Map: A master map of the shoreline is on display at the Office of the Resource Manager at Berlin Lake. (EXHIBIT A)

## 5. PERMITS.

a. General: All private exclusive use or facilities located on Government lands or waters at Berlin Lake must be covered by a permit, lease or license. All private exclusive use or facilities not so covered will be considered as unauthorized uses or structures and will be subject to discontinuance, removal or citation (including monetary fines) in accordance with Title 36, Code of Federal Regulations, Chapter III, Section 327.

It will be understood that the Corps of Engineers will, when necessary, enforce the provisions of Title 36, C.F.R., Chapter III, Section 327, as they apply to the lakeshore management plan on lands leased or licensed to the Ohio Department of Natural Resources.

b. Application Procedures: Requests for lakeshore use permits, leases, letters of permission, and licenses will be initiated at the Resource Manager's office at the Mill Creek Administration building located on Bedell Road.

c. Honoring of Past Commitments: All previously issued permits will be subject to reapplication upon implementation of this plan. Permits for private exclusive use or facilities within other lakeshore allocation areas will be subject to the criteria specified below:

(1) Protected Lakeshore Areas: Individuals in protected lakeshore areas who held valid dock permits in 1986 will be considered for reapplication under this plan. Community docks or boat clubs located within protected lakeshore areas will be considered for reapplication, but only for those individuals and boat clubs identified on the original 1978 permit. No new applicants will be considered in protected areas.

Leases, licenses or permits will be available to the present permittee until the transfer of ownership or the death of the present and recorded permittee. In the case where a husband or wife dies and his or her name appears on the permit, the permit will be honored for the surviving spouse and any children whose names are on the permit and were living in the household on 16 December 1977, the approved date of the original plan.

(2) Future Recreation Areas: The policies stated above in 5.c.(1) also apply to future recreation areas. In the event that definite plans are made to commence development of the area for recreation, all permittees will be notified accordingly and required to relocate their activities to a limited development area.

(3) Limited Development Areas.

(a) Individual Permits: Individuals in limited development areas who held valid dock permits in 1986 will be considered for reapplication under this plan. Any individual buying property adjoining a limited development where the density is more than the maximum allowable density will not be eligible for a dock permit. When the density is reduced below the maximum allowable, those eligible individuals may be considered for a permit. New applicants will be considered only if they meet the criteria as set forth in paragraph 6. PRIVATE MOORAGE FACILITIES.

(b) Boat Clubs: Boat clubs in limited development areas which held valid dock permits in 1986 will be permitted to remain however, permits will be issued in accordance with paragraph 5.e Boat Clubs. No new boat clubs will be considered for dock permits on the lake.

(c) Community Docks Partnerships and Associations.: Community docks and partnerships in limited development areas which held valid dock permits in 1986 will be considered for reapplication under this plan. New applicants will be considered only if they meet the criteria as specified in paragraph 6. PRIVATE MOORAGE FACILITIES.

(4) Flowage Easement Areas: Flowage easements were acquired in several locations at Berlin Lake to enable the Government to flood the property and restrict its use. These easements prohibit actions that interfere with use of the property as a reservoir. Owners of property to these flowage easements are urged to study the easements and know the restrictions on use of their property. They should consult the Corps Berlin Lake Resource Manager before starting any land modification, construction, filling, or planting. All dock permits in easement areas will be subject to the same criteria as that specified for limited development areas.

d. Shoreline Use Permits: Permits are issued and enforced in accordance with the provisions of Title 36, Code of Federal Regulations, Section 327.19.

Applications for all structures or actions requiring a permit, lease or license will be made to the Resource Manager at The Mill Creek Office. These permits are nontransferable and shall become null and void upon sale or transfer of the structure or death of the permittee. Lakeshore use permits are issued primarily for mooring privileges (docks) and vegetative alteration (mowing). A violation of the conditions of the permit or any unauthorized modification of the permitted structure or activity will be grounds for revocation of the permit.

The granting of dock and mowing permits precludes the existence or occurrence of any trespass items or activities, or temporary or permanent encroachments on Government fee and easement land by the individual or organization. Therefore, any trespass items or activities must be removed or stopped and any encroachments of a temporary nature must be removed prior to the granting of the permit.

Any permit applications from an individual who has existing permanent encroachments which have been referred to the Corps of Engineers Pittsburgh District Real Estate Division will be processed only after a determination has been made that the individual is complying with any and all requests by Real Estate to resolve their encroachment(s).

Repeated trespasses or failure to comply with requests to remove encroachments will result in termination of any permit. Trespasses or encroachments discovered after the issuance of the permit will result in termination of the permit.

e. Boat Clubs: This plan revises the method for issuing permits for previously permitted boat clubs. Permits will be issued to the clubs for the required number of docks/mooring slips. Each club member is limited to one dock/moorage slip.

Previously permitted boat clubs will be required to furnish the Resource Manager with a current listing of club members eligible for occupying a dock/moorage slip along with a copy of the last valid permit (1986). This document will be required within 30 days of notification by the Resource Manager or his/her representative. The number of dock/moorage slips issued to the club will be consistent with the number of dock/moorage slips issued on the last permit. The moorage area required to accommodate the existing number of docks will not be increased. Additionally, no new boat clubs will be permitted on Berlin Lake. Maximum allowable density on fee lands is limited to 50 percent.

(1) Application Information: All previously permitted boat clubs, when applying for a permit will provide the following information to the Resource Manager:

(a) a copy of the permit that was valid in 1986 (boat clubs will provide this to the Resource Manager).

(b) a drawing showing the dock(s) configuration including all dimensions and method of flotation

(c) a copy of the registration for each boat moored at the club's dock or moorage slips.

(d) a copy of the certificate of title of each boat that is to be moored at the club's dock or moorage slips.

(2) Unauthorized Commercial Activities: Facilities granted under a Lakeshore Use Permit will not be leased (rented), sublet nor provided to others by means of engaging in commercial activity(s) by the permittee or his/her agent for monetary gain. This does not preclude the permittee from selling his/her ownership to the facility.

f. Department of Army Permits: Permits will be required from the Corps of Engineers for the discharge of dredged material or the placement of fill material below the reservoir full pool elevation pursuant to Section 404 of the Clean Water Act of 1977, P.L. 95-217. Section 404(b)(1) Guidelines (40 CFR Part 230) promulgated by EPA and the Corps' public interest review procedures (33 CFR Part 320 et. seq.) will be applied when evaluating such permit applications.

g. Corps of Engineers Real Estate Instruments: Real estate instruments must be provided for all commercial development activities and for some activities which are not covered in paragraphs 8 and 9 of this plan. There will be a fee associated with the issuance of any such instrument, based upon rate schedules established pursuant to regulation.

## 6. PRIVATE MOORAGE FACILITIES.

a. General: All new permits issued under this plan must meet the following criteria:

(1) Access: Shoreline use permits will only be issued to individuals or groups with access to public lands in limited development areas or easement land in the Lakeshore Management Plan. Private lands through which the public has unrestricted access, such as, areas set aside along public roadways, areas set aside in subdivisions for residents where the sub-division owns the easement land or a three party consent of access is in place, will be recognized as a means of access for an individual lakeshore use permit.

(2) Number of Boats Per Dock: Eligible applicants who are not members of boat clubs will be permitted only one dock with a maximum of 2 slips. No more than two boats will be permitted on the dock. These boats must be registered and titled to the permittee and/or family members residing in the permittee's household. For community docks, association and partnership docks, each individual will be required to meet the conditions as outlined above.

(3) Proof of Boat Ownership: Applicants will be required to provide the following: (a) proof of boat ownership by submitting copies of boat registration and title for each boat. (b) a description of the dock (c) a copy of the last valid permit (d) a copy of a legal right of access for individuals (groups) who are not adjoining (abutting) land owners.

b. Basic Minimum Requirements: All private moorage facilities are subject to those conditions which are set forth in both the boat dock application and the Lakeshore Management Plan. The number of slips will coincide with the number of boats titled and registered by the applicant as in paragraphs 6.a.(3) and 6.a.(4). The Lakeshore Management Plan requirements for private moorage facilities are as follows:

(1) Docks shall be a basic T, U or L shape to accommodate the requisite number of boats (an I-shape for pontoons).

(2) All portions of new docks will be at least 32 inches and not more than 48 inches in width.

(3) Framing will consist of 2x6 inch lumber or its equivalent in strength.

(4) Docks, if painted, will be painted white.

(5) Floatation devices must consist of a material that will not sink if punctured. Industrial metal drums, whether filled or empty, are considered unacceptable floatation devices for private docks. All existing approved filled metal drums will be permitted to remain until they have to be replaced. Styrofoam, if used for floatation, must be of the solid block type, not multi-banded layer units. Commercially manufactured plastic floatation devices need not be filled if approved by the Resource Manager. Under no circumstances will containers formerly used for storage of hazardous materials be permitted.

(6) Electric lines, lights, or outlets will not be permitted upon docks.

(7) No signs will be erected upon docks. The words "private dock" may be painted on the upper surface of the dock walkways.

(8) The permit tag must be displayed for each boat moorage (slip) in order to aid in identification and to facilitate compliance inspections.

(9) Vegetation on Government land, alive or dead, will not be used to anchor a dock. Easement property owners must also comply with this provision. This is necessary to prevent the destruction of healthy vegetation which could eventually result in the needless erosion of the Berlin Lake shoreline.

(10) It is expected that docks, adjacent to either fee or easement land, will be maintained in a safe state of repair for the entire boating season. Unsafe structures, as determined by the Resource Manager, will be repaired within 30 days of notification, or the permit will be subject to revocation. At the end of the season, or in no case later than 1 November, all floating facilities must be removed from project lands and waters so as to avoid ice damage that may occur during the winter and early spring and floating debris that may hinder project operations. These docks will not be stored on Government land nor be permitted to remain within easement boundaries. The only exception to this policy is when the permittee's dwelling is within the

flowage easement boundary. In which case, the dock must be removed to the immediate vicinity of the dwelling and securely anchored to the ground. Docks not so removed are subject to permit revocation and/or impoundment, or removed at the owner's expense.

7. VEGETATIVE ALTERATION.

a. Mowing Permits: All previously issued mowing permits will be subject to reapplication upon implementation of this plan, and the conditions outlined in para 5.d Shoreline Use Permits. Guidance for the issuance of mowing permits is as follows:

(1) Mowing Permits in Limited Development Areas: Mowing permits may be issued by the Resource Manager for adjoining landowners to mow an area to the lakeshore to a width of 75 feet or the width of their lot, whichever is the least. Variance of this criteria will be considered on a case by case basis depending upon environmental assessments by the Resource Management staff.

(2) Areas Where Mowing is Restricted: New mowing permits will not be issued in protected areas, recreation areas, future recreation areas or areas which are designated for prohibited access. There may be a letter of permission issued to mow a four foot meandering path in protected areas. Permittees holding valid permits in protected or future recreation areas will be subject to reapplication only by the original permittees. The areas covered by these permits will not exceed 75 feet in width or the width of their lot, whichever is the less. Variances to this criteria will be considered on a case by case basis depending upon environmental assessments by the Resource Management staff.

(3) Unauthorized Mowing: Mowing in violation of the area specified in the permit will be considered a trespass and could result in the revocation of a dock permit as outlined in paragraph 5.d. Lakeshore Use Permits.

8. LICENSED STRUCTURES ISSUED WITHIN LIMITED DEVELOPMENT AREAS OR EASEMENT LANDS.

(a) General: Application may be made to the Resource Manager for a license to cover authorized lakeshore uses or facilities other than boat docks or mowing. The resource Manager will review these applications and forward them to Pittsburgh District Real Estate Division for approval. There will be a fee associated with the issuance of any such licenses based upon rate schedules established pursuant to regulation. (Erosion control devices and most structures on easement lands are exempt from these fees.)

(b) Electrical Lines and Light Poles: No new electric lines nor light poles will be permitted on Federal Property. Existing electric lines and light poles under license at the time of the enactment of this plan will be grandfathered only to the current licensee. When the current licensee loses his/her interest in the facility, the existing electric lines and light poles must be removed from federal property.

(c) Flag Poles: No new flag poles will be permitted upon Federal lands. Flagpoles currently under permit will be grandfathered only to the

current permittee. When the current permittee loses his/her interest in the facility, the flag pole must be removed from Federal property. At the date of this plan, six flag poles or combination flag pole - light poles exist on Federal property.

(d) Steps, Walkways and Footbridges: Steps, walkways and footbridges are considered as dock support facilities and will continue to be licensed in limited development areas. In all other areas such support facilities shall be permitted to remain only as long as the floating facility is permitted to remain in that location.

(e) Erosion Control Devices: Erosion control devices may be permitted where bank erosion is causing a problem or endangering adjacent private facilities. These devices may consist of riprap (stone) bank protection or wooden, steel or placed concrete/masonry structures. All devices will require approval from the Corps of Engineers. Plans must be submitted to the Resource Manager before any such work is undertaken on Government property. The Resource Manager will forward the request to the Pittsburgh District Real Estate Division for approval. Any work undertaken without approval is subject to removal at the owner's expense.

#### 9. FEES.

(a) Dock and Mowing Permits: Fees for private exclusive use permitted activities are established by the Department of the Army Regulations. These regulations are not part of this document, are published separately and are subject to change as required.

(b) Licenses Issued by the Corps of Engineers: There will be a fee associated with the issuance of a license from the Corps of Engineers, Pittsburgh District Real Estate Division, based on rate schedules established pursuant to regulation.

#### 10. PROHIBITED FACILITIES AND ACTIVITIES.

a. General: All private exclusive uses or facilities which are located on Government-owned land and are not covered by a valid permit are prohibited. Prohibited facilities or activities constitute an encroachment or trespass against the Federal Government and may be grounds for citation under Title 36, Code of Federal Regulations and/or revocation of all lakeshore permits or licenses as outlined in paragraph 5.d Shoreline Use Permits.

b. Examples: Examples of prohibited facilities and activities include, but are not limited to, the following:

(1) Piers: Any type of fixed pier or platform either on the land or extending into the water from the lakeshore is prohibited.

(2) Pilings or Posts: Any type of piling or post driven into the lake bottom for the purpose of mooring or tying boats is prohibited.

(3) Tree Cutting, Pruning, or Other Forms of Vegetative Alteration are Prohibited: Any such activity not covered by valid written permission is prohibited. All mowing is prohibited, except that permitted in connection

with a valid boat dock permit or mowing under permit in accordance with the approved plan.

(4) Sewage or Outfall Structures: Any type of sewage or outfall structure is prohibited. This includes septic and grey water drainage. Any drain or outfall structure on Government property is subject to excavation and/or plugging by Government personnel at the owner's expense.

(5) Fences: Any type of fence or similar structure is prohibited, unless authorized in conjunction with an agricultural lease.

(6) Land Form Modification: Any type of land form modification, excavation or fill, is prohibited unless the modification is in compliance with the approved plans for a permitted activity.

(7) Buoys or Waterway Markers: Privately owned buoys or waterway markers are prohibited. These unauthorized structures will be removed under Title 36.

(8) Gardens: Vegetable, flower or rock gardens are prohibited.

(9) Burning: Burning of any materials by private individuals is prohibited on any government-owned lands managed by the Corps of Engineers or the Ohio Department of Natural Resources.

(10) Trash: Accumulation of garbage, trash, refuse, litter or similar materials on Government-owned land is prohibited.

(11) Herbicides: No herbicide may be used for vegetative control.

(12) Painting: Tree trunks, boulders, stumps or rock outcroppings shall not be painted nor whitewashed, but remain in their natural condition.

(13) Vehicles: Vehicles of any type are prohibited on Federal shorelines. Access to the lake is by pedestrian means only.

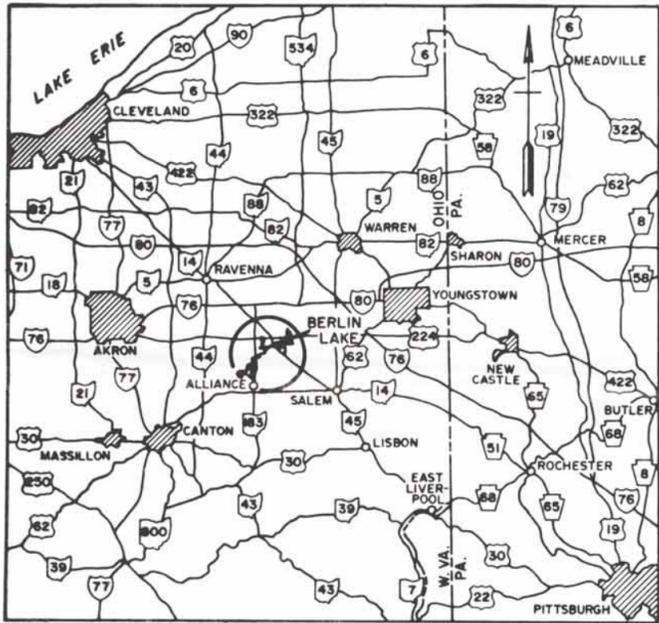
(14) Other: Picnic tables, lawn furniture, ornamental structures and figurines, playground equipment, fireplaces patios, signs, swim floats, swimming pools, dog houses, tree houses, etc., will not be permitted on Government-owned land.

#### 11. REVIEW.

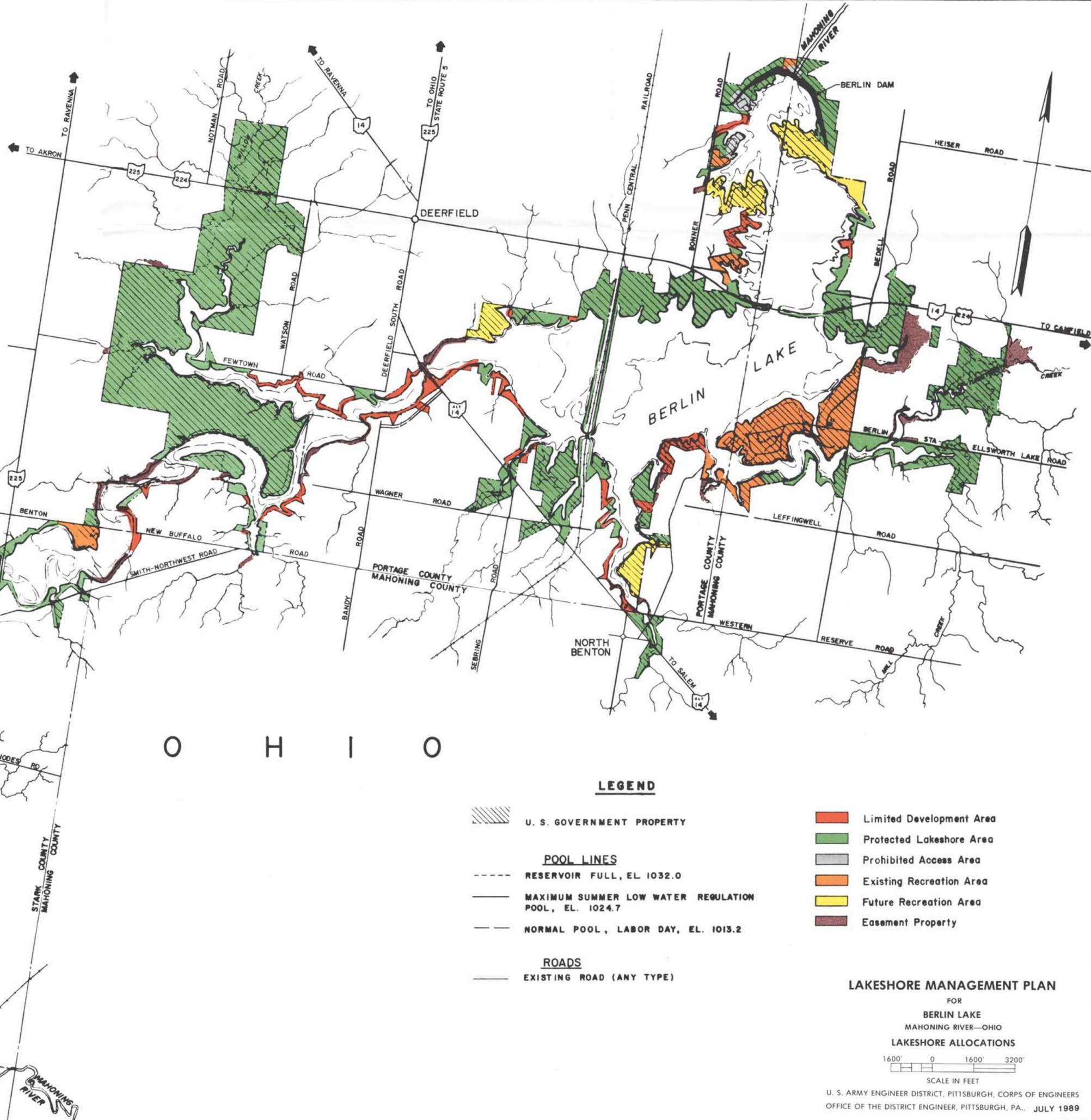
This Shoreline Management Plan is intended to be a flexible and working document. The Corps of Engineers will continually monitor the resources of Berlin Lake and the recreational needs of the users of the project and will recommend revisions that will minimize conflicts between various interests and insure compliance with the lakeshore management regulation. Minor changes in area limits or allocations will continue to be approved by the Corps of Engineers.

**EXHIBIT A**

**BERLIN LAKE LAKESHORE ALLOCATION MAP**



VICINITY MAP



O H I O

LEGEND

- U. S. GOVERNMENT PROPERTY
- Limited Development Area
- Protected Lakeshore Area
- Prohibited Access Area
- Existing Recreation Area
- Future Recreation Area
- Easement Property
- POOL LINES**
- RESERVOIR FULL, EL. 1032.0
- MAXIMUM SUMMER LOW WATER REGULATION POOL, EL. 1024.7
- NORMAL POOL, LABOR DAY, EL. 1013.2
- ROADS**
- EXISTING ROAD (ANY TYPE)

LAKESHORE MANAGEMENT PLAN  
FOR  
BERLIN LAKE  
MAHONING RIVER—OHIO  
LAKESHORE ALLOCATIONS



**EXHIBIT B**

**SUMMARY OF APPLICATION PROCEDURES**

**EXHIBIT B**

**SUMMARY OF APPLICATION PROCEDURES**

<u>Structure or Use</u>	<u>Type of Real Estate Instrument</u>	<u>Where to Apply</u>	<u>Fee</u>	<u>Duration of Instrument</u>	<u>Additional Information</u>
Boat Dock (single)	Permit	Resource Manager	\$30.00	5 Years	Plans & Specifications
Boat Dock (comm.)	Permit	Resource Manager	\$30.00	5 Years	Plans & Specifications
Boat Dock (club)	Permit	Resource Manager	\$30.00	5 Years	Plans & Specifications
Mowing	Permit	Resource Manager	\$10.00	1 Year	Plans & Specifications
Flag Pole	License	Resource Manager	Rate Schedule	Variable	Plans & Specifications
Electric Lights & Poles	License	Resource Manager	Rate Schedule	Variable	Plans & Specifications
Stairs	License	Resource Manager	Rate Schedule	Variable	Plans & Specifications
Erosion Control Devices	License	Resource Manager	-----	Variable	Plans & Specifications

Notes: (1) For additional information contact Resource Manager at Mill Creek office.  
 (2) No fee for licenses issued on easement land.

**EXHIBIT C**

**APPLICATION FOR LAKESHORE USE PERMIT**



CONDITIONS OF PERMIT FOR LAKESHORE USE

1. This permit is granted solely for the purpose described by the permittee on the opposite side of this form.
2. The permittee agrees to and does hereby release and agree to save and hold the Government harmless from any and all causes of action, suits at law or equity, or claims or demands or from any liability of any nature whatsoever for or on account of any damages to persons or property, including the permitted facility, growing out of the ownership, construction, operation or maintenance by the permittee of the permitted facilities.
3. The ownership, construction, operation or maintenance of the permitted facility is subject to the Government's navigation servitude.
4. No attempt shall be made by the permittee to forbid the full and free use by the public of all navigable waters at or adjacent to the permitted facility or to unreasonably interfere with navigation in connection with the ownership, construction, operation or maintenance of the permitted facility.
5. The permittee agrees that if subsequent operations by the Government require an alteration in the location of the permitted facility or if in the opinion of the District Engineer the permitted facility shall cause unreasonable obstruction to navigation or that the public interest so requires the permittee shall be required, upon written notice from the District Engineer to remove, alter, or relocate the permitted facility, without expense to the Government.
6. The Government shall in no case be liable for any damage or injury to the permitted facility which may be caused by or result from subsequent operations undertaken by the Government for the improvement of navigation or for other lawful purposes, and no claims or right to compensation shall accrue from any such damage.
7. The ownership, construction, operation and maintenance of the permitted facility is subject to all applicable Federal, State and local laws and regulations.
8. This permit does not convey any property rights either in real estate or material; and does not authorize any injury to private property or invasion of private rights or any infringement of Federal, State or local laws or regulations nor does it obviate the necessity of obtaining State or local assent required by law for the construction, operation or maintenance of the permitted facility.

9. The permittee shall comply promptly with any lawful regulations or instructions of any Federal, State or local agency of the Government.
10. The permittee agrees that he will complete the facility construction action within one year of the permit issuance date. The permit shall become null and void if the construction action is not completed within that period. Further, he agrees that he will operate and maintain the permitted facility in a manner so as to minimize any adverse impact on fish and wildlife habitat, natural environmental values and in a manner so as to minimize the degradation of water quality.
11. At such time that the permittee ceases to operate and maintain the permitted facility, upon expiration of this permit, or upon revocation of this permit, the permittee shall remove the permitted facility within 30 days, at his expense, and restore the waterway and lands to its former condition. If the permittee fails to remove and so restore to the satisfaction of the District Engineer, the District Engineer may do so by contract or otherwise and recover the cost thereof from the permittee.
12. No pier or boathouse is to be used for human habitation. Household furnishings are not permitted on boat piers or boathouses.
13. No houseboat, cabin cruiser or other vessel shall be used for human habitation at a fixed or permanent mooring point.
14. No charge may be made for use by others of the permitted facility nor commercial activity be engaged in thereon.
15. The size of all structures shall be kept to a minimum to limit encroachment on the water surface.
16. Boat mooring buoys and flotation units of floating facilities shall be constructed of materials which will not become waterlogged or sink when punctured.
17. Floating structures are subject to periodic inspection by the Corps rangers. If an inspection reveals conditions which make the facility unsafe in any way or conditions which deviate from the approved plans, such conditions will be corrected immediately by the owner upon receipt of notification. No deviation or changes from approved plans will be permitted without prior written approval of the Resource Manager.
18. Floating facilities shall be securely anchored to the shore in accordance with the approved plans by means of moorings which do not obstruct the free use of the lakeshore.
19. That the display permit tag provided shall be posed on the floating facility or on the land areas covered by the permit so that it can be visually checked with ease in accordance with instructions of the Resource Manager.

20. No vegetation other than that prescribed in the permit may be damaged, destroyed or removed.

21. No change in land form such as grading, excavation or filling may be done.

22. No vegetation planting of any kind may be done, other than that specifically prescribed in the permit.

23. This permit is non-transferable. Upon the sale or other transfer of the permitted facility or the death of the permittee, this permit is null and void.

24. By 30 days written notice, mailed to the permittee by registered or certified letter the District Engineer may revoke this permit whenever he determines that the public interest necessitates such revocation or when he determines that the permittee has failed to comply with the conditions of the permit. The revocation notice shall specify the reasons for such action. If within the 30 day period, the permittee, in writing requests a hearing, the District Engineer shall grant such hearing at the earliest opportunity. In no event shall the hearing date exceed 60 days from the date of the hearing request. At the conclusion of such hearing, the District Engineer shall render a final decision in writing and mail such decision to the permittee by registered or certified letter. The permittee may, within 5 days of receipt of the decision of the District Engineer appeal such decision to the Division Engineer. The decision of the Division Engineer shall be rendered as expeditiously as possible and shall be sent to the permittee by registered or certified letter. The permittee may within 5 days of receipt of the decision of the Division Engineer appeal such decision in writing to the Chief of Engineers. The decision of the Chief of Engineers shall be final from which no further appeal may be taken.

25. Notwithstanding condition 24 above if, in the opinion of the District Engineer, emergency circumstances dictate otherwise the District Engineer may summarily revoke this permit.

BERLIN LAKE SHORELINE MANAGEMENT PLAN  
SPECIAL CONDITIONS

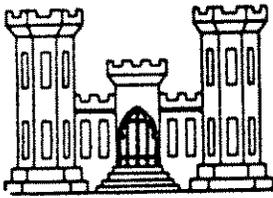
SPECIAL CONDITION NO. 1. The granting of dock and mowing permits precludes the existence or occurrence of any trespass items or activities, or temporary or permanent encroachments on Government fee and easement lands by the individual or organization. Therefore, any trespass items or activities must be removed or stopped and any encroachments of a temporary nature must be removed prior to the granting of the permit. For permanent encroachments, it must be determined that the individual is complying with any and all requests by Real Estate Division to resolve their encroachment(s). Trespasses or encroachments discovered after the issuance of the permit will result in termination of the permit.

SPECIAL CONDITION NO. 2. The permittee shall remove the permitted facility and associated material from Federal fee or easement land for the period of 1 November to 1 April of each year.

**EXHIBIT D**  
**SAMPLE PERMIT**

**PERMIT  
01234  
EXPIRES 30 NOV. 1974**

**THIS PERMIT IS NON-TRANSFERRABLE  
AND MAY BE REVOKED AT ANY TIME**



**U.S. ARMY  
CORPS OF ENGINEERS**

**EXHIBIT E**

**COORDINATION WITH OUTGRANT AGENCY**

# ODNR

OHIO DEPARTMENT OF  
NATURAL RESOURCES

Division of Wildlife  
912 Portage Lakes Drive  
Akron, Ohio 44319

May 12, 1989

*M 157489*  
Colonel George M. Miller, Jr.  
U. S. Army Corps of Engineers  
William S. Moorehead Federal Bldg.  
1000 Liberty Avenue  
Pittsburgh, Pennsylvania 15222

Dear Colonel Miller,

Today myself and Clyde Simmerer, District Three Game Management Supervisor, reviewed the draft shoreline management plan for Berlin Lake with George Turak and Leo Summers of the Corps. We feel that the plan is generally acceptable in its present form although we do have some concern with regards to the increasing numbers of dock permits issued.

Berlin Lake sustains heavy boating pressure and there are already serious erosional problems, which are exacerbated by boat-generated wave action. Increased turbidity, siltation, and sedimentation will be the end result of erosional problems.

Berlin Lake sustains naturally reproducing populations of muskellunge, walleye, and smallmouth bass. Natural reproduction of walleye and smallmouth bass within Ohio's other inland reservoirs is extremely limited, while muskellunge are not considered to be self-sustaining in any other reservoir. To preserve the integrity of the available spawning habitat for walleye and smallmouth bass it is necessary to minimize siltation. Increased siltation would also not benefit successful muskellunge reproduction.

Therefore, we feel it is extremely important to vigorously enforce the protected lakeshore areas and judiciously administer docking (and other developmental) permits in limited development areas.

Sincerely,

*Phil Hillman*

Phil Hillman  
Fish Mgt. Supervisor  
Wildlife District Three

PH:mt  
cc: V.LaConte, K.Fritz, C.Simmerer

Richard F. Celeste, Governor