

SAM RAYBURN LAKE
SHORELINE MANAGEMENT POLICY STATEMENT

December 1975
Updated: January 2012

1. Purpose:

The purpose of this Shoreline Management Policy Statement (SMPS) is to set forth the policy and procedures by which the U.S. Army Corps of Engineers (Corps) manages certain private uses of public lands at Sam Rayburn Lake. Within the context of the authorizing regulation, Engineer Regulation 1130-2-406, and this Shoreline Management Policy Statement, private shoreline use is defined as follows: any action which gives a special privilege to an individual or group of individuals on land or water at a Corps project that precludes use of those lands and waters by the general public. The objectives of all management actions described in this policy statement are to achieve a balance between permitted private uses and protection of natural resources and environmental quality for general public use.

2. Authority:

Title 36, Chapter III, Part 327, Code of Federal Regulations: "Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers.

3. Reference:

- a. Engineer Regulation, ER 1130-2-406, Shoreline Management at Civil Works Projects
- b. Engineer Regulation, ER 1130-2-540, Environmental Stewardship Operation and Maintenance Guidance and Procedures (refer to this reference for a comprehensive listing of Public Laws, Executive Orders, and agency regulations that are relevant to the management of public lands at Corps-administered civil works projects).
- c. Sam Rayburn Reservoir Updated Joint Master Plan, Design Memorandum No. 13C, September 1970

4. Introduction:

On December 13, 1974 the U.S. Army Corps of Engineers (Corps) published a new regulation, ER 1130-2-406, in the Federal Register entitled "Civil Works Projects: Lakeshore Management." This regulation was published as Part 327.30 of Chapter III, Title 36 of the Code of Federal Regulations. A subsequent change to the regulation was published in the Federal Register on October 31, 1990, incorporating the results of recent legislation and changing the name to "Shoreline Management at Civil Works Projects." The focus of this regulation is to establish national policy, guidelines, and administrative procedures for management of certain private uses of Federal lands administered by the Corps.

The private uses described in the regulation primarily include privately-owned floating facilities such as floating boat docks, fixed or movable piers, and vegetation modification

activities such as plantings, mowing, and selective removal of shrubs and trees to the extent that exclusive benefits accrue to an individual or group and the general public is denied use of public lands or waters. Not included in the above definition are certain limited private activities that do not provide exclusive benefits to an individual or group, nor preclude general public use. These limited private activities may be allowed by written shoreline use permit for reasons of public safety, erosion control, benefits to wildlife, or to provide reasonable pedestrian access to the shoreline. A key requirement of the regulation is stated as follows: **“Except to honor written commitments made prior to publication of this regulation, private shoreline uses are not allowed on water resources projects where construction was initiated after December 13, 1974, or on water resources projects where no private shoreline uses existed as of that date.”** The regulation requires the Corps to prepare a Shoreline Management Plan for those projects where private uses existed as of December 13, 1974, and a Shoreline Management Policy Statement for all other projects.

5. History of Implementation at Sam Rayburn Lake.

Construction for Sam Rayburn Lake began in 1956 and impoundment of water began in March 1965. As of December 13, 1974 no private shoreline uses existed at Sam Rayburn Lake. Therefore, in accordance with ER 1130-2-406 a Shoreline Management Policy Statement (SMPS) was prepared in 1975 to establish policy and procedure relative to private shoreline uses. This update of the SMPS was prepared to incorporate current terminology (such as “Shoreline Management” instead of “Lakeshore Management”) and to insure compliance with reference 3.a and b. One of the primary reasons for this update is to incorporate language that supports the Corps natural resources mission statement to “manage and conserve natural resources consistent with ecosystem management principles” as set forth in reference 3.b.

As noted above, private shoreline uses which would accrue exclusive benefits to an individual or group, including but not limited to floating, fixed, or movable boat docks; fixed or floating piers; or significant vegetation modification such as formal landscaping, are not allowed at Sam Rayburn Lake. Certain other limited and non-exclusive uses have been permitted in the past for reasons of public safety, erosion control, benefits to wildlife, or to provide pedestrian access to the shoreline. Existing permits that are in good standing as of the date of this updated SMPS will continue to be renewed with the understanding that environmental or operational considerations may require cancellation or modification of the permit. New permit applications in subdivisions where the majority of property owners have been granted permits in the past will generally be subject to the same permit conditions as existing permits. New shoreline use permit applications in areas where no permits, or very few permits, have been granted in the past will be subject to restrictions as set forth in this document.

6. Roles and Responsibilities of Other Governmental Entities:

The United States Forest Service (USFS) operates several recreation sites on Sam Rayburn Lake including Harvey Creek, Townsend, Caney Creek, Sandy Creek, and Bayou Recreational Sites. In addition, substantial acreage of the Angelina National Forest, also managed by the USFS, is contiguous to Sam Rayburn Lake. In certain areas,

private land may adjoin to USFS, the Corps, or both. Texas Parks and Wildlife Department (TPWD) operates Ayish Bayou Boat Ramp, fish hatchery and water intake which are located on the eastern side of Sam Rayburn Dam. The Black Forest Civic Club operates Black Forest boat ramp. Angelina County operates Cassells Boykin and Ewing Parks. Nacogdoches County operates Drivers and Kingtown boat ramps. San Augustine County operates Hickory Hollow, Lakewood, and Whip-Per-Will boat ramps. Jasper County operates Westwood boat ramp and Umphrey Pavilion. Lower Neches River Authority also operates the LNVA boat ramp on the southeastern side of the lake. Each entity listed coordinates the day to day operations and maintenance of their respective areas and facilities. None of the above entities play a direct role in managing private shoreline uses at Sam Rayburn Lake.

7. Ecosystem-based Vegetation Management:

Ecosystem-based vegetation management may be implemented as needed to restore environmental damage resulting from encroachments or trespass by adjacent landowners or as a proactive measure if an adjacent landowner desires to manage a portion of Corps-administered lands for the benefit of the natural resources. When preparing a prescription the applicant should consider the historical habitat type (such as riparian or upland), erosion control, and native plant communities.

Any vegetative modifications on lands classified as wildlife management, low-density recreational or environmentally sensitive areas shall be planned to maintain various stages of succession. Any vegetative modification prescriptions will be set forth in an ecosystem-based plan that will achieve the Corps' natural resource management objectives. Such plans require approval of the Corps in the form of a Shoreline Use Permit.

8. Mowing and Selective Removal of Vegetation:

When the original SMPS was prepared for Sam Rayburn Lake the intent was to continue issuing permits for limited vegetation modification where such activity would not result in unacceptable damage to natural resources. While this intent continues today, the potential for excessive negative effects on natural resources from ever-expanding mowing and clearing is very high as new private development surrounding Sam Rayburn Lake has increased substantially in recent years. Widespread and frequent mowing and removal of underbrush on Corps lands causes a direct loss of wildlife habitat value by reducing species diversity, disturbing nesting activity, and disrupting wildlife travel corridors. As a result, requests for new vegetation modification permits received after the date of this SMPS may be denied or will be issued only as needed to reduce the risk from wild fire in accordance with Texas Forest Service guidelines for a "defensible space" adjacent to residential property. In most cases there is adequate space on private land to establish a defensible space. In general, existing permits in good standing will continue to be renewed and new permits for mowing and limited clearing will continue to be issued in those areas where permits have been issued in the past unless there are other overriding concerns such as endangered species habitat or negative effects on water quality.

Mowing of federal land, if allowed, will be for the purpose of reducing the potential for wildfire, maintaining an identifiable line-of-sight property boundary, and to provide public access. No permits will be issued for the purpose of increasing the value of private property or to enhance the aesthetics of private property. Limited removal of trees and shrubs, if allowed, is also done primarily for the purpose of fire hazard reduction. Mowing and selective removal of vegetation may also be authorized for the purpose of controlling invasive or exotic species. In no case will mowing or vegetation removal activities create the appearance of private ownership of public land. Mowing and removal of underbrush, if allowed through a permit, must adhere to the guidelines presented in Appendix A.

9. Erosion Control Activities:

Soil erosion takes place on public lands for a variety of reasons including wave action from wind and boating activity, and loss of vegetative cover due to prolonged inundation during flood events. In moderately severe cases, adjacent landowners may, by written Shoreline Use Permit, be permitted to plant approved vegetation as a means to control erosion. In situations where wave-induced erosion is threatening to erode public land beyond the limits of public ownership (in fee title or by virtue of a flowage easement), the Government can pursue a variety of curative options including purchase of additional lands, providing structural repair of the eroding area, or allowing adjacent landowners to perform structural repairs. In general, the Government will pursue the most economical cure possible. For landowners who desire to pursue shoreline erosion repairs on their own, consideration will be given to allow adjacent landowners to construct retaining walls, rip-rap barriers, wave attenuation barriers or other structural solutions. Structural solutions require the issuance of a real estate license instead of a Shoreline Use Permit. Certain erosion control measures that would require a real estate license include but are not limited to measures that involve cut and fill, grade changes, or structures such as rip-rapped slopes or retaining walls. Plans must be submitted by the landowner and approved by the Corps prior to any work being conducted. In addition to a real estate license, most erosion control actions taking place below the 164.4 foot contour will require some level of review and authorization pursuant to the Corps' authority under Section 404 of the Clean Water Act, as amended.

10. Pedestrian Access Paths:

In general, pedestrian access to the shoreline is allowed except in areas where all public access is prohibited, such as around prime facilities and in controlled access areas such as highly developed parks.

Permits for access paths may be considered providing the following criteria are met:

- a. Path is for pedestrian traffic only and must have a natural surface. Use of rock, brick, concrete or asphalt is not permitted. No vehicles are allowed.
- b. Layout of the path follows natural contours to avoid steep grades and reduce the possibility of erosion
- c. Natural vegetation will be left undisturbed and alterations kept to a minimum by proper path placement and design.

- d. Width of 5 feet or less
- e. Precautions are taken to prevent erosion.
- f. Any portion of the path on government property is open to use by public pedestrian traffic.
- g. The permit conveys no other rights to construct any structure (bridges, steps, culverts, railings, etc.) in connection with the path.
- h. Any other requirements which the project office may deem necessary in each individual case must also be met.

Applicants for a path permit must have legal access to Corps land. In certain situations and locations, when deemed feasible by the Lake Manager, several neighbors living in close proximity may be required to share a single path as long as at least one of the neighbors has legal access to Corps land.

Requests for pedestrian access paths from individuals with special accessibility requirements will be handled on a case-by-case basis with the intent to allow reasonable access while preventing adverse impacts to natural resources.

11. Shoreline Use Permit Administration:

a. Consolidated Permits. In areas that are heavily populated, such as adjoining subdivisions, consolidated permits will be strongly encouraged to reduce administrative expenses. Preference will be given to those subdivisions with an existing homeowner's association.

b. Term of Permit. Permits will be for a 5 year term, and will have the option of being renewed upon inspection. Shorter term permits may be placed into service on a case by case basis.

c. Permit Fee. In accordance with current long-standing policy in Fort Worth District, no fee is charged for shoreline use permits issued for reasons of public safety or that accrue benefits to the Government. Therefore, no fee is charged for Shoreline Use Permits issued at Sam Rayburn Lake.

12. Enforcement:

Failure to abide by the conditions of a Shoreline Use Permit may result in issuance of a citation under Title 36, Chapter III, part 327 of the Code of Federal Regulations. Such citations may incur a fine or mandatory court appearance. Any unauthorized removal of vegetation will be treated as an act of trespass and may result in efforts to collect compensatory and punitive damages by the Corps. Vegetation losses will be evaluated using landscape and/or wildlife habitat values. Violation of a written permit may also result in the termination of said permit for a period up to 5 years.

13. National Environmental Policy Act (NEPA):

The administrative update of this SMPS is a minor action that is categorically excluded from further NEPA documentation. The exclusion that applies in this case is found in ER 200-2-2, par 9.d.

14. Conclusion:

This SMPS is the primary policy that governs the relationship between Corps and individuals or a group of individuals who have legal access to the Corps property boundary. Substantial changes to this policy may result from changes in public law or national Corps policy. Any such changes would be implemented through a process of public involvement and input from all interested parties. Minor changes of an administrative nature or that do not significantly change the SMPS, such as those included in this update, do not require public involvement.

Appendix A

SAM RAYBURN RESERVOIR

GUIDELINES FOR CLEARING AND UNDERBRUSHING

Permission for individuals to clear and remove underbrush from government owned land is subject to the standard permit conditions set forth in Appendix C of ER 1130-2-406 as well as the following guidelines:

1. The permit is not transferable and will expire on _____ unless the

permittee requests renewal prior to this date.

2. This permit may be revoked at any time that inspection of the area covered by the permit shows that permitted activities are not being carried out in accordance with the conditions listed below. In case of revocation, cleanup necessary to restore the premises to a condition satisfactory to the Lake Manager will be required.

3. Renewal of existing permits and issuance of new permits after the date of this SMPS will be issued in accordance with the following criteria:

a. All Permits. In accordance with standard permit conditions set forth in Appendix C or ER IT30-2-406, and attached to each permit, environmental or project operational considerations may require cancellation or modification of any shoreline use permit.

b. Renewal of Existing Permits. Existing permits in good standing will continue to be renewed.

c. New Permits. New permit applications in subdivisions where the majority of property owners have been granted permits in the past will generally be subject to the same permit conditions as existing permits. New shoreline use permit applications in areas where no permits, or very few permits, have been granted in the past will be issued only as needed to reduce the risk from wild fire in accordance with Texas Forest Service guidelines for protection of residential property.

4. Mowing will be done using only small, residential type lawn mowing equipment. **UNDER NO CIRCUMSTANCES** will heavy equipment such as bulldozers or tractors with blades, shredders, or mulchers be allowed to operate on government property. Only trees less than one- inch in diameter at breast height (4.5' above ground level) may be cut while underbrushing. **BURNING ON GOVERNMENT PROPERTY IS PROHIBITED.** No application of herbicides or other chemicals for the control of vegetation is allowed without the specific approval of the Lake Manager.

5. Motorized vehicles of any type are prohibited on government property, unless actively mowing within the boundaries specified on a valid permit.

6. In accordance with Federal Regulations the public will have free and unhampered use of Government owned land in, or adjoining, the mowing area.

7. The United States will not be held liable for damages to property or injuries to persons that may arise from activities authorized by this permit.

8. Prior to commencement of any mowing or removal of underbrush, the permittee will remove any and all encroachments from government flowage easement and/or fee-owned land, as described in the permit.

9. The government boundary will be delineated with metal or wooden stakes at each corner where the permittee's property lines and permitted area intersect the government boundary.

10. Mowing areas shall not be maintained to the extent that government property has the appearance of being private property. Mowing frequencies on government property shall be minimized and shall not be the same frequency used to maintain the adjacent private property.

11. No clearing or mowing will be permitted below 164.4' elevation.

12. Violation of any of the above conditions may result in the issuance of a citation, appearance before a U.S. Magistrate, or other action.