

VOLUME II

APPENDIX I

CONSTRUCTION AND SPECIAL WATER ACCESS
PERMITTING PROCEDURES
FOR TENANTS, SUBTENANTS,
AND ADJACENT LANDOWNERS

**CONSTRUCTION AND SPECIAL WATER ACCESS
PERMITTING PROCEDURES
FOR TENANTS, SUBTENANTS,
AND ADJACENT LANDOWNERS**

Once the revised LSMP has been approved by FERC, Central will adopt revised Permitting Procedures that are consistent with the new LSMP, including those rules developed in consultation with the USFWS and the NGPC for the protection of certain resources. As a placeholder in the interim, included in this Appendix are (1) the current Permitting Procedures last revised June 2, 2008, and (2) draft permitting procedures currently being developed in consultation with the USFWS and the NGPC for the protection of certain resources.

THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT
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**CONSTRUCTION AND
SPECIAL WATER ACCESS
PERMITTING PROCEDURES
FOR
TENANTS, SUBTENANTS, AND
ADJACENT LANDOWNERS

EFFECTIVE MARCH 7, 2005
AMENDED SEPTEMBER 5, 2006
AMENDED JUNE 2, 2008**

These Permitting Procedures are only for non-Project and non-public uses by tenants, subtenants, and adjacent landowners. Construction and access for utilities, commercial or public use facilities, etc. are permitted in conformance with Central's FERC License, the LSMP, and all other applicable rules and regulations, but are not subject to these Procedures.

These Permitting Procedures are associated with Central's Land and Shoreline Management Plan under Article 421 of the Federal Energy Regulatory Commission License for FERC Project No. 1417.

These Permitting Procedures were approved on March 7, 2005 and amended on September 5, 2006 and June 2, 2008 by Central's Board of Directors.

THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT

CONSTRUCTION AND SPECIAL WATER ACCESS
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TENANTS, SUBTENANTS, AND ADJACENT LANDOWNERS

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THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT

**CONSTRUCTION AND SPECIAL WATER ACCESS
PERMITTING PROCEDURES FOR
TENANTS, SUBTENANTS, AND ADJACENT LANDOWNERS**

Effective March 7, 2005

Amended September 5, 2006 & June 2, 2008

I. GENERAL

A. Purpose

The Central Nebraska Public Power and Irrigation District (“Central”) is the owner and licensee of Federal Energy Regulatory Commission (“FERC”) Hydroelectric Project No. 1417 (“Project”). The purpose of these *Construction and Special Water Access Permitting Procedures for Tenants, Subtenants, and Adjacent Landowners* (“Permitting Procedures”) is to define a process to permit non-Project and non-public uses of lands and waters governed by Central’s FERC License, specifically, special access to Project lands and waters and construction of certain permanent or temporary facilities on Project lands or in Project waters by residential tenants, subtenants and adjacent landowners. Central’s FERC license grants it authority to permit certain non-Project and non-public uses of Project lands and waters without prior FERC approval, provided the proposed use is consistent with protecting and enhancing the scenic, recreational and other environmental values of the Project. The license requires a Land and Shoreline Management Plan (“LSMP”) to administer that authority. These Permitting Procedures are identified in and required by the LSMP approved by FERC and made a condition of Central’s license.

Interpretation of these Permitting Procedures shall be as determined by Central. Since it is impossible to anticipate every possible situation, in any cases that may arise that are not specifically covered by these Permitting Procedures, Central will make special rulings consistent with the policies reflected in the LSMP and FERC requirements. In addition, from time to time, Central may modify or update these Permitting Procedures, provided the modifications or updates are consistent with Central’s FERC license and LSMP, without prior notice to tenants, subtenants and adjacent landowners.

B. Applicability of these Permitting Procedures

These Permitting Procedures are intended to cover certain Permits to Construct and all Permits for Special Water Access Across Project Lands as those terms may be used in, and as may be required by, Central's LSMP. To be eligible to apply for a non-Project and non-public use of Project lands and waters under these Permitting Procedures the applicant must be a Central tenant or subtenant of Project land leased for residential purposes or a person that owns land adjacent to Project land (“Applicant”). To the extent that leases or other contractual agreements

impose additional or more restrictive conditions on the use of Project lands, such additional or more restrictive conditions shall also apply. Construction and access for utilities, commercial or public use facilities, etc. are permitted in conformance with Central's FERC License, the LSMP, and all other applicable rules and regulations, but are not subject to these Permitting Procedures.

C. Non-Project and Non-Public Uses Requiring Permits

The following non-Project and non-public uses of Project lands and waters by tenants, subtenants and adjacent landowners are subject to the permitting process described in these Permitting Procedures:

- Special Water Access Across Project Lands and/or Construction or Major Repair of Special Water Access Facilities ("SWAF"). SWAF includes docks, watercraft lifts, pathways, steps, walkways or similar facilities intended to serve one or more single-family type dwellings.
- Construction or a Major Repair of Erosion Control Structures ("ECS") such as riprap placement, retaining walls and seawalls with or without riprap.
- Dredging, Excavating and Filling Activities.
- Vegetative Cover Modification or Removal Activities including removal of trees in existing, landscaped residential lots and modification or removal of vegetation from undeveloped Project lands.
- Construction or Major Repair to a dwelling, addition to a dwelling or other improvements located within Central's leased residential areas.
- The continued presence and use of Nonconforming Facilities. "Nonconforming Facilities" are any existing non-Project and non-public facilities, structures, or uses of any kind located upon Project lands or in Project waters prior to March 7, 2005 without the written permission of Central.

A "Major Repair" is a repair, whether occasioned by dilapidation, casualty, damage, or otherwise, requiring replacement of more than fifty percent (50%) of the facility or its value, as determined by Central. No permit is needed for interior or exterior building work or remodeling that does not increase the overall square footage or change the footprint of the structure (such as shingling, siding, gutters, windows, doors, interior remodels, etc.) and which will not change the original use of a structure (for example, does not result in a garage or boat house being converted to living space). When in doubt, the potential applicant may contact Central for guidance about whether a repair is a Major Repair that requires a permit from Central.

No permits are needed by a tenant, subtenant or adjacent landowner to continue to maintain Project lands used for residential purposes that have been previously cleared of the naturally occurring vegetation and were "landscaped" as of March 7, 2005, except that a permit is required for the removal or trimming of trees if such removal or trimming is to take place between April 15 and August 15.

Where a permitted SWAF is designed and constructed with the intention that it may be occasionally placed and removed (such as items commonly referred to as “seasonal docks” and “shore stations”), no additional permit is needed beyond the permit granted for the initial placement, provided such SWAF continues to meet the construction and location specifications in the permit.

When in doubt, the potential applicant may contact Central for guidance about whether a particular non-Project and non-public use requires a permit or is otherwise subject to these Permitting Procedures.

D. Cultural, Environmental, Recreational and Aesthetic Resources

There are some areas of Central’s Project where non-Project and non-public uses may not be permitted because of environmental impacts, cultural resources impacts, operational considerations, development patterns, physical lake characteristics or other reasons. All non-Project and non-public uses of Project lands and waters must be consistent with protecting and enhancing the scenic, recreational and other environmental values of the Project.

1. Central’s FERC license requires a Cultural Resources Management Plan (“CRMP”). Under the CRMP, which was approved by the Nebraska State Historic Preservation Officer (“SHPO”), and FERC and made part of Central’s FERC license, most groundbreaking activities on Project lands are subject to prior consultation with the Nebraska SHPO. Central will initiate the consultation process working with the Applicant, but does not control the timing or outcome of the consultation process. Consultation can result in delay, requiring protection measures during and after construction and/or use, or in some cases, denial of an application. All permits will include a requirement that the Applicant shall stop work and immediately notify Central should any human remains or potential cultural resources (such as archaeological or historically significant artifacts) be discovered during construction or use.
2. The LSMP includes measures establishing Species Protection Zones “overlay zones” that may be identified without regard to any land classification in Central’s LSMP. A Species Protection Zone (“SPZ”) warrants special protection due to the presence of endangered, threatened or significant plant or animal species and/or their habitats. If an Applicant seeks permission to conduct a non-Project and non-public use within 500 feet of a SPZ, the LSMP requires Central and the Applicant to first consult with the U.S. Fish and Wildlife Service (“USFWS”) and the Nebraska Game and Parks Commission (“NGPC”). Central will initiate the consultation process working with the Applicant, but does not control the timing or outcome of the consultation process. Consultation can result in delay, requiring protection measures during and after construction and/or use, or in some cases, denial of an application. Any permit granted in proximity to a SPZ will include a condition that the Applicant shall stop work and immediately notify Central should any threatened or endangered species be discovered during construction or use.
3. Any construction or vegetation modification activities should be undertaken within the context of avoiding impact to nesting bird species as described in the Migratory Bird

Treaty Act (16 U.S.C. 703-712: Ch. 128 as amended) (“MBTA”). Although most migratory bird nesting activity in Nebraska occurs during the period of spring to mid-summer, the provisions of the MBTA are applicable year-round.

4. Protecting and enhancing the public recreational resources and the aesthetic resources of the Project is important to Central and is an emphasis of Central’s FERC license and LSMP. Central may require modification or may deny permits for non-Project and non-public uses that might otherwise meet the specifications of these Permitting Procedures if they would be inconsistent with protecting and enhancing the public recreational or the aesthetic resources of the Project.

II. APPLICATION PROCEDURES

A. Permitting, Inspection and Approval

Before beginning any non-Project and non-public use on Project lands or waters, a tenant, subtenant or adjacent landowner is required to apply for and receive Central's written permission. The following describes the process used by an Applicant to obtain Central's written permission for a non-Project and non-public use or for a Major Repair to a previously permitted non-Project and non-public facility:

1. An Applicant initiates an application request by contacting Central's Real Estate Department by telephone, mail, fax, Email or in person. Central’s Real Estate Department may be contacted at either the Holdrege or Gothenburg office at:

415 Lincoln Street
P.O. Box 740
Holdrege, NE 68949-0740
Phone: 308-995-8601
Toll Free: 888-580-5299
Fax: 308-995-5705

320 Avenue D
P.O. Box 188
Gothenburg, NE 69138-0188
Phone: 308-537-3582
Fax: 308-537-3582

Email: permits@cnppid.com

Central must have the following information to begin the request:

- a. Applicant’s name, phone number, and mailing address.
 - b. Lake name and 911 address of the lake cabin/home, if applicable and different from the mailing address in a. above.
 - c. Location and general description of the proposed non-Project use or activity.
2. Central will make a preliminary determination of whether the type of non-Project and non-public use may be permitted under these Permitting Procedures at the requested location. If the type of use or activity may be authorized under these Permitting

Procedures in the proposed location, Central will forward the appropriate application to the Applicant.

3. The Applicant must complete and submit the application to Central for review along with payment for any applicable fees. Central will consider the application and determine whether or not to grant a permit. Central may request or require inspections, meetings with the Applicant, additional information, or modifications to the application as part of the review process. Central will consider each of the following in review of the application:

- Completeness of Application. The application is properly filled out and contains all necessary information and payment for any applicable fees and security deposits.
- Compliance with Central's Permitting Requirements. The application meets all requirements contained in these Permitting Procedures.
- Operational Considerations. The applied for non-Project and non-public use would not interfere or conflict with Central's operations.
- Environmental Considerations. The applied for non-Project and non-public use is consistent with protecting and enhancing, and does not adversely affect, environmental resources. See also Subsection I.D.2 of these Permitting Procedures for specific requirements concerning SPZ.
- Recreation and Public Access Considerations. The applied for non-Project and non-public use is consistent with protecting and enhancing, and does not adversely affect, recreational use and public access. Central may consider, for example, impacts to navigation and safety, consistency of proposed non-Project and non-public use with other existing uses at the same or nearby locations, etc. See also Subsection I.D.3 of these Permitting Procedures.
- Cultural Resources Considerations. The applied for non-Project and non-public use is consistent with protecting and enhancing, and does not adversely affect, cultural resources. See also Subsection I.D.1 of these Permitting Procedures for specific requirements concerning compliance with Central's CRMP.
- Scenic and Visual Impacts. The applied for non-Project and non-public use is consistent with protecting and enhancing, and does not adversely affect, scenic or aesthetic values. Central may consider, for example, how the proposed non-Project and non-public use impacts or is consistent with existing scenic views, and whether the proposed use may adversely impact the views of other users of the Project.
- Consultations, Approvals, or Permits. Applicant and/or Central have performed all necessary consultations, such as consultations with SHPO, USFWS and NGPC, as may be required by Section I.D of these Permitting Procedures. Applicant has secured all necessary permits and/or approvals as may be required by other permitting authorities, such as those described in Section II.B of these Permitting Procedures.
- Compliance with FERC Requirements, FERC License, and LSMP. To the extent that FERC regulations or orders, Central's FERC License, or Central's LSMP may

impose additional requirements or restrictions different or in addition to those described in these Permitting Procedures, such requirements or restrictions shall also apply.

- Other Considerations. Central may consider any other relevant information and/or impose additional requirements as may be appropriate.

For informational purposes, Central will maintain lists, with brief descriptions, of permits that have been approved and disapproved which may be used by applicants for additional guidance. However, because no cases are identical, applicants are cautioned that similarity of a structure, facility or use is not a guarantee of an identical outcome.

4. Central reviews the completed application for correctness of information and to ensure all necessary permits and authorizations have been obtained and the applicable fees/security deposits have been paid. Central will return to the Applicant incomplete applications or applications that need additional information or other changes before Central may approve.
5. Once the application is complete and has satisfied Central's review, Central will issue to the Applicant the appropriate permit authorizing the proposed work and/or access. Upon the issuance of a permit, Central will also furnish to the applicant a Permit Notice card that shall contain summary information of the permit. This Permit Notice card shall be posted in clear sight and within 10 feet of the roadway serving the permitted activity, and shall remain posted until the work is completed to the satisfaction of Central.
6. Central may verify compliance by a site inspection.
7. Central closes the application file, returns any security deposit if work is completed to Central's satisfaction, and updates its records.

B. Other Required Permits and Licenses

In addition to a written permit from Central, permits or approvals from other regulatory authorities, such as local, state, or federal agencies or governing bodies, may be required. The following list provides examples of additional permits or approvals that may be required:

1. U.S. Army Corps of Engineers ("Corps"). If the construction or modification is subject to Corps jurisdiction, Central shall require the Applicant to obtain a 404 Permit from the Corps or a Programmatic General Permit issued by Central on behalf of the Corps prior to Central's approval. When a 404 Permit is required, a copy of the approved 404 Permit must be provided to Central before Central will issue a permit authorizing the proposed work and/or access.
2. Local and/or county (such as a building permit). Where the proposed activity involves construction that would require local and/or county permits or approval from an area association or homeowners association, the permit from Central will include conditions

that the Applicant shall obtain the necessary approvals from local county officials and/or applicable area associations or homeowners associations.

III. SPECIFICATIONS

Permits issued in accordance with these Permitting Procedures are subject to the following specifications.

A. General

Non-Project and non-public uses shall be constructed, located and maintained by the Applicant according to the following specifications:

1. Non-Project and non-public uses permitted by Central must comply with applicable local, state, and federal regulations and any applicable agreements with and permits granted by Central.
2. All permits will include conditions that any structures and facilities authorized shall be maintained in good condition and repair at all times.
3. Applicant will be permitted non-Project and non-public uses only between the side lot lines of the leased lot, or on that part of Central's Property adjacent to the landowner's private property.
4. If the permitted non-Project and non-public use is to take place on a part of Central's property that is subject to a lease with the Nebraska Game and Parks Commission, then the permission or consent of NGPC shall also be required.
5. Central may limit the size, configuration, or location of non-Project and non-public uses, or deny permission for non-Project and non-public uses based on these specifications or any of the other considerations listed in Section II.A.3 above.
6. Selective clearing of vegetation on Central's property may be permitted to locate a non-Project and non-public use. However, the Applicant shall minimize the amount of land, shoreline and aquatic vegetation removed or disturbed during construction. Central may require the Applicant to adopt reasonable sediment control measures to prevent sediment from entering Project waters or blowing into neighboring areas during and after the period of construction. See Section III.E. for additional specifications regarding modification or removal of vegetation.
7. Generally, Central will permit a Nonconforming Facility provided Central finds that the Nonconforming Facility (i) does not threaten the scenic, recreational, environmental, cultural and operational values of the Project; (ii) was located on Project lands or waters prior to March 7, 2005; and (iii) is not constructed in violation of the terms of existing contracts or agreements.

8. Major Repairs will be treated the same as new or replacement construction, subject to all the requirements of these Permitting Procedures.
9. The storage of motor fuels and chemical products on Central's Property within 50 feet of the shoreline must not exceed ten (10) U.S. gallons per container nor a combined total capacity of fifty (50) U.S. gallons, and must be properly stored in U.S. Coast Guard approved containers. This storage quantity limitation does not apply to heating fuels that are stored in conformance with applicable local, state and federal laws and regulations.
10. For purposes of these Permitting Procedures, the "Normal Shoreline" is the shoreline at or within a regular range of operations for the water body in question, and may be determined by visual inspection, historic data, regulatory limits, or other methods.
11. For purposes of these Permitting Procedures, the "FERC Lake Limit" is the Normal Maximum Surface Elevation for the water body in question as specified in Central's FERC license.
12. The Power and Recreation Committee of the Board of Directors of Central may grant a variance for one or more of the specifications contained in Section III of these Permitting Procedures under the following conditions; (i) there is good cause shown; (ii) the permitted construction and/or access is consistent with the objectives of protecting the scenic, recreational, environmental, cultural or operational values of the Project and is not contrary to Central's FERC License, the LSMP, or other requirements; and (iii) Central may require additional conditions to reduce or mitigate any impact to the scenic, recreational, environmental, cultural or operational protections afforded by the specifications being waived. Good cause shown, as used in these Permitting Procedures for purposes of obtaining a variance, shall require a finding that:
 - a. The strict application of these Permitting Procedures would produce undue hardship;
 - b. The hardship is unique to the parcel of land for which the variance is sought (not shared generally by other properties in the same vicinity and tier classification, as appropriate);
 - c. The granting of the variance will not be of substantial detriment to the use or enjoyment of other property in the same vicinity; and
 - d. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

No variance shall be authorized unless the Power and Recreation Committee finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to these Permitting Procedures.

Written applications for the approval of the variances shall be filed with Central upon forms and in a manner prescribed by Central's administration. A nonrefundable fee, as established by the Board, shall be paid to Central upon the filing of each application for variance.

The Power and Recreation Committee shall make its findings and determination in writing at its earliest opportunity, generally the next scheduled Power and Recreation Committee meeting after the date of filing of the completed application for a variance and shall forthwith transmit a copy thereof to the applicant.

B. Special Water Access Facilities

Special Water Access Facilities ("SWAF") include, but are not limited to, paths, walkways, boardwalks, steps, piers, landings, floating docks, mooring buoys, watercraft lifts, watercraft ramps, and related facilities that serve one or more single-family type dwellings for purposes of providing a tenant(s), subtenant(s) or adjacent landowner(s) access to Project lands and waters.

Central encourages the construction of Common Use SWAF. To obtain a permit for a SWAF, an Applicant will be required to show that the immediate neighbors of the proposed area have been contacted regarding their interest in a Common Use SWAF. A Common Use SWAF is a SWAF that serves more than one lot or parcel adjacent to or on Central's Property. Any SWAF intended to serve more than 10 watercraft at a time also requires prior FERC approval. A Common Use SWAF shall comply with these specifications except that an additional 300 square feet shall be added to the square footage limitation specified in Subsection III.B.5 below for each additional lot served.

SWAF shall be constructed, located, and maintained according to the following specifications:

1. SWAF shall only be considered for those adjacent landowners where Central has obtained the necessary rights to inundate, erode, etc. the lands of the Applicant. Central may condition a permit for a SWAF on the Applicant meeting specific shoreline stabilization or protection requirements.
2. SWAF for adjacent landowners will not be permitted if any new buildings, or similar or accessory structures, have been placed or constructed on the adjacent property after March 7, 2005, within the horizontal and vertical setback distances specified in Attachment A. Permission for SWAF for adjacent landowners requires the Applicant to permanently covenant and agree that no buildings, or similar or accessory structures, shall be placed or constructed within the horizontal and vertical setback distances specified in Attachment A.
3. SWAF are only permitted in areas classified as "Residential" in the LSMP. (Note: Property identified with a "Future Development" overlay zone in the LSMP are not considered classified as Residential.) As indicated above, there may be some areas of Central's Project designated as Residential where SWAF may be limited or may not be

permitted because of environmental impacts, cultural resources impacts or operational considerations, development patterns, physical lake characteristics or other reasons. Shoreline currently classified as open space/pasture, or some other classification besides Residential, must first be reclassified to Residential before a SWAF may be permitted. See Section 7 of the Land and Shoreline Management Plan for the reclassification procedure. As part of the reclassification, restrictions more restrictive than these Permitting Procedures may be required for new Residential areas.

4. No SWAF shall be located closer than 10 feet to a side lot line or extension thereof, except that Central staff may permit less than 10 feet if such limit would preclude the use of at least a dock and one watercraft lift.
5. The total size of a SWAF shall not exceed 1,200 square feet. The square footage of a SWAF shall be calculated utilizing the SWAF's footprint and shall include any open slip areas but shall not include the paths, steps and/or walkway that are located on land.
6. SWAF may include more than one facility (such as a dock, watercraft lift and walkway to the dock). However, SWAF shall be grouped together and arranged in a manner that minimizes the shoreline width, land area occupied, and water area occupied by the SWAF.
7. SWAF shall not extend further into the water than necessary for ingress/egress of watercraft, up to a maximum of 130 feet or one-fourth ($\frac{1}{4}$) the width of the cove or water body, whichever is less. The 130-foot length or one-fourth ($\frac{1}{4}$) the width limits are the maximum that may be permitted, but in no case shall the length exceed the minimum amount necessary to achieve the permitted access.
8. The deck of any SWAF extending waterward from the shore shall not be wider than eight feet.
9. Only one path or walkway leaving the shoreline to the lot or parcel served shall be permitted per SWAF, except one path or walkway per lot served may be permitted for any common use SWAF. Paths or walkways shall not exceed six feet in width.
10. The maximum height of any SWAF shall not exceed 10 feet.
11. Materials deemed by Central to be of a safety, environmental, scenic or operational concern shall not be permitted. Central will maintain acceptable and prohibited materials lists, which shall be available upon request and Central may modify from time to time.
12. Central may require reflective markings, signs, or other warning mechanisms as Central deems appropriate to address navigational or public safety concerns.
13. SWAF shall not be enclosed except that sides of watercraft lifts may extend a maximum of three feet down to protect watercraft from the weather.

14. The electrical service of any permitted SWAF must be installed, operated and maintained in accordance with the requirements of the National Electric Code (“NEC”), the National Electrical Safety Code (“NESC”) and applicable state and local codes. The Permittee must obtain a certificate from a licensed/certified and practicing electrician stating that all electrical wiring is in compliance with NEC, NESC and state and local codes.
15. Common use docks and piers will be the only types of non-Project and non-public docks and piers permitted at C.W. McConaughy Reservoir (“Lake McConaughy”). Common use paths, walkways, boardwalks and steps from the residential development area to the shoreline, though not required, is strongly encouraged at Lake McConaughy. SWAF at Lake McConaughy must also be approved by the Nebraska Game and Parks Commission if located on part of Central’s property that is subject to a lease with the NGPC.
16. Private use watercraft ramps will not be permitted except in such cases where Central determines that other watercraft ramps are not available or are inadequate to meet the needs of the Applicant.
17. Swimming rafts and similar objects that are located in the water, but are not attached to the shore or a dock, shall be allowed only if occupied and only during daylight hours.
18. Mooring Buoys shall be of commercial manufacture, and sized and installed to ensure water safety and protection of the Project. Mooring buoys shall, at a minimum, be completely foam-filled, made of shatter-proof ABS plastic exterior, white in color and display a minimum three-inch reflective blue stripe clearly visible above the water line and from all directions.
19. Diving boards will not be permitted.
20. Boat houses will not be permitted.

C. Erosion Control Structures

Shoreline stabilization is encouraged to control soil erosion. If existing vegetation is effectively controlling shoreline erosion, then no other shoreline erosion control measures will be permitted. Applicants are encouraged to consider vegetation plantings to control shoreline erosion when possible. The following specifications are for the construction and maintenance of erosion control structures where existing vegetation has been or appears likely to be an ineffective erosion control mechanism:

1. All Erosion Control Structures (“ECS”) shall be constructed so as not to adversely affect the shoreline contours or slopes of Central’s Property or any adjoining property, and shall not cause excessive diversion of storm water runoff onto adjoining property.
2. Materials deemed by Central to be of a safety, environmental, scenic or operational concern shall not be permitted. Central will maintain acceptable and prohibited materials lists, which shall be available upon request and Central may modify from time to time.

3. All fill material for ECS must be confined landward of the structure, and be clean (free of debris or pollutants).
4. No excavation or fill material is permitted unless required for the installation of ECS. The containment of sloughing areas may be allowed to minimize the collapse of bank areas and is permitted by Central on a case-by-case basis.
5. All dredged and excavated material shall be adequately confined to prevent erosion and sedimentation into Project waters, other adjacent property, other adjacent waters, or wetlands.
6. Dredging, excavating and filling activities within wetlands is not permitted.
7. Riprap and seawalls shall not extend towards the water farther than necessary to control erosion along the shoreline. Fill material will not be permitted for purposes of increasing shoreline length or land area. Fill material up to 10 feet from the existing shoreline may be placed to eliminate indentations, including any riprap, rock etc. A vegetative cover shall be established behind any riprap or seawall after backfilling and grading. Walkways, pathways, steps, etc. will not be permitted as a part of an ECS. These facilities must be separately permitted as a SWAF.
8. Riprap material must consist of clean broken concrete, rock, or similar manufactured material, or fabriform, of sufficient size and shape to withstand wave action unique to that location. Riprap shall be placed such that it does not have a slope steeper than 1:1.
9. For riprap installation at Lake McConaughy, a layer of filter cloth shall be placed under and behind riprap. The filter cloth shall be stabilized and covered to prevent damage from sunlight. (Note: Woven filter cloth is recommended.) The openings of the filter cloth should be sized to prevent sediment loss through the fabric.
10. Riprap should be extended inland or properly connected to the neighboring structures to prevent erosional flanking.
11. Seawalls will not be permitted unless (i) Central has inspected the site; (ii) Central has considered whether vegetation or riprap would be adequate to control erosion at the site; and (iii) Central has determined that seawall construction is needed and would not change the basic contour of the shoreline.
12. Seawalls must be structurally tight and placed into the lakebed at a depth sufficient to prevent premature undercutting of the structure. Filter cloth may be required to be placed at the back of seawalls to prevent seepage of backfill material through the seawall.
13. Seawalls shall be extended inland or properly connected to neighboring structures to prevent erosional flanking. Central may require the top of the seawall to exceed a minimum elevation.

D. Dredging, Excavating and Filling

Dredging, excavating and filling activities shall be conducted according to the following specifications:

1. Dredging, excavating and filling activities within wetlands areas is not permitted.
2. Dredging or excavating near any wetland area will require sufficient buffers to ensure no adverse impacts to the wetland.
3. All dredged and excavated material shall be adequately confined to prevent erosion and sedimentation into Central's Supply Canal System, other adjacent property, other adjacent waters, or wetlands.
4. Dredging and excavating (including digging, scooping, or any other method of removing earth material) near the shoreline is prohibited with the exception of only the minimum amounts of excavating necessary for the proper design and installation of an ECS or SWAF.
5. Filling (including the deposit or stockpiling of material) near the shoreline is prohibited with the exception of only the minimum amount of fill necessary for the proper design and installation of an ECS or SWAF. All fill material must be free of debris or pollutants.

E. Vegetation Modification or Removal

Central's Property categorized as Residential that has been previously cleared of the naturally occurring vegetation and was "landscaped" as of March 7, 2005 may continue to be maintained as such without Central's permission, except that a permit is required for the removal or trimming of trees if such removal or trimming is to take place between April 15 and August 15.

In areas that have not previously been cleared of the naturally occurring vegetation, anyone planning to modify or remove the naturally occurring vegetation on Central's Property needs to obtain a permit. Applicants are encouraged to contact Central when in doubt about whether the proposed vegetation to be modified or removed requires a permit from Central.

An Applicant may apply for a permit to modify or remove the naturally occurring vegetation or to remove trees for the following reasons:

- a. To provide for reasonable view of the water;
- b. To accommodate activities related to permitted construction; or
- c. For general maintenance of the vegetated area.

General maintenance includes, but is not limited to, (i) trimming or removal of dead, diseased or dying trees; (ii) shrubbery or trees that are a hazard to life or property; or (iii) undesirable vegetation, such as poison ivy, poison oak or noxious weeds.

The modification or removal of the naturally occurring vegetation shall be no greater than necessary to accomplish the intended purpose. If Central determines the scenic, recreational, environmental, cultural or operational value of the naturally occurring vegetation will be significantly impaired by the proposed modification or removal, permission may be denied or a Revegetation Plan approved by Central shall be required as a part of the Permit.

Note: A Permit for the removal of shrubbery or trees that are a hazard to life or property is not required. However, documentation of any such removal must be sent to Central's Real Estate Department within 30 days of the action.

Revegetation Plan

A Revegetation Plan shall describe the naturally occurring vegetation proposed to be removed, cleared or disturbed, and how it will be replaced. Plant species and patterns found on Central's Property prior to the removal or clearing should be replanted to the extent possible and/or appropriate. Replanting disturbed areas and securing the exposed soil with a ground cover within one month of completion of construction is required to reduce erosion unless Central approves a later replanting date.

Central may require Individuals to replant or pay for the replanting of naturally occurring vegetation removed within Central's property without a permit.

F. Dwellings, Additions to Dwellings and Other Improvements Within Central's Leased Residential Areas

These specifications apply to construction, including Major Repairs or additions, of dwellings and related facilities on lands classified as "Residential" in Central's Land and Shoreline Management Plan. No permit is needed for interior or exterior building work or remodeling that does not increase the overall square footage or change the footprint of the structure (such as shingling, siding, gutters, windows, doors, interior remodels, etc.) and which will not change the original use of a structure (for example, does not result in a garage or boat house being converted to living space). An Applicant must be a tenant or subtenant of Central. The Applicant's lease or sublease must authorize the leased premises to be used for residential purposes. The following are the construction and use requirements for improvements on each of Central's leased residential areas.

1. Submission of Plans

Prior to the construction of, or Major Repair to, any residence, addition to a residence, an accessory building or other physical improvement upon the leased premises, a set of building plans for such improvement shall be submitted by the Applicant to Central for approval. Such building plans shall provide a plot plan and all four elevation views

showing the size, location and design for the improvement to be constructed on such lot and shall indicate the location of any other facilities located or to be located on such lot. The Applicant shall include with such plans all of the required approvals from local or county officials and/or applicable area associations or homeowners associations.

No construction of any residence, addition to a residence, an accessory building or other physical improvement upon the leased premises shall be commenced unless and until written approval of the building plans for such improvement has first been obtained from Central.

2. Minimum Horizontal Setbacks

- a. For purposes of these setbacks, eaves, steps, porches, decks, and patios shall be considered a part of the building.
- b. Rear and side setbacks. All buildings shall be located on the lot no closer than 20' horizontal from the rear lot line and no closer than 4' horizontal from the side lot line, or 10 percent of the width of the lot at the point of construction, whichever is greater.
- c. Shoreline setbacks.
 - (i.) C. W. McConaughy Reservoir (Lake McConaughy); K-1 cabin area lots 1-10, 12-23, 23A, 39-41, 40A, 48-51, 53-54, 58-62, and 89-98; K-2 cabin area lots 16-20; and all K-4 cabin area lots. All buildings shall be located on the lot no closer than 50 feet horizontal from the Normal Shoreline. Additions to existing buildings may be allowed within the 50 foot setback provided such additions are located to the rearward side of the existing building. Decks and patios with no roofs or other covering shall be located on the lot no closer than 30 feet horizontal from the Normal Shoreline.
 - (ii.) C. W. McConaughy Reservoir (Lake McConaughy); all other lots. All buildings shall be located on the lot no closer than 100 feet horizontal from the Normal Shoreline. Additions to existing buildings may be allowed within the 100 foot setback provided such additions are located to the rearward side of the existing building. Decks and patios with no roofs or other covering shall be located on the lot no closer than 30 feet horizontal from the Normal Shoreline.
 - (iii.) Jeffrey Reservoir (Jeffrey Lake), Central Midway Reservoir (Central Midway Lake), and East Midway Reservoirs (East Midway Lakes). All buildings and other improvements shall be located on the lot no closer than 30 feet horizontal from the Normal Shoreline.
 - (iv.) Johnson Reservoir (Johnson Lake) and Plum Creek Canyon Reservoir (Plum Creek Canyon Lake). All buildings shall be located on the lot no closer than

50 feet horizontal from the Normal Shoreline. Decks and patios with no roofs or other covering shall be located on the lot no closer than 30 feet horizontal from the Normal Shoreline.

3. Minimum Elevation Limits

- a. For purposes of these elevation limits, the Lowest Adjacent Grade is the lowest point in elevation at which the exposed exterior of a building comes in contact with the ground.
- b. For purposes of these elevation limits, the Lowest Living Elevation is the floor elevation of the lowest building space that is used as, or has the potential to be converted for use as, usable living space (i.e. living room, bedroom, kitchen, dining room, bathroom, office, etc.). Lowest Living Elevation would not include such areas as crawl spaces, utility rooms, and undersized storage areas that could not be easily converted into usable living space.
- c. The total height of any improvement shall not exceed 2 ½ stories or 35 feet as measured from the Lowest Adjacent Grade.
- d. C. W. McConaughy Reservoir (Lake McConaughy). The Lowest Adjacent Grade of any building shall be at least 17 feet higher than the FERC Lake Limit. See Attachment B for this elevation.
- e. Johnson Reservoir (Johnson Lake). The Lowest Adjacent Grade and the Lowest Living Elevation of any building shall be at least 1 foot higher than the FERC Lake Limit. See Attachment B for this elevation.
- f. All Locations other than Lake McConaughy and Johnson Lake. The Lowest Adjacent Grade and the Lowest Living Elevation of any building shall be at least 2 feet higher than the FERC Lake Limit. See Attachment B for these elevations.

IV. CONSEQUENCES OF VIOLATIONS

Central will issue Stop Work Directives for any violations that are detected on Central's Property. Consequences for violations may include one or more of the following, in addition to any other rights or remedies provided by law:

- Unwanted construction delays.
- Loss of fees and security deposits, if applicable.
- Suspension or termination of approved permits and leases.
- Increases in fees.
- Fines.

- Modification or removal of non-complying structures or facilities and restoration of disturbed areas at the owner's expense.
- Loss of any consideration for future reservoir use applications, leases, easements, etc.

THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT

CONSTRUCTION AND SPECIAL WATER ACCESS
PERMITTING PROCEDURES FOR
TENANTS, SUBTENANTS, AND ADJACENT LANDOWNERS

ATTACHMENT A

CONSTRUCTION SETBACKS ON PRIVATE LANDS

Special Water Access Facilities (“SWAF”) for adjacent landowners will not be permitted if any new buildings, or similar or accessory structures, have been placed or constructed on the adjacent property after March 7, 2005, within the horizontal and vertical setback distances specified below. Permission for SWAF for adjacent landowners requires the Applicant to permanently covenant and agree that no buildings or similar or accessory structures shall be placed or constructed within the horizontal and vertical setback distances specified below. Central may condition a permit for SWAF on the adjacent landowner meeting specific shoreline stabilization or protection requirements.

Lake / Reservoir	Minimum Required Construction Setbacks	
	Horizontal Distance From Normal Shoreline (ft) (1)	Vertical Distance Above FERC Lake Limit (ft) (1)
McConaughy	300	17
Ogallala	300	2
Box Elder	50	2
Cottonwood	50	2
Target	50	2
Snell	50	2
Jeffrey	50	2
Hiles	50	2
Jensen	50	2
West Midway	50	2
Central Midway	50	2
East Midway	50	2
Gallagher	300	2
Plum Creek	50	2
Johnson	50	1
Phillips	50	2
East Phillips	50	2
Knapple	50	2

(1) See Section III.A. for an explanation of Normal Shoreline and FERC Lake Limit.

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ATTACHMENT B

**MIMINUM ELEVATION FOR LOWEST ADJACENT GRADE
AND LOWEST LIVING ELEVATION
WITHIN CENTRAL’S LEASED RESIDENTIAL AREAS**

New building construction within Central’s leased residential areas shall be at or above the elevations specified below. Elevations are in Central’s FERC datum unless noted otherwise.

Lake / Reservoir	FERC Lake Limit (1) (Maximum Elevation) (ft msl) (2)	Minimum Vertical Distance Above FERC Lake Limit (feet)	Minimum Elevation for Lowest Adjacent Grade and Lowest Living Elevation (ft msl) (2)
McConaughy (3)	3265.0	17	3282.0 (3)
Jeffrey	2760.0	2	2762.0
Central Midway	2632.3	2	2634.3
Glen Young	2631.8	2	2633.8
Plum Creek	2630.4	2	2632.4
Johnson	2621.0 2620.2 in NGVD 29 (4)	1	2622.0 2621.2 in NGVD 29 (4)
Knapple	2509.0	2	2511.0

- (1) See Section III.A. for an explanation of FERC Lake Limit.
- (2) “ft msl” is feet above mean sea level.
- (3) The elevation requirement for Lake McConaughy is for Lowest Adjacent Grade only.
- (4) “NGVD 29” is the National Geodetic Vertical Datum of 1929, and is the datum regularly reported to the public and via Central’s website.

Proposed Permitting Procedures Approaches to Protection of Project Resources

Least Tern & Piping Plovers

- Special conditions within Tern and Plover Resource Protection Classifications at Lake McConaughy –
 - Access Points – Spacing of beach access points of > ½ mile, may require fenced corridor to shoreline and/or controlled access to allow for closure if needed.
 - Construction Activities – No construction allowed on beaches from April 1st through August 15th.
 - Pesticides – No broadcast pesticide applications allowed from April 1st through August 15th.
 - Beach Maintenance – No disturbance activities (disking, dragging, grading, tree cutting, etc.) allowed from April 1st through August 15th unless authorized by annual special permit.
 - Fireworks – No fireworks allowed on beaches from April 1st through August 15th.
 - Dogs – Dogs shall be on leash at all times when on beaches from April 1st through August 15th.

American Burying Beetle

- Special conditions from Boxelder Canyon through Gallagher Canyon -
 - Soil Disturbance – Permits for soil disturbance activities in excess of 100 sq. feet will not be allowed in previously undisturbed areas from May 1st through October 31st unless (a.) the area has been mowed to maintain a vegetation height of less than 2 inches for 28 days prior to disturbance, and (b.) daily inspections are conducted for presence and removal of carrion.
 - Lighting – Mercury vapor and ultraviolet lighting, including “bug zappers” will be prohibited within the identified area.

Bald Eagles

- Bald Eagle Resource Protection Classification areas will require permit approval for any tree trimming and/or removal activities.

Migratory Birds

- Permits will be required for trimming and/or removal of trees from April 1st through August 15th.

Recreational Resources

- Recreational Resource Protection Classification areas will prohibit private structures within the identified areas.
- Private water access points, if allowed, will be restricted to ground level or near ground level, natural materials and colors, and no in-water structures.

Native Grasslands:

- Special conditions within Native Grasslands Protection Classification –
 - No private development allowed except for properly permitted access points as described in the Least Tern and Piping Plover section above.
 - Public development may be allowed by permit only on a case-by-case basis.
 - Motorized access, if any, will be restricted to permitted access points and paths.