

EXHIBIT A

ISC Ute Reservoir Shoreline Management Plan (2016)

Permit No. _____

UTE LAKE STATE PARK
COMMUNITY BOAT DOCK PERMIT

The New Mexico Energy, Minerals and Natural Resources Department (EMNRD), State Parks Division (Division) issues this Community Boat Dock Permit (Permit) to _____ (Permittee).

1. Permit	The Division grants to the Permittee a Permit, for the personal, family, or community use only of its members, to construct, maintain, and use a community boat dock as provided in the plans attached as Exhibit A and on the map, plat, or survey attached as Exhibit B, in the Ute Reservoir water space at coordinates Lat _____ Long _____ in compliance with 18.17.3 NMAC, the Interstate Stream Commission’s Ute Reservoir Shoreline Management Plan (amended 2016), and this Permit.
2. Nature of Permit	This Permit is subordinate and subject to all existing Division rules as may be amended from time to time, including 18.17.3 NMAC and future rules; to all terms and conditions of the Memorandum of Agreement executed December 22, 2011 between the New Mexico Interstate Stream Commission (ISC), the New Mexico Department of Game and Fish (NMDGF), and the Division, as well as to the terms and conditions of any existing or future amendments to said Memorandum of Agreement; and to the ISC’s Ute Reservoir Shoreline Management Plan (amended 2016) and any existing or future amendments to that plan. Nothing in this Permit shall be deemed to create or vest in the Permittee any real property right, title, or leasehold interest in Ute Reservoir shore space and water space or property right to maintain a community boat dock at Ute Reservoir. Permittee understands and agrees that it has no right, authority, or power to sell, mortgage, assign, lease, license, encumber, bequeath, or parcel out this Permit.
3. Term	This Permit shall become effective upon _____ and shall expire December 31, _____, unless sooner terminated pursuant to Paragraph 5, Termination, below.
4. Renewal	If Permittee wishes to renew this Permit after expiration, Permittee shall provide written notification to the Division Northeast Region Manager six months prior to the date of expiration. The Division reserves the right not to renew the Permit. The Division may issue a new Permit if Permittee is in compliance with this Permit, the ISC’s Ute Reservoir Shoreline Management Plan, and 18.17.3 NMAC; the Permittee has the boat dock inspected by a registered professional engineer (RPE) as provided in 18.17.3.17.C NMAC and provides the Division with a letter signed and sealed by the RPE who conducted the inspection stating that the entire boat dock meets or exceeds the design standards set forth in 18.17.3 NMAC; and the Permittee provides the Division with a copy of a new encroachment license from ISC.
5. Termination	<p>a. The Division may terminate this Permit with 60 days’ written notice to Permittee:</p> <ul style="list-style-type: none"> i. if ISC, in its sole judgment, determines that the community boat dock is not compatible with Ute Reservoir water management or capacity requirements; ii. Permittee fails to comply with 18.17.3 NMAC, the ISC’s Ute Reservoir Shoreline Management Plan, or this Permit or the community boat dock does not comply with 18.17.3 NMAC, the ISC’s Ute Reservoir Shoreline Management Plan, or this Permit; iii. Permittee’s membership changes and all members do not own property shown in the plat of the residential community that was provided in the Permittee’s community boat dock permit application or there are not at least four owner-members or other authorized resident in Permittee’s membership as provided in ISC’s Ute Reservoir Shoreline Management Plan; iv. if the property where the community boat dock is located is sold, or otherwise permanently transferred to a new owner, and the new property does not become a community member within six months of the date of transfer or if the new property owner notifies the State Parks Division or ISC that the new property owner does not want to become a community member. v. if, in the Division’s reasonable judgment, the community boat dock is not in compliance with rules or requirements of other governing entities; or vi. if, in the Division’s sole judgment, the community boat dock or encroachment is

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	<p>a public nuisance or safety hazard, or is inadequately anchored, constructed, or maintained.</p> <p>b. This Permit shall terminate automatically at such time as:</p> <p>i. Permittee's encroachment license from ISC expires or is terminated;</p> <p>ii. the Memorandum of Agreement between ISC, NMDGF, and the Division expires or is terminated.</p> <p>c. By the effective date of the termination or expiration of the Permit, Permittee shall completely remove the entire community boat dock including the boat dock, catwalk, anchoring systems, cables, floats, and any other related components or materials installed in conjunction with the construction, maintenance, or use of the community boat dock and shall leave the area in its natural condition, all at Permittee's expense.</p>
6. Changes in Permittee's Membership or Authorized Representative	<p>If Permittee's membership or authorized representative changes, or the property where the community boat dock is located is sold, or otherwise permanently transferred to a new owner, Permittee shall notify the Division in writing. Permittee shall provide the name and contact information of Permittee's new authorized representative or an updated list of members, as applicable. For membership changes, Permittee shall provide proof that all members own property in the Logan village limits or 12 Shores planned community (subdivision plat map as on file January 1, 2017). If the property where the community boat dock is sold, or otherwise permanently transferred to a new owner, the Permittee has six months from the date of transfer to add the new property owner to the community. If the new member does not become part of the community permitted, the permit shall terminate.</p>
7. Hazards to Navigation	<p>The Division or ISC may remove the community boat dock if it becomes a hazard to navigation. Removal shall be at the Permittee's expense.</p>
8. Annual Permit Fee	<p>Permittee shall pay the Division an annual fee for this Permit at the rate of \$_____ due and payable by December 1st of each year this Permit is in effect.</p>
9. Bond	<p>Permittee shall maintain a surety bond of \$_____ in the name of EMNRD, State Parks Division and the State of New Mexico that complies with 18.17.3.11.B NMAC.</p>
10. Insurance	<p>Permittee shall obtain and maintain in effect during the term of this Permit a certificate of insurance listing the State of New Mexico, EMNRD, and the Division and the ISC as additional named insureds for a general liability insurance policy in the amount of \$1,000,000 and providing for affirmative notice of cancellation or non-renewal by the insurer to the Division.</p>
11. Boat Dock Construction	<p>The community boat dock shall be constructed and maintained in compliance with the requirements in 18.17.3 NMAC as may be amended. All property placed or installed by Permittee pursuant to this Permit shall be secured against erosion.</p>
12. Cost and Damages	<p>Permittee shall pay the Division on demand for all costs and damages, including those incurred for removal of the entire community boat dock including the boat dock, catwalk, anchoring systems, cables, floats, and any other related components or materials installed in conjunction with the construction, maintenance, or use of the community boat dock, should Permittee fail to comply with any of the provisions of this Permit or 18.17.3 NMAC as may be amended.</p>
13. Community Boat Dock Requirements	<p>Community boat docks shall:</p> <p>a. comply with 18.17.3 NMAC, with the exception in the ISC's Ute Reservoir Shoreline Management Plan requiring a 300-foot setback from other community boat docks rather than a 50-foot setback, including not having habitable structures, permanent storage facilities, electric power source, or sanitation devices;</p> <p>b. comply with ISC's Ute Reservoir Shoreline Management Plan;</p> <p>c. comply with all applicable statutes, codes, ordinances, regulations, and rules of federal, state, or local authorities having jurisdiction; in the event of concurrent jurisdiction of any federal, state, or local authorities, community boat docks shall comply with the more restrictive requirements;</p> <p>d. not have flammables, cleaners, or solvents stored on the community boat dock;</p> <p>e. not in any way adversely affect the water quality of Ute Reservoir and its purpose as a public drinking water supply, including activities that increase water turbidity;</p>

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	<p>f. not cause any erosion or sedimentation, either through physical presence or reasonably expected use;</p> <p>g. be maintained by the Permittee in a safe and secure condition;</p> <p>h. not be used for commercial activity;</p> <p>i. not impair public access to or along ISC fee lands or Ute Reservoir;</p> <p>j. not include vehicle or boat access ramps or roads;</p> <p>k. not fluctuate horizontally on their anchoring systems; and</p> <p>l. not be a nuisance or threat to public safety.</p>
14. Other Conditions	<p>Permittee agrees to observe, honor, and comply with the following:</p> <p>a. the state and federal laws and regulations or rules relating to fishing, protection of wildlife, and control of plant and animal pests;</p> <p>b. the prohibition against the discharge of oil and petroleum products, trash and human wastes, and soil, earth materials, or other fill materials of any sort or type into the waters of Ute Reservoir;</p> <p>c. rules made and published or posted under authority of the New Mexico Boat Act, NMSA 1978, § 66-12-1 <i>et seq.</i> and applicable federal laws;</p> <p>d. all rights-of-way and easements heretofore acquired for any purpose, including but not limited to the utility easement and certain reserved interests in the Town of Logan and the City of Tucumcari;</p> <p>e. the right of the public and the State of New Mexico, including the Division and ISC and their officers, agents, employees, licensees, and permittees, at all times and places, to freely have ingress, passage, and egress near, around, and within the water area surrounding the community boat dock; and</p> <p>f. the right of the ISC to regulate the water level of Ute Reservoir at will.</p>
15. ISC Encroachment License	<p>Permittee shall obtain an encroachment license from ISC and provide a copy of that encroachment license to the Division prior to this Permit being issued and shall maintain an encroachment license during this Permit's term.</p>
16. Inspections	<p>The community boat dock is subject to inspection by the Division, the ISC, or their authorized agents and employees, without notice, at reasonable times.</p>
17. Release and Hold Harmless	<p>Permittee hereby releases, holds harmless, and indemnifies EMNRD, the Division, ISC, and the State of New Mexico, and their officers, agents, and employees from any and all liability, claims, or demands of any nature whatsoever, including the cost of defending against those claims or demands, arising out of or in any manner related to the ownership, construction, operation, maintenance, or use of the community boat dock permitted under this Permit. Permittee is fully responsible for all damage, direct and indirect, of whatever nature, and by whomever suffered, arising out from this Permit and ownership, construction, operation, maintenance, and use of the community boat dock permitted by this Permit.</p>
18. Amendment	<p>This Permit shall not be changed except by written amendment executed by the Division and the Permittee.</p>
19. Applicable Law	<p>This Permit shall be governed by the Laws of the State of New Mexico.</p>
<p>By the Permittee's authorized representative signing below, the Permittee accepts and agrees to comply with the terms of this Permit.</p>	
Signature and date of Permittee's authorized representative	
Permittee's name	
Permittee's address	
Telephone number of Permittee's authorized representative	

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Permit issued by (printed name)	
	Cabinet Secretary or Designee New Mexico Energy, Minerals and Natural Resources Department, State Parks Division
Permit issuer's signature and date	