

ISC Ute Reservoir Shoreline Management Plan

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Note: *All exhibits will be reviewed and revised to conform to the policies in the Shoreline Management Plan approved by the ISC on September 29, 2010 and as amended on November 17, 2016. The most current versions of the above exhibits can be found on the ISC website at http://www.ose.state.nm.us/Basins/Canadian/isc_canadian_ute_shoreline_plan.php.*

1. Purpose and Scope

The New Mexico Interstate Stream Commission (ISC, Commission) built Ute Dam in 1962. The ISC owns and operates Ute Dam and Reservoir (Reservoir), owns the rights to water stored in the Reservoir, and owns land and easements under and surrounding the Reservoir.

The ISC is the state agency with the responsibility to set policy for Ute Reservoir and appurtenant state lands, interests in lands, and facilities. The ISC owns, in fee, land up to the 3,787 ft. elevation and maintains a flowage easement up to the 3,806 ft. elevation at the Reservoir. In some instances, the ISC may own fee lands above 3,787 ft. elevation and may maintain a flowage easement above 3,806 ft. elevation or the elevation of the probable maximum flood (ISC Property Interests).

The Ute Reservoir Shoreline Management Plan (Plan), including the exhibits, adopted by the Commission on September 29, 2010, and as amended on November 17, 2016, is the ISC's policy governing the public uses of Ute Reservoir and appurtenant state lands, interests in lands, and facilities. The Plan may be amended to reflect an agreement between the ISC; the New Mexico Department of Energy, Minerals, and Natural Resources, State Parks Division (NMSPD); and New Mexico Department of Game and Fish (NMDGF).

2. Development of the Shoreline Management Plan

The ISC operates Ute Dam and Reservoir, owns the rights to water stored in the Reservoir, and owns land and easements under and surrounding the Reservoir. As the state agency responsible for monitoring and protecting the Reservoir, the ISC entered an agreement with the Village of Logan, the City of Tucumcari, and Quay County in 2001 to assure the quality of life is maintained around the Reservoir, water quality is protected, and economic development is promoted. A primary purpose of the agreement was to create a Master Plan for the Reservoir.

Since that agreement, the ISC, local entities, and others have discussed issues affecting the Reservoir. The ISC's Fee Land, Flowage Easement and Encroachment License Policy and the 2002 ISC Private Boat Dock Policy, which is no longer in effect, resulted from these discussions, and have been implemented to protect the drinking water reservoir and shoreline areas. See Exhibit B, NMISC Ute Reservoir Private Uses of Interstate Commission Fee Land, Flowage Easements, and Encroachment Policy (most current version).

In 2006, the ISC contracted with Sites Southwest, Inc. and Bohannon Huston, Inc. to formulate a shoreline management plan for Ute Reservoir. After working with stakeholders, the contractors presented the ISC with a draft plan in March 2007 for the Commission's consideration.

Between the March 2007 draft and the current plan, the ISC conducted additional public outreach to expand upon stakeholder input.

At the direction of the ISC, a central component of this outreach effort included the formation of the Ute Reservoir Advisory Group (URAG). The URAG was tasked with providing a set of recommendations for the Shoreline Management Plan for the ISC Commission's consideration.

Reflecting the many state and municipal interests at Ute, the URAG initially included the following entities:

- the ISC;
- the Office of the State Engineer, Water Resource Allocation Program;
- the New Mexico Environment Department, Surface Water Quality Bureau (NMED);
- Quay County;
- NMSPD;
- the Village of Logan;
- the City of Tucumcari; and
- the Eastern New Mexico Rural Water Authority (now, Eastern New Mexico Water Utility Authority).

URAG's first working meeting was held on September 26, 2007 in Tucumcari. While all of the official members of the URAG were present, additional individuals, including developers, participated as informal contributors. In October 2007, the ISC approved the addition of a representative from the development community to the URAG. For various reasons, NMED did not participate fully in URAG. All subsequent meetings included individuals representing municipal and private interests.

At the first meeting, each participant was asked to present their most important values for Ute Reservoir. The two strongest values expressed were the need to maintain the water quality of the Reservoir and to preserve its natural aesthetic attributes. Each stakeholder related these values to economic development of the local communities and preservation of community character. URAG members were clear that other values and needs flowed directly from the two key values of water quality and preservation of natural aesthetic attributes.

ISC staff and representative community leaders spent many hours in discussion during URAG meetings and in other venues. Several important elements for inclusion in the plan were agreed upon, while other issues were not resolved. This Plan adopts the URAG's recommendations and states policies that are consistent with the Policy Objectives in Section 3. The URAG recommendations include:

- Maintain compliance with the Canadian River Compact, federal laws, and state laws, and particularly those responsibilities, rules, and policies of the ISC, NMDGF, and NMSPD.
- Acknowledge that the primary purpose for Ute Reservoir is to provide a clean and abundant water supply for communities in Quay, Roosevelt, and Curry Counties.

- Acknowledge the need to maintain a healthy and aesthetically pleasing environment at the Reservoir.
- Acknowledge the importance of recreation, especially fishing, boating, and other water sports. Specifically, allow community boat docks and marinas in support of this priority.
- Protect the shoreline and water quality, specifically by preventing erosion, minimizing sedimentation, and monitoring impacts of recreation and boating at the Reservoir.
- Support economic development consistent with public welfare, economic, social, recreational, and culture interests.

The URAG and others spent a great deal of time discussing the history of boat docks at Ute Reservoir, the ISC's current boat dock policy, and future policy recommendations for boat docks at the Reservoir. Many interests supported private boat docks at Ute Reservoir, and the URAG agreed that privately held community docks should be an option at the Reservoir. However, the URAG and others did not reach a consensus agreement on the optimal number, if any, of private boat docks at the Reservoir or specific policy recommendations.

3. Policy Objectives

The ISC will administer and manage Ute Reservoir to

- Protect and sustain the Reservoir as a primary drinking water source for Eastern New Mexico communities.
- Provide for the safe use of the Reservoir by the public.
- Maintain the natural aesthetic qualities and environmental health of the Reservoir.
- Manage the Reservoir in a manner that supports economic development in all Eastern New Mexico communities consistent with protection of water quality and public access to and use of the Reservoir.

4. References

- 36 C.F.R. Part 327 (1998) – Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief Engineer.
- Canadian River Compact, 1950.
- Stipulated Judgment and Modified Decree, 510 U.S. 126 (1993).
- NMSA (1978) § 17-4-35 Aquatic invasive species control.
- NMSA (1978) § 66-12-3 Definitions.
- NMSA (1978) § 66-12-11 Prohibited operation.
- NMSA (1978) § 66-12-15 Regattas; races; marine parades; tournaments or exhibitions.
- NMSA (1978) § 66-12-18-1 Safe boating rules.

- NMSA (1978) § 72-14-3 General Powers of [Interstate Stream] Commission.
- 18.17.2 NMAC Boating Operation and Safety.
- 18.17.3 NMAC Construction Visitor Provisions.
- 19.5.2 NMAC Park Visitor Provisions.
- 19.5.5 NMAC Concession Activities.
- 19.30.14 NMAC Aquatic Invasive Species.
- Ute Reservoir Private Uses of Interstate Commission Fee Land, Flowage Easements, and Encroachment Policy, adopted by the New Mexico Interstate Stream Commission, February 16, 2005.

5. Use Designations

5.1 **Generally.** Shoreline and Use Designations are shown in Exhibit F, Shoreline Classification Map. The designations are Prohibited Access, Protected Shoreline, Limited Development, and Public Recreation Areas. Descriptions are given below.

5.1.1 **Prohibited Access Areas.** Prohibited Access Areas are those in which public access is not allowed or is significantly restricted for health, safety, or security reasons. These areas include: areas where the Ute Dam is operated, such as the dam and spillway area, reservoir intake structures, and outlet works; areas identified for use by the Eastern New Mexico Water Utility Authority; areas designated by the ISC, NMSPD, Village of Logan, or Quay County as unsafe for public use or otherwise inaccessible.

5.1.2 **Protected Shoreline Areas.** Protected Shoreline Areas are those areas designated to maintain or restore aesthetic, fish and wildlife, cultural, or other environmental values. Shoreline may also be so designated to prevent development in areas that are subject to excessive siltation; erosion; rapid dewatering; exposure to high wind, wave, or current action; and/or areas in which development would interfere with navigation. Further, these designations may be revised and incorporated into the Plan if periodic field surveys illustrate that habitats have changed and animals have selected different areas to nest, roost, or inhabit than those identified in the initial Plan and Shoreline Classification Map.

5.1.3 **Limited Development Areas.** Limited Development Areas are those areas that the ISC or NMSPD owns or maintains an interest and where private facilities and/or activities may be allowed, if the proposed development is consistent with the requirements and conditions identified in this Plan. Upon a case-by-case assessment, permissible development may include existing shoreline facilities, public access or recreational improvements, including accommodations for persons with medically-documented needs that require special access.

- 5.1.4 Public Recreation Areas. Public Recreation Areas are those state-owned lands or those governed by the Village of Logan designated for public recreational use, including commercial concessionaire facilities. Public Recreation Areas at Ute Reservoir currently include Roger’s Park, Logan Park, the Ute Lake Marina, Windy Point Campground, North Area Campground, South Area Campground, and Mine Canyon. Permissible activities and uses at these areas are governed by NMSPD rules and include fishing, swimming, hiking, camping, wildlife observation, boat launching and mooring, marinas, and the use of beach and picnic areas.

Additional Public Recreation Areas will be considered on a case-by-case basis, subject to analysis of existing shoreline conditions, changes in shoreline conditions due to anticipated increased public use, and identification of appropriate mitigation measures.

- 5.2 ISC, in consultation with NMSPD and NMDGF, will review and revise the Shoreline and Use Designations as data becomes available.

6. Ute Reservoir and Shoreline: Licenses and Permits for Access, Use, and Development

6.1 Generally

- 6.1.1 The ISC, NMSPD, and NMDGF require instruments for persons to access, use, or develop ISC Property Interests, including Ute Reservoir.
- 6.1.2 The person seeking access to or use of the Reservoir or shoreline is obligated to secure all necessary federal, state, or local licenses and permits.

6.2 Instruments for Access, Use and Development of Ute Reservoir and Shoreline

6.2.1 Required State Licenses or Permits

6.2.1.1 ISC Encroachment License

6.2.1.1.1 *Purpose.* A person seeking to modify ISC Property Interests should contact the ISC to see whether an ISC Encroachment License (Encroachment License) is required. See Exhibits C and D.

6.2.1.1.2 *Uses and conditions.* An ISC Encroachment License is required for various shoreline uses and modifications, particularly

6.2.1.1.2.1 Where a NMSPD community boat dock permit is sought, see Exhibit D;

6.2.1.1.2.2 Improvements to private fee lands below 3,806 ft. elevation at the Reservoir where ISC maintains an easement. Improvements include those listed under Section 8, Ute Shoreline Protection and Modifications, or any others, see Exhibit C;

6.2.1.1.2.3 NMSPD-authorized concession activity that may be connected to ISC Property Interests, see Exhibit C; and

6.2.1.1.2.4 Any other proposed modification to ISC Property Interests, see Exhibit C.

6.2.1.1.3 *Term.* Generally, an ISC Encroachment License is for the term of one (1) year, though an Encroachment License agreement may specify an alternate term.

6.2.1.1.4 *License Fee.* Encroachment license fees shall be monitored and adjusted as needed in order to ensure that they cover the related administrative and managerial expenses.

6.2.1.1.5 Specific considerations, conditions, and limitations are described generally in Sections 7.3, Boat Docks, and 8, Ute Reservoir Shoreline Protection and Modifications, and specifically included in the Encroachment License Agreement.

6.2.1.2 ISC Vegetation Removal License

6.2.1.2.1 *Purpose.* A person seeking to modify or improve landscaping, remove invasive or non-native species (example, saltcedar or tamarisk), or improve safety and access on ISC Property Interests and to Ute Reservoir should contact the ISC for a Vegetation Removal License. See Exhibit E.

6.2.1.2.2 *Term.* Generally, a Vegetation Removal License is for the term of one (1) year, allowing for removal, plantings, and land rehabilitation.

6.2.1.3 NMSPD Permits

6.2.1.3.1 NMSPD rules list many commercial and recreational activities, events, fees, use permits, and boating permits that may be applicable to those enjoying and doing business at Ute Reservoir.

6.2.1.3.2 *Community Boat Dock Permits.* Individuals seeking a community boat dock permit must follow NMSPD procedures and secure an ISC Encroachment License.

6.2.1.3.3 *Concession Contracts and Concession Permits*

6.2.1.3.3.1 Definitions. For purposes of this Plan,

6.2.1.3.3.1.1 “concession” is a commercial activity conducted within Ute Lake State Park that NMSPD has authorized in writing.

6.2.1.3.3.1.2 “concession contract” is an agreement between NMSPD and a person or business entity, which allows

the person or business entity to provide services, merchandise, accommodations or facilities within a park.

6.2.1.3.3.2 Purpose. NMSPD requires a concession contract or concession permit for an entity to conduct authorized commercial activities in Ute Lake State Park and areas where NMSPD has jurisdiction.

6.2.1.3.3.3 NMSPD rules describe the processes for submitting a concession contract and NMSPD's consideration and approval. See 19.5.5 NMAC.

6.2.1.3.3.4 NMSPD rules describe the processes for securing annual concession permits. See 19.5.5.14 NMAC.

6.2.1.4 NMDGF Aquatic Invasive Species Rules and Regulations

6.2.1.4.1 An owner or person in control of a conveyance or equipment entering Ute Reservoir must be prepared to comply with all New Mexico state statutes and NMDGF rules governing aquatic invasive species control including, but not limited to, 19.30.14 NMAC and NMSA 1978, § 17-4-35.

6.2.2 Real Estate Instruments. Another real estate instrument may be used where one of the licenses or permits listed in this section does not address the proposed access, use, or development at Ute Reservoir, on ISC fee lands, or where ISC maintains a flowage easement.

7. Ute Reservoir Access & Use: Marinas, Community Boat Docks, Boat Ramps, & Motorized Watercraft

7.1 Generally

7.1.1 No permanent or temporary improvement may be installed on state lands without prior approval by the ISC or authorized state agency.

7.1.2 The ISC and NMSPD will discuss and identify appropriate locations for public and private access to Ute Reservoir prior to considering new permits and licenses for marinas, boat ramps, community boat docks, mooring facilities, or other shoreline improvements. In considering whether to designate such improvements at Ute Reservoir, the agencies shall consider:

7.1.2.1 current state rules, particularly Tit. 18, Ch. 17 NMAC;

7.1.2.2 existing access points;

7.1.2.3 appropriate topographical features;

7.1.2.4 existing and proposed developments and whether the public gains access

to the Reservoir through the developments;

- 7.1.2.5 areas where there will be the least environmental impact;
 - 7.1.2.6 potential or expected future changes in reservoir operations;
 - 7.1.2.7 erosion;
 - 7.1.2.8 identified fish and wildlife habitat areas;
 - 7.1.2.9 unique aesthetic qualities in the area of the proposed access point;
 - 7.1.2.10 water depth of the Reservoir, including, but not limited to, current depth, historic low water levels, impact of withdrawals on water depth, and depth of draft under the proposed improvement; and
 - 7.1.2.11 any other factors deemed pertinent.
- 7.1.3 Individuals seeking an Encroachment License, Community Boat Dock Permit, or other permit for accessing Ute Reservoir must follow applicable federal, state and local laws, specifically the laws, regulations or rules, and codes pertaining to construction; protection of fish and wildlife species, migratory birds, cultural resources, and wetlands; aquatic invasive species; and maintaining water quality.
- 7.1.3.1 An individual seeking a license or permit shall bear complete responsibility and all costs associated with compliance with federal, state, and local laws, specifically, an applicant may be required to hire a biologist, archaeologist, surveyor, or other expert to survey the area.

7.2 **Marinas**

- 7.2.1 For the purpose and use of this Plan, a
- 7.2.1.1 “commercial activity” means for-profit sales or services, but does not include the operation of vending machines.
 - 7.2.1.2 “marina” is a commercial facility, operating under a concession contract to provide services to the general public, such as secure moorage or dockage or supplies and services for pleasure boats.
 - 7.2.1.3 “slip” is a berthing place for a boat or personal watercraft.
- 7.2.2 Marina operators must allow full access to public agencies for inspections, monitoring, law enforcement, and other activities.
- 7.2.3 Upon receiving a NMSPD concession contract and an ISC Encroachment License, a marina operator shall comply with all New Mexico state statutes and NMDGF rules governing aquatic invasive species control including, but not limited to,

19.30.14 NMAC and NMSA 1978, § 17-4-35.

7.2.4 New Marinas or Modifications to Existing Marinas

7.2.4.1 Any proposed marina or modifications to an existing marina will be evaluated on an individual and site-specific basis, and the ISC and NMSPD may discuss and identify appropriate locations for marinas upon considering the following factors:

7.2.4.1.1 current laws and rules, including but not limited to 19.5.5 NMAC;

7.2.4.1.2 existing access points;

7.2.4.1.3 appropriate topographical features;

7.2.4.1.4 existing and proposed developments and whether the public gains access to the Reservoir through the developments;

7.2.4.1.5 areas where there will be the least environmental impact;

7.2.4.1.6 conditions at the time of development;

7.2.4.1.7 potential or expected future changes in reservoir operations;

7.2.4.1.8 condition of the nearby shoreline, including erosion;

7.2.4.1.9 identified fish and wildlife habitat areas;

7.2.4.1.10 unique aesthetic qualities in the area of the proposed access point;

7.2.4.1.11 water depth of the Reservoir, including, but not limited to, current depth, historic low water levels, impact of withdrawals on water depth, and depth of draft under the proposed marina; and

7.2.4.1.12 any other factors deemed pertinent.

7.2.4.2 A marina proposed after the effective date of this Plan may only be constructed in Public Recreation or Limited Development Areas. (Exhibit F).

7.2.4.3 Requests. A person seeking to operate a marina will require a NMSPD concession contract and, depending on the proposed site of the marina, may require an ISC Encroachment License.

7.2.4.4 A marina must allow public access to its services, including retail shops, restaurants, or fueling station, and events, such as recreational activities or tournaments.

- 7.2.4.5 A marina operator must pay NMSPD a monthly concession fee, based on a flat fee or a percentage of the marina's net receipts from sales and services.

7.3 **Boat Docks**

7.3.1 **Generally**

7.3.1.1 **Definitions.** For purposes of this Plan, a

7.3.1.1.1 "Boat dock" means a structure extending from the shore into the water to allow the landing and mooring of vessels; the structure includes the anchoring system and any catwalks or bridges that will attach to the dock itself.

7.3.1.1.2 "Community boat dock" means a private, non-commercial boat dock for use by at least four (4) owner-members or other authorized residents of a residential community in the Logan village limits or the 12 Shores planned community (subdivision plat map as filed January 1, 2017), such as a planned unit development or condominium, and is not available for commercial use. Each of the four required owner-members or other authorized residents must be separate residential property owners within the community. At least one (1) member of the community must be a land owner owning land abutting the Reservoir and adjacent to the proposed dock. Assessing member-owners or community residents a maintenance or use fee for the community dock is not a commercial activity and does not make such a dock a "commercial dock," however, any other commercial activity, as defined in Section 7.2.1.1, related to a community boat dock is strictly prohibited.

7.3.1.1.3 "Resident" means a residential property owner.

7.3.1.1.4 "Person" means an individual, partnership or firm, corporation, association or other entity.

7.3.1.2 The ISC and NMSPD will consult on the location of all community boat docks.

7.3.2 **Community Boat Docks**

7.3.2.1 Generally, community boat docks may be located only in Limited Development Areas.

7.3.2.2 A community must secure a NMSPD Community Boat Dock Permit and ISC Encroachment License to have a community boat dock.

7.3.2.3 The ISC and NMSPD will consider permit applications for community boat docks on a case-by-case basis based upon the following criteria:

- 7.3.2.3.1 federal, state, and local statutes, regulations, rules, and ordinances, particularly Tit. 18, Ch. 17 NMAC, see Exhibit H;
- 7.3.2.3.2 agreements with other public agencies and private parties;
- 7.3.2.3.3 the purpose for which the Reservoir was created;
- 7.3.2.3.4 the health, safety, and welfare of other users and activities at the Reservoir, including the impact on boating, fishing, and recreation activities;
- 7.3.2.3.5 sufficient demand for the proposed boat slips;
- 7.3.2.3.6 topographical features of the proposed dock location;
- 7.3.2.3.7 access points to neighboring developments;
- 7.3.2.3.8 environmental characteristics, including erosion and sensitive habitat areas;
- 7.3.2.3.9 the unique aesthetic features of the proposed dock location;
- 7.3.2.3.10 water depth of the Reservoir, including, but not limited to, current depth, historic low water levels, impact of withdrawals on water depth, and depth of draft under the proposed dock. See further specifications in Section 7.3.2.6, below; and
- 7.3.2.3.11 any other factors deemed pertinent.

7.3.2.4 Change of Community Membership. If a member of the community leaves the community that was granted the permit and associated encroachment license, the remaining members must notify the NMSPD and the ISC of the change and, if necessary, find a fourth member within one (1) year of the original member's departure. If a fourth member is not found within one (1) year, the permit and associated license shall terminate.

7.3.2.5 Sale of Property. If the property where the community boat dock is located or attached is sold, or otherwise permanently transferred to a new owner, the community granted the associated community boat dock permit and encroachment license must notify NMSPD and the ISC immediately. The community will have six (6) months from the date of the property transfer, as indicated on the deed of transfer, to add the new property owner to the community and file all necessary forms with the NMSPD and the ISC to include the new property owner as a member of the community. If the

new property owner does not become a community member within six (6) months of the date of transfer, or the new property owner notifies the NMSPD or ISC that they do not want to become a community member, the community boat dock permit and associated encroachment license will terminate.

7.3.2.6 Specific considerations, conditions, and limitations are included in the permit holder's Community Boat Dock Permit Agreement and the Community Boat Dock Encroachment License.

7.3.2.7 Community Boat Dock Configuration, Size and Placement

7.3.2.7.1 All rules regarding community docks set forth in 18.17.3 NMAC "Construction Visitor Provisions" must be followed, with the exception of 18.17.3.12.E NMAC ("Every boat dock shall have a minimum 50-foot setback from any other boat dock."). For community docks, this figure shall be at least three hundred (300) feet.

7.3.2.7.2 Considering the elements included in Section 7.3.2.3, the total number of combined slips at a community dock shall be determined on a case-by-case basis.

7.3.2.7.3 For any community dock application received after January 1, 2017, the dock must be placed in an area that allows for three (3) feet of draft at the foot of the dock when the Reservoir's water level is at a level of 3775 feet above mean sea level, as illustrated in Appendix G.

7.3.2.8 Community Boat Dock Low Water Level Safety Requirements

7.3.2.8.1 When water levels at the end of a community boat dock become three (3) feet or less of draft, as determined by the ISC and the NMSPD, the community dock permit holder shall do one of the following:

7.3.2.8.1.1 Move the dock, and if necessary all catwalks or associated structures, to allow for its placement into deeper water and allowing for more than three (3) feet of draft provided that the dock continues to comply with all requirements of Tit. 18, Ch. 17 NMAC, particularly NMAC 18.17.3.12, and continues to be adjacent to land owned by one of the community member of the community granted the original permit and continues to maintain a three hundred (300) foot setback from another boat dock, as set forth in Section 7.3.2.7.1; or

7.3.2.8.1.2 Comply with the following safety procedures:

7.3.2.8.1.2.1 Place orange plastic barrier/construction fencing around the boat dock, secured with zip ties;

7.3.2.8.1.2.2 Post “caution-danger low water level” sign on all exterior sides of the boat dock; and

7.3.2.8.1.2.3 Place a metal chain, gate, or other approved barrier across the walkway to the boat dock blocking all access to the dock from the walkway, and post one of the caution signs described above in this location.

7.3.2.8.2 The above listed safety items (fencing, signs, and chain or gate) must be purchased prior to issuance of a community boat dock permit and community boat dock encroachment license. The ISC and the NMSPD will inspect the items in advance of issuance of the permit and encroachment license to determine compliance.

7.3.2.8.3 The ISC and the NMSPD will together determine, in their collective exclusive discretion, when to give notice to permit holders when water levels are approaching the three (3) foot draft level. Once notice is received of the three (3) foot draft level, the permit holder will have thirty (30) days to comply with the above requirements.

7.3.2.8.3.1 If water levels rise, the ISC and NMSPD will suspend the above requirements and the dock shall be moved back to its original location or the safety procedures shall be halted. If water levels remain low and the permit holder has not moved the dock, or is not currently working with the ISC and NMSPD to move the dock, or is found to be out of compliance with the above safety procedures, the permit and the encroachment license will be revoked immediately.

7.3.2.9 The community dock permit holder shall be responsible for regular maintenance and upkeep of the community boat dock.

7.3.2.10 The ISC encourages limited landscaping using native vegetation around community docks, access areas, and paths to improve access and aesthetic quality. The community dock permit holder must receive an Encroachment License prior to planting and a Vegetation Removal License prior to modification of any vegetation on ISC property interests.

7.3.2.11 Upon receiving an NMSPD Community Boat Dock Permit and ISC Encroachment License, a community dock permit holder shall comply with all New Mexico state statutes and NMDGF rules governing aquatic invasive

species control including, but not limited to, 19.30.14 NMAC and NMSA 1978, § 17-4-35.

7.4 **Boat Ramps**

7.4.1 For purposes of this Plan, a “boat ramp” is a public slope for launching boats.

7.4.2 New boat ramps shall be limited to Public Recreation Areas.

7.4.3 All boat ramps shall be managed by NMSPD and full public access and use shall be allowed.

7.5 **Motorized Watercraft**

7.5.1 For purposes of this Plan, “motorized watercraft” (MWC) means “any vessel propelled by machinery, whether or not machinery is the principal source of propulsion, but does not include a vessel that has a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto; and, any vessel propelled or designed to be propelled by sail and that does not have a valid document issued by a federal agency, but does not include a sailboard or windsurf board.”

7.5.2 To analyze the effect of boating activity on water quality and aquatic resource health and habitat,

7.5.2.1 The ISC will consider data and information that NMSPD, NMDGF, or others may collect on the level of boat and MWC activity at Ute Reservoir using electronic counters at boat ramps or other methods; and

7.5.2.2 Based on data collected under Section 7.5.2.1 and other information that may be available, the ISC, NMDGF, and NMSPD may evaluate whether limitations on boating activity at Ute Reservoir are appropriate to preserve and protect water quality and wildlife health.

7.5.3 Houseboats, which include a variety of vessels ranging from a self-powered vessel capable of supporting overnight occupancy to non-self-powered, floating permanent structure used for intermittent or extended human occupancy at a fixed mooring point, are strictly prohibited.

8. **Ute Reservoir: Shoreline Protection and Modifications**

8.1 **ISC Property Interests.** This section concerns any modification to ISC Property Interests, as defined in Section 1.

8.2 Any modifications or efforts to protect the Ute Reservoir shoreline and affecting ISC Property Interests require an Encroachment License, Vegetation Removal License, or

other ISC legal agreement before undertaking the modification.

8.3 **Environmental Protection**

8.3.1 **Water Quality**

8.3.1.1 Protecting water quality supports all stakeholder objectives at the Reservoir and is a primary objective of the Ute Reservoir Shoreline Management Plan.

8.3.1.2 On state lands and particularly on ISC Property Interests, the ISC will help to protect the water quality of Ute Reservoir by taking the following actions:

8.3.1.3 **Chemical pesticides, fertilizers**

8.3.1.3.1 Administer and manage ISC Property Interests to minimize the introduction of fertilizers and pesticides into the Reservoir and minimize erosion.

8.3.1.3.2 Discourage the use, storage, or application of chemical pesticides and fertilizers within the ISC's flowage easement.

8.3.1.4 **Motor vehicles.** Prohibit the use or storage of motor vehicles within the flowage easement, except in areas specifically designated for such use (for example, boat ramps, marinas), in emergency situations, or except by private agreement with the ISC.

8.3.1.5 **Vegetation**

8.3.1.5.1 Maintain natural vegetation as much as possible in Public Recreation and Limited Development Areas.

8.3.1.5.2 Encourage planned and maintained removal of salt cedar or other non-native, detrimental invasive species.

8.3.1.6 **Animal Waste**

8.3.1.6.1 Encourage owners to comply with 19.5.2.28(B) NMAC by removing their animals' waste, including that from dogs and horses, and maintaining clean and sanitary conditions.

8.3.1.6.2 As funds are available, work with NMSPD to provide necessary resources, including funds and personnel, for supply bags, gloves, and waste receptacles at Public Recreation Areas or trailheads in Limited Development Areas.

8.3.1.6.3 Work with landowners adjacent to the Reservoir and other landowners in the drainage basin for the Reservoir to develop best management practices for grazing and other agricultural uses in order to minimize the impacts of agricultural runoff on the Reservoir.

8.3.1.7 Waste Water

8.3.1.7.1 Prohibit the installation of septic systems on ISC Property Interests.

8.3.1.7.2 Where possible, support the Village of Logan's efforts to retire existing septic tanks and connect households to a municipal waste water treatment facility.

8.3.1.8 Monitor water quality impacts due to climactic changes, increased recreation, and increased development.

8.3.1.9 Encourage landowners with land above the 3,806 ft. elevation to maintain lands as natural wildlife and habitat areas, particularly in places where sensitive resources, such as wetlands and threatened or endangered species, have been identified.

8.3.1.10 With NMSPD and NMDGF, engage developers seeking to develop lands above the 3,806 ft. elevation to consider and implement site designs and configurations that will minimize a proposed development's impact on water quality, wildlife, and erosion.

8.3.1.11 Take appropriate steps to improve and protect water quality when necessary, including re-designating Limited Development and Protected Shoreline Areas, instituting stricter boating and shoreline management regulations, or implementing other necessary measures.

8.3.1.12 Encourage the adoption of county and municipal zoning and subdivision regulations to protect and maintain water quality at the Reservoir.

8.3.1.13 Communicate with federal or state permitting agencies if the ISC has concerns with Clean Water Act (33 U.S.C. § 1251 et seq.) compliance and obligations with respect to water quality at Ute Reservoir.

8.4 Limiting Shoreline Disturbances

8.4.1 No-Wake Areas

8.4.1.1 For purposes of this Plan, a "wake" means white water created from wave action breaking off a vessel's bow or sides.

8.4.1.2 As the agency with statutory authority to administer boating rules and delegated authority to do so at Ute Reservoir, NMSPD monitors and

enforces rules regarding no-wake areas and speeds.

- 8.4.1.3 To protect water quality and minimize impacts along the Ute Reservoir shoreline, the ISC encourages NMSPD to seasonally monitor the Reservoir and establish no-wake areas for boating within appropriate distances from the shoreline.

8.4.2 Erosion Monitoring and Control

- 8.4.2.1 As water fluctuations occur at Ute Reservoir due to natural occurrences, increased recreation and increased use as a water supply source, there may be impacts on wetlands and areas susceptible to severe erosion.
- 8.4.2.2 The ISC, working with other agencies, will monitor impacts on wetlands and areas susceptible to severe erosion, consider appropriate measures to mitigate possible impacts, and take action as resources are available.
- 8.4.2.3 The ISC, working with other agencies, will pursue non-structural preventative measures to limit shoreline erosion and consider structural practices of erosion control when necessary.

8.4.3 Intake Structures

- 8.4.3.1 For purposes of this Plan, an “intake structure” is the works or facilities that provide for the safe operation and control of water diverted or discharged from a reservoir for various purposes.
- 8.4.3.2 Use of the Ute Reservoir shoreline for the construction of intake structures should be limited.
- 8.4.3.3 The ISC shall promote the use of intake structures that serve multiple water users, for example, a single intake structure for the Eastern New Mexico Rural Water Supply Project that will serve multiple communities.
- 8.4.3.4 Prior to ISC considering an Encroachment License Application for an intake structure, the intake structure design and construction must meet federal and state standards and receive necessary permits.

8.5 **Shoreline Modification**

8.5.1 Generally

- 8.5.1.1 The ISC shall require an Encroachment License or other license for all shoreline modifications on ISC Property Interests.
- 8.5.1.2 Any modification made below the 3,806 ft. elevation without prior ISC approval shall be removed by the owner, at the owner’s cost, and with

the owner mitigating any harm done to ISC lands or interests in land.

8.5.1.3 There shall be no dredging or deepening of the Reservoir or modification of the natural shoreline shape, except when required for state-approved projects serving the general public interest.

8.5.1.4 Provisions in this section, 7.4, may be waived for Public Recreation and Limited Development Areas to comply with the Americans with Disabilities Act.

8.5.2 License for Shoreline Modification

8.5.2.1 The ISC shall consider an Encroachment License application on a case-by-case basis.

8.5.2.2 The proposed action shall be evaluated based on the following criteria:

8.5.2.2.1 unique characteristics and location of the desired improvement;

8.5.2.2.2 effect on environment;

8.5.2.2.3 public access;

8.5.2.2.4 safety and reservoir operations;

8.5.2.2.5 aesthetic qualities;

8.5.2.2.6 sensitive habitat areas;

8.5.2.2.7 erosion and sedimentation; and

8.5.2.2.8 any other factors deemed pertinent.

8.5.3 Prohibited Structures and Uses. Permanent habitable and non-habitable structures are prohibited, unless approved by the ISC under separate agreement.

8.5.4 Guidance for Specific Shoreline Modifications

8.5.4.1 Vegetation

8.5.4.1.1 A landowner or person seeking to modify vegetation on ISC Property Interests must obtain a Vegetation Removal License prior to taking action. See Exhibit E.

8.5.4.1.2 The ISC:

8.5.4.1.2.1 encourages natural landscaping where the vegetation does not interfere with other allowed uses; and

8.5.4.1.2.2 supports the removal of trees or shrubs that are dead and diseased, pose a safety hazard or prevent permissible public or private shoreline access and those in Public Recreation Areas that hinder access.

8.5.4.1.3 A planned and consistent approach to removing invasive species, including tamarisk/saltcedar, may be allowed.

8.5.4.2 Footpaths

8.5.4.2.1 For purposes of this Plan, “footpath” means a narrow path for persons on foot.

8.5.4.2.2 The ISC will consider the installation of improved footpaths on ISC Property Interests to the shoreline in Public Recreation and Limited Development Areas, if the following conditions are met:

8.5.4.2.2.1 The path will minimally affect wildlife, habitat, and shoreline and water quality will be fully protected.

8.5.4.2.2.2 Paths cannot be more than four (4) feet wide.

8.5.4.2.2.3 Only woody vegetation with a stump-width of less than two (2) inches/diameter may be removed to create the path.

8.5.4.2.3 Paths should be designed to limit erosion.

8.5.4.2.4 Path cover may include creek gravel, crushed stone, tan bark, wood chips, stepping stones, or other readily removable material. The use of asphalt, concrete, or other permanent material is prohibited.

8.5.4.2.5 When possible, consolidate paths so that one path can serve several properties, maximizing the number of footpath access points above the 3,806 ft. elevation and minimizing the access points below the elevation.

8.5.4.3 Trails

8.5.4.3.1 Trails shall be carefully managed and monitored as to their impacts, and may be seasonally closed due to wildlife breeding or to prevent other negative environmental impacts, such as erosion.

8.5.4.3.2 Only individuals and leashed dogs are allowed to use trails in Protected Shoreline Areas.

8.5.4.3.3 Unpaved trails may be allowed in Protected Shoreline Areas, and only after the ISC and NMSPD have determined that habitat and wildlife will not be disturbed.

8.5.4.3.4 *Paved trails*

8.5.4.3.4.1 Paved trails are allowed only in Public Recreation Areas.

8.5.4.3.4.2 Prior to installing or improving a paved trail, the owner must ensure that the trail will meet all federal and state laws or regulations or rules related to threatened and endangered species, migratory birds, cultural resources, wetlands protection, fish and wildlife, and water quality.

8.5.4.3.4.3 The ISC prohibits the use of motorized vehicles on trails below 3,806 ft. elevation, except where required by public agencies or for emergency situations.

8.5.4.4 *Stairways and steps*

8.5.4.4.1 Stairways, steps, or ADA-accessible ramps may be installed in Public Recreation and Limited Development Areas when topography makes these necessary to access community boat docks, trails, or the shoreline and under the following conditions:

8.5.4.4.1.1 Steps or ramps should be made of natural materials, such as natural stones, to minimize environmental impacts and enhance aesthetics.

8.5.4.4.1.2 Wooden stairways should be unpainted but may be sealed with an environmentally-safe, clear sealant.

8.5.4.5 *Roads, turnarounds, and parking lots*

8.5.4.5.1 Roads, turnarounds, and parking lots are permissible in Public Recreation and Limited Development Areas where necessary to provide access to boat ramps, marinas, or other designated public areas and under the following conditions:

8.5.4.5.2 Parking lots and roads should be covered with crushed stone or creek gravel where feasible. The use of asphalt or concrete is discouraged, but may be used with prior ISC approval.

8.5.4.5.3 Construct roads with the minimum width needed for two-way access.

8.5.4.5.4 Parking lots should be sited above the 3,806 ft. elevation where

possible.

8.5.5 Other Improvements. The ISC will consider licenses for picnic areas and related improvements in Public Recreation and Limited Development Areas, in accordance with NMSPD' practices.

9. Ute Reservoir Shoreline Uses

9.1 Publicly-Accessible Areas and Facilities

9.1.1 For purposes of this Plan, "publicly-accessible areas" include:

9.1.1.1 designated Public Recreation Areas, including marinas;

9.1.1.2 footpaths and trails on privately-owned lands below the 3,806 ft. elevation that are within a Limited Development Area;

9.1.1.3 footpaths and trails in Protected Shoreline Areas; and

9.1.1.4 other areas clearly marked for public use.

9.1.2 The ISC and NMSPD will ensure access to existing public access points to Ute Reservoir located in areas designated as Public Recreation. NMSPD will maintain signage directing visitors to the Park and its various amenities.

9.1.3 Where a Public Recreation Area is adjacent to a Limited Development Area, the ISC will identify and develop, as resources are available, a vegetative or other natural buffer within the Public Recreation Area to protect natural views and the environment from the developed areas.

9.1.4 The ISC will ensure public access to authorized trails, footpaths, and designated recreational areas on ISC fee lands, including those that lie in Limited Development Areas.

9.1.5 Signage

9.1.5.1 While a property owner may take precautions to protect the owner's property from theft, vandalism, or trespass, the owner may in no way preclude the public right of pedestrian or vessel access to the Reservoir's surface or state fee land.

9.1.5.2 The ISC will monitor the use of 'No Trespassing' signs on lands below the 3,806 ft. elevation, particularly where publicly-accessible areas are nearby.

9.1.6 As appropriate and as resources allow, the ISC may acquire lands within Limited Development Areas for the purposes of protecting water quality, enhancing public access to Ute Reservoir, or any other purpose within the ISC's statutory

authority.

- 9.1.7 NMSPD shall continue to administer existing public park facilities and regularly evaluate the capacity of existing facilities and need for new or additional facilities or staff.

9.2 **Special Events**

- 9.2.1 For purposes of this Plan, a “special event or activity” means an event of limited duration that provides a needed service to the public and that benefits the public. Examples of special events include, but are not limited to, regattas, boat races, parades, races, fishing tournaments, exhibitions, and educational activities.
- 9.2.2 Special events may only be held in Public Recreation or Limited Development Areas and at a minimum distance of 200 ft. away from Prohibited Access Areas.
- 9.2.3 A NMSPD special use permit and/or an ISC Encroachment License may be required to hold a special event.
 - 9.2.3.1 Any special use permit holder where the event includes a conveyance or equipment entering Ute Reservoir must comply with all New Mexico state statutes and NMDGF rules governing aquatic invasive species control including, but not limited to, 19.30.14 NMAC and NMSA 1978, § 17-4-35.
- 9.2.4 The ISC and NMSPD will each evaluate a proposed special event to be held in Limited Development Area and below the 3,806 ft. elevation:
 - 9.2.4.1 upon receiving all information listed in 19.5.2.39(B) NMAC (1/1/2013) (information required for NMSPD’s special use permit); and
 - 9.2.4.2 upon considering whether the proposed activities may cause damage to threatened and endangered species, disturb breeding of migratory birds or other protected species, or conflict with reservoir operations or should be denied for any of the reasons listed in 19.5.2.40(B) NMAC.
- 9.2.5 Either the ISC may withdraw approval or NMSPD may revoke a special use permit or withdraw approval for the event if the permit holder violates 19.5.2 NMAC (Park Visitor Provisions) or threatens water quality of the Reservoir.
- 9.2.6 A special event promoter and attendees must obey all federal and state laws and regulations or rules related to threatened and endangered species, cultural resources, wetlands, and fish and wildlife.

9.3 **Commercial Activities**

- 9.3.1 For purposes of this Plan, “commercial activities” means for-profit sales or

services, including the operation of vending machines that are part of a state-authorized, commercial activity.

9.3.2 Generally, commercial activities on state-owned lands are prohibited.

9.3.3 A commercial activity is permissible if a state agency authorizes it to occur in Public Recreation or Limited Development Areas and if the activity meets a specific, demonstrated demand.