

**THE CENTRAL NEBRASKA PUBLIC  
POWER AND IRRIGATION DISTRICT**  
*HOLDREGE, NEBRASKA*

**LAND AND SHORELINE MANAGEMENT PLAN  
FOR THE KINGSLEY DAM PROJECT**

***FERC NO. 1417***

*DECEMBER 2009*

*Prepared by:*

*The Central Nebraska Public Power and Irrigation District*

*and*

*Kleinschmidt Associates  
Energy & Water Resource Consultants*

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***ACRONYMS AND ABBREVIATIONS LIST***

BMP	Best Management Practice
CRMP	Cultural Resources Management Plan
LSMP/Plan	Land and Shore Management Plan
NGPC	Nebraska Game and Parks Commission
SHPO	State Historic Preservation Office
SRA	State Recreation Area
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
WMA	Wildlife Management Area

***STANDARD TERMS LIST***

404 Permit/404 Permitting	A U.S. Army Corps of Engineers 404 permitting process program that seeks to regulate the discharge of dredged, excavated, and fill material into waters of the United States, including wetlands.
Accessory Uses	Minor uses typically and logically associated with some other primary use. Examples include such things as patios, fences, lawns and gardens, stock tanks and wells, cattle loading pens, etc.
Agricultural Uses	Traditional agricultural uses, such as crop production and livestock grazing (but excluding such things as confined animal feeding operations, grain elevators, ethanol plants, etc.).
Boathouse	A watercraft housing facility, either directly on or set back from the shoreline, which has a means to facilitate the direct movement of watercraft between the facility and the water, such as through a watercraft lift, rails, or boat ramp.
Boat Ramp	An alteration to the shoreline permitting loading and unloading of watercraft. A boat ramp may be paved or unpaved, with or without public access rights.
Buffer Zone	Also known as vegetated buffer, buffer zone, or shoreline buffer. An undeveloped area, left in its natural state directly adjacent to a body of water.
Buildings	Stationary walled and roofed structures (such as houses and cabins, garages, mobile homes, stores, restaurants, barns, lighthouses, etc.) and significant attached structures (such as porches, balconies, breezeways, etc.)
Bulkheads	A retaining wall along a waterfront; a structure or partition to resist pressure or to shut off water
Central	The Central Nebraska Public Power and Irrigation District
Conveyance	The transferring of a property title or right from one party or individual to another. Conveyance may include deed transfers, easements, or leases.
Discharges	Discharges of water or other effluent into Project waters or onto Project lands or the artificial concentration of runoff into a conduit or channel in greater amounts or in different locations than would naturally occur.

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Dock	A man-made shoreline structure used to secure, protect, and provide access to watercraft or for recreation (e.g. fishing, wildlife viewing, etc.). “Dock” is used interchangeably with “pier” in this Land and Shoreline Management Plan.
Federal Energy Regulations Commission/FERC	Regulatory federal agency responsible for issuing license(s) for hydroelectric generation and mandating/conditioning such licenses to accommodate Project operations, environmental and cultural resource protection, and public access.
FERC License (also License)	The license issued by the FERC for a hydroelectric project, setting forth the rights, privileges, and responsibilities of Licensees and others using Project lands.
Fish Cleaning Stations	A location for the purpose of gutting or cleaning fish.
Fish Habitat	Artificial, in-water structures or items for the attraction, protection, reproduction, feeding, or stocking of fish.
Form 80 Reports	Also FERC Form 80 Reports and Form 80 surveys. Report a licensee submits to FERC periodically reviewing recreation use and facilities at a hydroelectric project.
Fueling Facilities	Facilities used for the bulk storage and dispensing of motor fuels.
Grandfather	To make exceptions allowing an old rule to continue to apply to some existing situations, when a new rule will apply to all future situations (also Grandfathered, Grandfathering, etc.)
Hike and Bike Trails	Constructed or maintained passages or access ways for pedestrian or bicycle traffic to or along the shoreline.
Hunting Structures	Blinds, tree stands, etc. that facilitate various hunting activities.
Jurisdictional Entity	Any (local, state, or federal) governmental entity that has authority (or has been requested by Central) to regulate use of land or water, or specific environmental resources such as plant and animals.
Landward Excavation and Fill Activities	Intentional movement of earthen material above the waterline.
Lease	Contract between Central and another party conveying some rights or interests in land Central owns. Also, a property used or occupied under the terms of a contract.



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Low-Impact, Passive Uses	Uses which, in and of themselves, have little or no permanent or harmful effects on Project lands and waters or protected resources (such as walking, fishing, boating, hunting, etc.).
Management Classifications/ Land and Shoreline Management Classifications	A series of definitions, descriptions, and typifications of Project lands Central developed to support its policies and standards for development, public access, shoreline use, environmental protection within the Project boundary and to support Project operations.
Marina	A combination of buildings, watercraft launching facilities, watercraft housing facilities, etc., generally providing services related to watercraft.
Mooring	A chain, pylon, buoy, or other non-dock structure used to secure a watercraft in place.
Non-Project Purposes/ Non-Project Uses	Any activities or structures within the Project boundary not related to Central's Project operations or directed by its license.
Parks and Campgrounds	Areas specifically designated or managed for recreational purposes. Such purposes include parks, campgrounds, playgrounds, picnic areas, swimming areas, various ball courts and fields, playgrounds, etc.)
Permit	A written, revocable authorization from a licensee or a Jurisdictional Entity that does not convey a property right.
Permitting Procedures/ Processes	Rules applicable to construction of facilities, modifications to lands and shorelines, etc. Permitting rules are imposed throughout the Project, and can vary by location, time of year, etc.
Pier	See Dock.
Private Use	Uses that are primarily exclusive in nature (such as private residential or agricultural uses, commercial operators providing services not related to the public use of Project lands and waters, "members only" types of services, etc.)
Project	Generally refers to a FERC licensed hydroelectric project. Specifically refers to the Kingsley hydroelectric project as defined in Central's FERC license.

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Public Use	Uses by a public entity (such as a state agency, organization, or a public utility), or uses made available to the general public on a substantially equal basis.
Recreational Vehicles	A vehicle, such as a camper or motor home used for traveling and recreation activities.
Resource Agencies	State and federal entities (i.e. NGPC, USACE, USFWS, SHPO, etc.) that may have a shared interest in or authority to regulate the use of lands and waters; agencies with a particular mandate or jurisdiction to protect fish, wildlife, and other features of the natural environment.
Retaining Walls	Walls built to keep earth or water in place.
Rip-Rap	A loose assemblage of broken rock or concrete placed in water or on soft ground to provide stabilization and erosion control.
Seawalls	A retaining wall, bulkhead, embankment or similar structures to protect the shore from erosion or to act as a breakwater.
Shoreline	The area of interface between the land and a body of water.
Shoreline Access Facilities	Structures or items on the landward side of the shoreline that provide access to the shoreline (such as sidewalks, boardwalks, steps, pathways, etc.) or uses near the shoreline (such as lakeside decks and patios, leveled sitting areas, artificial beaches, etc.).
Shoreline Spacing	The distance along the shoreline between shoreline facilities.
Shoreline Stabilization	Construction activities or other actions taken to control shoreline erosion (such as riprap, bulkheads, retaining walls, slope-shaping, fabric placement, vegetation establishment, etc.).
Stakeholder/ Stakeholder Group	The public (both resident and non-resident), resource agencies, non-governmental organizations, and other parties interested in the use and management of the Kingsley Dam Hydroelectric Project lands and shoreline.
Swimming Facilities	Items used to facilitate swimming and similar activities (such as rafts, diving platforms, swimming beaches, etc.).
Tern and Plover Plan	A plan developed by Central, in consultation with the NGPC and USFWS, to protect tern and Plover nesting sites at Lake McConaughy.

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Use Standards	Processes or rules established by Central that set requirements for non-project uses.
Utilities	Delivery systems for electricity, water, sewer, etc. and the entities that provide these services.
Variance	An exception to one or more of Centrals use standards, rules, or policies.
Vegetation Modification	Removal, trimming, mowing, harvesting, or planting of vegetation.
Watercraft Housing Facilities	Buildings or other structures used for the purpose of securing or storing watercraft when not in use (such as boathouses, watercraft lifts, etc.).
Watercraft Lift	A mechanical device that lifts watercraft out of the water.
Water Intake and Pumping Facilities	Facilities for the diversion or removal of Project waters.
Water-Side Access Facilities	Structures or items located on the water side of the shoreline to facilitate use of Project waters (such as docks, piers, mooring buoys, etc.).
Water-Side Dredge, Excavate and Fill Activities	Intentional movement of fill material below the waterline.
Wildlife Areas	Areas specifically designated or managed for wildlife purposes.

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1.0 *OVERVIEW*

1.1 Introduction

The Central Nebraska Public Power and Irrigation District (Central) is a political subdivision of the State of Nebraska, authorized as a “public power and irrigation district.” Central’s responsibilities include irrigation, power generation, public recreation, shoreline and land use management, natural resource conservation, environmental protection, and public land stewardship.

Central operates the hydropower generating facilities associated with the Kingsley Dam Project (Project). The Federal Energy Regulatory Commission (FERC or Commission) licensed the Project as Project No. 1417 in 1998. Central is subject to the Federal Power Act, associated regulations, and the express terms and conditions of the Project license. FERC requires Central to comply with all terms and conditions of this FERC license. Two of those license conditions—designated as Articles 421 and 422—directly affect Central’s administration of Project lands. These articles establish limitations and criteria regarding land use and require Central to undertake specific actions and seek particular approvals. In addition, Central is subject to other regulations and license conditions that more generally constrain its use and management of Project lands and waters.

Central’s properties throughout south-central Nebraska provide numerous recreational, residential, and economic benefits. They offer diverse habitats that support the plant, animal, and fish species found in the region, including species designated as threatened and endangered by state and federal agencies. The Platte River region also has a rich historical and cultural heritage, as evidenced by the numerous identified historical and archaeological sites. The entire area is increasingly attractive as a place for outdoor recreation, home sites, and the support services associated with these activities.

Continued regional growth and development and the gravitation of homeowners to waterside areas will place increasing demands on the lands and waters of the Project.

These lands and waters are a unique and valuable resource that, if managed effectively, can continue to provide hydropower, irrigation, recreation, and community living benefits to future generations in the region. To accomplish this, Central must give close attention to preserving shore lands with unique or special qualities, to properly manage and conserve the natural resources within the Project boundary, and to protect and balance different uses so the public can access and enjoy them in the years to come. In its role as a steward of public land, Central must balance the increasing—and often conflicting—recreational, residential, and commercial uses of this land and shoreline, while ensuring that they protect legitimate and appropriate existing uses and valuable resources are protected.

Consistent with its obligations under the license and pursuant to federal and state laws and regulations, Central provides reasonable public recreational access to the lands and waters of the Project, as well as protection of existing uses and wildlife habitat. While meeting these requirements, Central must also retain the flexibility to respond to economic growth within the region and resulting changes that may affect land and recreational use within the Project boundary.

## 1.2 Purpose of the Land and Shoreline Management Plan

The purpose of the Land and Shoreline Management Plan (LSMP or Plan) is twofold. First, Central designed the Plan to comply with the requirements of its FERC license. Second, the LSMP serves to guide Central in making decisions regarding the future use of the land within the Project boundary. Central will use this LSMP as a baseline to evaluate developmental proposals and recreational needs at the Project. The LSMP provides a clear statement of how Central will manage Project lands and shoreline by identifying specific permissible uses and the procedures that Central and the public will follow to undertake these uses. The LSMP will help minimize land-use conflicts and improve Central's ability to administer its land and environmental policies in a fair and consistent manner. This LSMP is intended for management of FERC Project lands and waters within the Project boundary. Central may choose to apply these policies and

standards to its lands outside the Project boundary where relevant and/or appropriate, but is not required to do so as part of its FERC license.

### 1.3 Project Description

Central's Kingsley Dam Hydroelectric Project, authorized in the 1930s and completed in 1942, consists of two distinct segments (see Figure 1-1). The first segment comprises Lake McConaughy and Lake Ogallala. The second segment includes the Supply Canal, which incorporates several other impounded areas identified as lakes or reservoirs. Appendix F describes the Project in-depth.

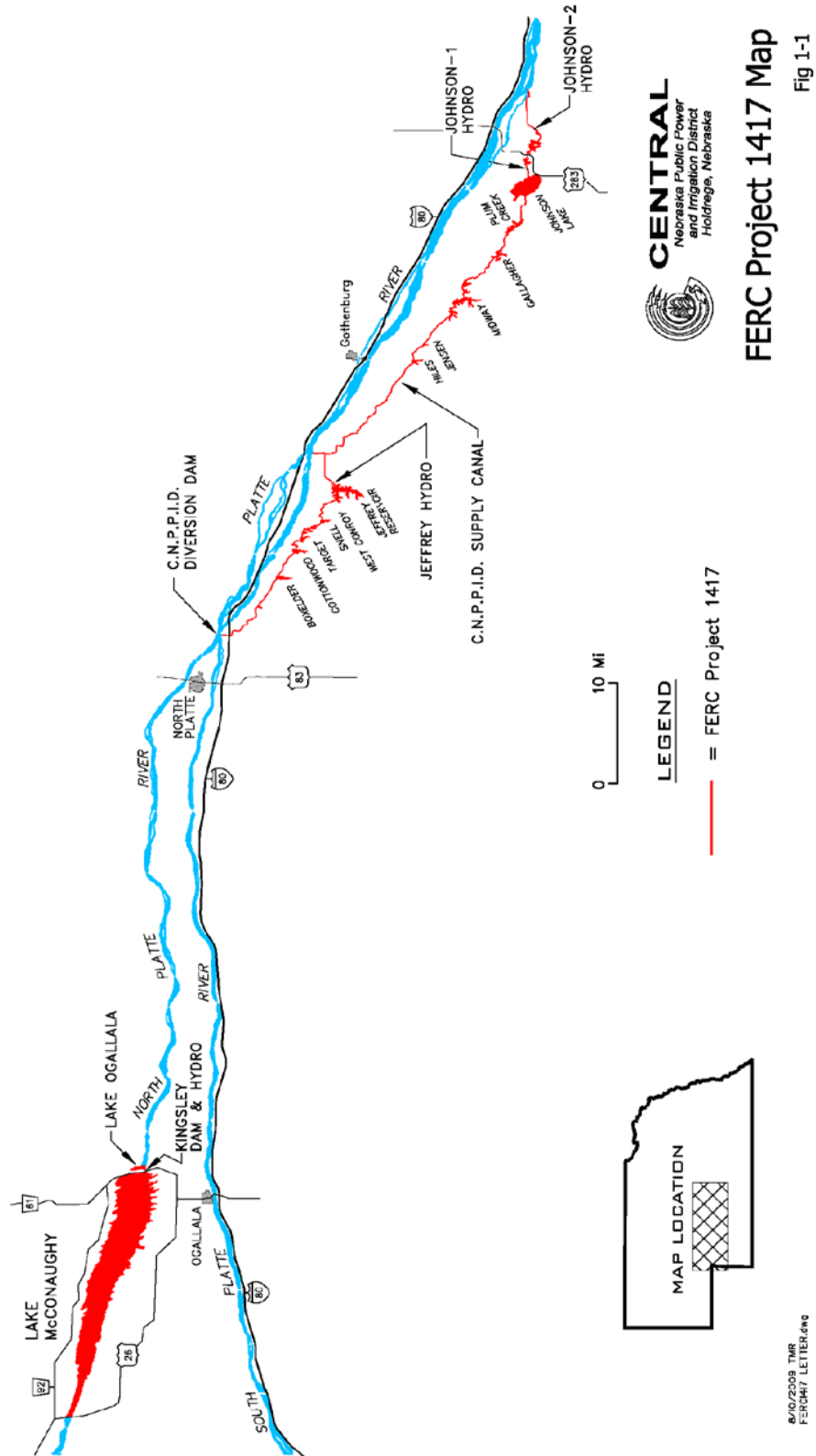
#### 1.3.1 Lake McConaughy and Lake Ogallala

Lake McConaughy, formed by Kingsley Dam, has a surface area of approximately 30,500 acres and is roughly 21 miles long at full pool. The Kingsley Hydropower plant, built in 1984, abutting Central's Project and located at the east end of the lake, discharges into Lake Ogallala. Lake McConaughy and Lake Ogallala provide diverse and popular public recreational opportunities. Fishing, camping, boating, and other recreational uses, as well as winter bald eagle viewing are popular activities on the lakes.

#### 1.3.2 Supply Canal

The Central Supply Canal (also known as the Tri-County Supply Canal) begins at the Diversion Dam, located 50 miles downstream of Central's Kingsley Dam, at the confluence of the North Platte River and South Platte River. The 75-mile-long Supply Canal flows through 27 canyon lakes of varying sizes and three hydroelectric power plants before returning water to the Platte River east of Lexington or to Central's irrigation service area. The sizes of the water bodies impounded along the Supply Canal vary from less than one surface acre to more than 2,500 surface acres, the two largest being Johnson Lake (approximately 2,500 acres) and Jeffrey Reservoir (approximately 575 acres). The types and levels of uses vary significantly from location to location throughout the Supply Canal system.

Figure 1-1: Project Location Map



#### 1.4 FERC Delegated Authority

Central is required to comply with all terms and conditions of its FERC license. Two of those license conditions—Articles 421 and 422—directly affect Central’s administration of Project lands. These articles establish limitations and criteria regarding land use and require Central to undertake specific actions and seek particular approvals. In addition, Central is subject to other regulations and license conditions that more generally constrain its use and management of Project lands and waters. Appendix E includes the full Article language along with other pertinent FERC license requirements.

As the recipient of a federal license, Central is responsible for supervision and control of the uses and occupancies to which FERC grants Central oversight within its Project boundary. These uses and occupancies may include conveyance of easements, rights of way, leases, or permissions to use Project lands for non-Project purposes. FERC generally requires licensees to develop permitting policies and programs that detail the permitting processes, standards, and requirements and acknowledges that licensees may charge fees to recoup some costs associated with processing permits. FERC requires Central to monitor and enforce compliance with any permits or conveyances they issue. Accordingly, Central has an ongoing responsibility to monitor and control activities on Project lands, and has motivation for supervising uses of other lands within Central’s Right of Way. Central has the ultimate responsibility for compliance. FERC does not allow delegation of this responsibility, regardless of who proposes, builds, or manages a shoreline use or facility.

Central binds all its permittees, licensees, lessees, and grantees to the terms of FERC-approved plans by specific restrictions and conditions in the authorization agreement (lease, permit, license, easement, or other conveyance). These authorization agreement restrictions are general in nature so that the approved plans bind the authorized user in whatever form they may take during the effective term of the authorization. Under these restrictions and conditions, authorized users are committed to the provisions of this LSMP, as well as to successive modifications and amendments, which have received the requisite approval.



In an effort to work with stakeholders and the communities adjacent to the Project, Central staff are available to discuss management decisions and policies with interested parties. In the event stakeholders believe Central has acted outside the policies of the LSMP or Central's FERC license, they may contact FERC requesting review of Central's actions or decisions.

#### 1.5 Development of the Land and Shoreline Management Plan

Central initiated the planning and consultation process for the original LSMP in May 1999 in accordance with several specific license conditions governing the management of lands and waters within the defined Project Boundary. The conditions most directly related to this Plan are contained in license Articles 421 and 422<sup>1</sup>. FERC approved the original LSMP in March of 2003. Central developed this LSMP primarily to address questions and new issues that have arisen since then, particularly the classifications of land use. As Section 3.0 details, Central now employs five Land and Shoreline Management Classifications (Management Classifications) which it developed to support its policies and standards for development, public access, shoreline use, environmental protection within the Project boundary and to support Project operations.

Central's secondary goal for this LSMP is to improve its organization and clarity in general, and specifically to identify and define permissible uses, thus rendering the document more accessible and easier to use for Central staff, agency regulators, and the public.

To improve upon the original LSMP, Central undertook the following steps in its reevaluation:

1. reviewed existing LSMP to identify problems, issues, and areas for improvement,
2. held public "listening sessions" to identify public opinion on the LSMP, its policies, usability, etc.,
3. formed a stakeholder group to further define public opinion and concerns,
4. held agency meetings to further identify any outstanding or new issues,
5. held meetings with FERC staff,

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<sup>1</sup> LSMP Appendix E presents the verbatim text of all of these Articles, also referred to as "License Conditions."

6. rewrote the LSMP to make it more understandable, and
7. revised its land use classification and allowable use system for the lakes and canal system.

A summary of the consultations with the resource agencies, stakeholder group, and public is provided in Appendix H.

#### 1.6 Implementation and Enforcement of LSMP Policies

Through its FERC license, Central has continuing responsibility to supervise the occupancies and uses it authorizes and to ensure compliance with the terms of the authorization or conveyance. Authorizing uses or conveying interests in Project lands not specifically addressed in Article 422 requires prior consultation with interested agencies and prior FERC approval. While this process can be very burdensome and time consuming for all concerned, it is not optional. Failure to comply with the criteria identified in the Article constitutes a violation of Central's FERC license terms. The terms of the license require Central to take any lawful action necessary to correct a violation of those terms. In order to verify that existing and proposed uses comply with the LSMP and Central's Permitting Procedures, Central reserves the right to inspect any shoreline facility or use both during construction and periodically after installation.

If a permitted use or occupancy violates any condition of the FERC license or any other condition imposed by Central for the protection and enhancement of the Project's scenic, recreational, or other environmental values, or if a covenant made under the authority of the FERC license is violated, Central will take any legal measures necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, canceling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

## 1.7 Grandfathering

A number of structures and facilities or uses existed within the Project boundary at the time of implementation of the original LSMP in 2003.<sup>2</sup> Some of those include pre-existing uses that would not otherwise be permissible under the current LSMP or permitting process, but for which Central and FERC may intend of Central and FERC to “grandfather” (meaning allowed to remain in place). Central may grandfather structures and facilities constructed before that date if the facility/use owner subsequently obtained a permit from Central under the LSMP and if those facilities and uses are otherwise legal. Section 4.5 provides additional detail regarding Central’s grandfathering policies.

## 1.8 Periodic Review and Update of the Plan

To assure the LSMP continues to remain relevant, Central intends to review the LSMP in depth every six years. Originally, the Project license required Central to review the LSMP every five years. Considering that the FERC requires Central undertake recreational monitoring on a six year cycle, review of the LSMP concurrently with the recreation use analysis can provide valuable insight for both efforts. Accordingly, Central will coordinate review of the LSMP with submittal of recreation reports to the FERC (FERC Form 80 Reports). This concurrent review process provides the means for evaluating the appropriateness and efficacy of the LSMP program and policies, identifies new issues that may arise because of development around the reservoirs, as well as assesses the need for any changes to the LSMP as it relates to public access and recreational use.

Section 6.0 discusses the distinction between minor modification to the LSMP that Central will undertake internally and major modification that may require reopening the LSMP through the amendment process. Section 6.0 also includes a description of Central’s LSMP review and amendment process.

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<sup>2</sup> Leases in place at the time of LSMP implementation contain provisions making those leases subject to this Plan and to federal, state, and local regulations.

## 1.9 Supporting Documentation

Volume I of the LSMP appendices contains documents which Central includes as part of the LSMP and which FERC must review and approve under Articles 421 and 422 of the Project license. These include Land and Shoreline Management Classification Maps (Appendix A), Project Lands and Waters Designated for Public Recreational Use (Appendix B), Management Plan for Least Tern and Piping Plover Nesting on the Shore of Lake McConaughy (Appendix C), and Plan for Reviewing FERC Boundary (Appendix D). Central may not make significant changes to these documents without FERC approval.

Volume II of the LSMP appendices includes supporting documentation for information purposes only. Information contained therein is not expressly required or mandated by Central's FERC license. Central's understanding and intent is that FERC's approval of the amended LSMP does not encompass approval of the appendices contained within Volume II. Central may update these appendices to keep information current as may be appropriate. Central does not intend to seek FERC approval or formal amendments to the LSMP when this occurs.

## 2.0 ENVIRONMENTAL, CULTURAL, AND RECREATIONAL RESOURCES

Article 421 of the Project license directs Central to address specific resource management practices within its LSMP. In addition to resource protections provided through the LSMP, Central also provides resource protections by other means, such as the protections provided for cultural resources under Central's Cultural Resources Management Plan (CRMP), the maintenance of Central's eagle viewing facilities, the establishment and maintenance of an Environmental Account for instream flows, enhancement and maintenance of riparian habitat, etc. The resource protections provided by this LSMP are in addition to, and are not intended to substitute for or modify those other efforts.

### 2.1 LSMP Approaches to Resource Protection

Resources protections within the LSMP are accomplished through Land and Shoreline Management Classifications (Management Classifications) Central's Permitting Procedures and use standards, and the Lake McConaughy least tern and piping plover nesting plan (Tern & Plover Plan). Discussions of particular resources in the following sections include those which the Project license mandates Central monitor and protect as well as others that played a major role in Central's development of Management Classifications. This does not minimize or preclude Central's management and protection of resources not specifically detailed below.

#### 2.1.1 Land and Shoreline Management Classifications

Project lands and shorelines are all assigned classifications. These classifications identify, in a broad sense, how those lands and shorelines are or may be used now and in the future. The types of uses allowed uses and rules on those uses vary according to classification. Although important resources can occur anywhere within the Project, some lands and shorelines are so important to resource protection that those lands are given a special Resources Protection classification. For example, although least terns or piping plovers could conceivably appear anywhere within the Project, and will be protected wherever they may occur, the beach areas at Lake McConaughy are such an important

nesting and feeding area for these birds that Central has designated them as Resource Protection areas for the purpose of protecting terns and plovers.

### 2.1.2 Permitting Procedures and Use Standards

Uses throughout the Project are subject to Central's permitting processes or other rules that set standards for such uses. Generally, these rules are applicable to such things as construction of facilities, modifications to lands and shorelines, etc. Permitting rules are imposed throughout the Project, and can vary by location, time of year, etc. Some of these rules are established for the purpose of providing resource protections. For example, while migratory birds are protected by law year-round, Central's permitting process could include greater restrictions on tree cutting activities during key nesting seasons to reduce the risk of adverse impacts to migratory bird nests and their eggs.

Central is dedicated to employing Best Management Practices (BMPs) when managing their properties, both within and outside the Project boundary. With assistance from relicensing stakeholders and other interested parties, Central supports public education efforts to encourage property owners to adopt the shoreline BMPs such as the restriction or recommendation against pesticide use for plant or animal control, as well as any other BMPs promoted by local, state or federal agencies. In some cases, resource specific BMPs may be a requirement of permits issued by Central or other regulatory agencies.

### 2.1.3 Lake McConaughy Least Tern and Piping Plover Nesting Plan

Central's License Article 421 requires the LSMP include a plan for the protection of least tern and piping plover nesting sites at Lake McConaughy. This is accomplished by the *Management Plan for Least Tern and Piping Plover Nesting on the Shore of Lake McConaughy* (Tern & Plover Plan) (Volume I, Appendix C); however, the Tern & Plover Plan was developed, consulted on by the resource agencies, and approved by FERC separately from the process used for the development, consultation, and approval of the rest of the LSMP. This LSMP is not intended to modify the Tern & Plover Plan in any way, but rather,

changes to that Plan will occur only through the consultation and approval process as provided in license article 421 and in that Plan. The Tern & Plover Plan is included as Volume I Appendix C to this LSMP.

## 2.2 Summary of Project Resources and Approaches to Protection

The following is a description of key environmental, cultural, and recreational resources found within the Kingsley Project, as well as an identification of mechanisms used to provide protections.

### 2.2.1 Migratory Birds

The Migratory Bird Treaty Act of 1918 is an international treaty that provides protection to approximately 880 species of birds, their nests, eggs, and feathers, in the United States, Canada, Japan, Mexico, and Russia. Examples of birds the Migratory Bird Treaty Act protects that are found in and around the Project boundary are 50 species of tree and brush nesting warblers, sparrows, vireos, and towhees. In addition, four species of swallows construct nests on structures and in cut banks along Central's lakes and canals. Generally, the birds protected under the treaty arrive in early spring and nest until mid-to late summer, however, the nests, eggs, and birds themselves are protected year around.

Protections for migratory birds are provided through Central's Permitting Procedures and use standards developed in consultation with the U.S. Fish and Wildlife Service (USFWS) and the Nebraska Game and Parks Commission (NGPC).

### 2.2.2 Bald Eagle

While the bald eagle was de-listed from its federally endangered status in 2007, concern for and protection of the species is still in effect. The USFWS, as required by the Endangered Species Act, will continue to monitor the status of the species for five years to insure the change in status is warranted. Protections under the Endangered Species Act will continue for the bald eagle during that five year period of evaluation; however, the primary legal protection for the species

has been transferred from the Endangered Species Act to the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. Both federal laws prohibit the “taking” of bald eagles. Taking is defined as killing, selling or otherwise harming eagles, their nests or eggs. Article 421 of Central’s license specifically requires it, within its LSMP, to provide suitable protection of bald eagle perch and roost sites on project lands.

Protections for bald eagles are provided through the establishment of Resource Protection classifications in high-use perch and roosting areas<sup>3</sup>, and through Central’s Permitting Procedures and use standards specific to eagle protection, developed in consultation with the USFWS and the NGPC.

### 2.2.3 Least Tern and Piping Plovers

The Interior Least Tern (*Sterna antillarum*), smallest member of the gull family, and the Piping Plover (*Charadrius melodus*), one of the smallest members of the plover family, are two species of birds that use the beaches of Lake McConaughy and sand bars of the Platte River system in Nebraska. The USFWS lists these species as endangered and threatened, respectively. Development within and use of habitat areas are attributed to the species’ decline.

Protections for least terns and primary plovers are provided through the establishment of Resource Protection classifications at Lake McConaughy and through Central’s Permitting Procedures and use standards developed in consultation with the USFWS and the NGPC. Protections for least terns and piping plovers are also provided by the Lake McConaughy Tern & Plover Plan provided in Volume I, Appendix C.

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<sup>3</sup> Some high-use perch areas for eagles are located along segments of the Supply Canal, particularly in the vicinity of the tailraces of some of the Supply Canal hydropower plants. Although these canal segments are classified as Project Works, they will be treated in much the same manner as if those areas were classified as Resource Protection for the purpose of protecting the eagle uses.



#### 2.2.4 Burying Beetles

The American Burying Beetle is one of two species of insects presently identified on the Federal and State Threatened and/or Endangered Species List. This species is relatively common adjacent to and within the Project boundary within the Loess Hills of south-central Nebraska. Because of its size and habit of burying just beneath the soil, as well as its' attraction to artificial light (especially ultraviolet and mercury vapor lights such as "bug zappers"), and decaying organic materials, construction of uses along the Project Supply Canal and lakes located within the Loess Hills have the potential to adversely affect the species.

Protections for burying beetles and its habitat areas along portions of the Supply Canal within the Loess Hills are provided through Central's Permitting Procedures and use standards developed in consultation with the USFWS and the NGPC.

#### 2.2.5 Shoreline Integrity

Undeveloped lands and shorelines, shoreline habitats, and vegetative shoreline buffers are environmental and public resources that are not necessarily included in resource specific management plans. These resources could be lost within the Project boundary without oversight and management. Undeveloped steep slopes, bluffs, and forested areas typify a significant portion of the Projects' shorelines, presenting panoramic vistas that, if developed without constraint, would adversely affect the scenic viewsheds and overall aesthetic quality of the Project. Additionally, some of these steep slopes have the potential for or are currently experiencing erosion and are inappropriate for development.

Vegetated shorelines are an important component of a healthy reservoir ecosystem. These natural buffers act as filters, facilitating the absorption and processing of runoff pollutants. This filtering reduces the amount of potentially harmful contaminants that enter the lake and contribute to water quality degradation. In addition to filtering pollutants, vegetation (preferably native species) works to preserve the physical integrity of the shoreline, preventing

excessive erosion that can lower water quality and degrade aquatic habitat. Naturally vegetated shorelines improve the aesthetic integrity of the reservoir and provide habitat for aquatic and terrestrial species.

There are a variety of physical and biological control measures available to address erosion depending on the dynamics of each occurrence. In general, construction techniques and methods to minimize adverse effects to the riparian environment are top priority. Central prefers natural or biotechnical methods (such as shoreline shaping and vegetation establishment); however, broader erosion control measure applications, including riprap, may be allowed in certain locations.

Protections for shoreline integrity are provided through (1) application of the FERC rules regarding construction of bulkheads and retaining walls contained in License Article 422; (2) the establishment of Resource Protection classifications for shoreline integrity (restricting visible private development on Project shorelines and within the buffer zone) at Lake Ogallala, Gallagher Canyon Lake, and several of the smaller Supply Canal lakes; (3) Permitting Procedures and use standards developed in consultation with the USFWS and the NGPC; and (4) vegetated buffer zones as further described in Section 2.2.5.1 below.

#### 2.2.5.1 Shoreline Buffer Zones

Central requires shoreline buffer zones for the “B”, “C”, and Resource Protection Management Classifications (see Section 3.0 for more information regarding land and shoreline classifications). The buffer zone width is graduated in stringency with “B” classifications requiring a 50 foot buffer (measured from the shoreline), “C” requiring a 100 foot buffer, and Resource Protection classification requiring a 200 foot buffer<sup>4</sup>.

Dependant on the specific resource being protected, Central will impose restrictions on vegetation clearing within the buffer zone with the exception of invasive species eradication efforts, wildfire control

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<sup>4</sup> In cases where the specified buffer zone distance from the shoreline extends beyond the Project boundary, the buffer zone ends at the Project boundary.

measures, and vegetation clearing that provides a resource benefit (such as vegetation clearing on beaches at Lake McConaughy). Pre-existing uses within the indicated buffer zones may be grandfathered.

#### 2.2.6 Cultural Resources

Cultural Resources exist, or have the potential to exist, throughout the Project. Central maintains a cultural resource inventory of the Project approved by the Nebraska State Historical Society<sup>5</sup> that identifies potential and significant cultural resource sites. Generally, the location of such resources is not publicly disclosed, so as to protect the resources, although the locations of some historic resources that are part of the Project's facilities, such as Jeffrey Lodge, are publicly known.

Protections for cultural resources are provided through a "Programmatic Agreement for the Kingsley Dam Project" signed by FERC, the Advisory Council on Historic Preservation, the Nebraska SHPO, and by the CRMP as required by Central's License Article 425, rather than through the LSMP.

#### 2.2.7 Recreational Resources

The Project's lakes and canal system provide diverse recreation uses and opportunities along the shoreline, including fully developed campgrounds and recreation areas, primitive camping areas, and commercial marinas as well as a variety of other recreational opportunities. Lake McConaughy provides the most diverse public recreation opportunities within the Project area, and is one of Nebraska's most popular recreation attractions, according to the Nebraska Division of Travel and Tourism. Appendix G of this LSMP provides a more detailed description of recreational resources within the Kingsley Project.

Protection of some of the more unique recreational resources are provided through the establishment of Resource Protection classifications, such as those provided on the north side of Lake McConaughy, at Lake Ogallala, and at

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<sup>5</sup> Acts as Nebraska's State Historic Preservation Officer (SHPO)

Gallagher Canyon Lake. Protections for recreational resources are also provided through Central's Permitting Procedures and use standards developed in consultation with the NGPC.

#### 2.2.8 Native Grasslands

Native grasslands are a unique and fragile habitat type that has been recognized throughout the State and nation as being threatened with loss and destruction. The underlying soil structure is developed over the course of hundreds of years. Once disturbed, recovery of the grassland is a slow process. These grasslands are also home to a large number of bird species, many of which nest on the ground, unseen within the grasses, as well small mammals, amphibians, reptiles, and invertebrates.

The unique native grasslands are protected through the establishment of Resource Protection classifications, such as those provided around Lake McConaughy. Protections are also provided through the Permitting Procedures and in consultation with the NGPC.

#### 2.2.9 Wetlands

Wetlands represent one of the rarest habitat types in Nebraska and throughout the Great Plains. According to the University of Nebraska-Lincoln wetlands occupy less than 2% of the land cover for Nebraska.

In terms of the density and diversity of wildlife, wetlands are one of Nebraska's most productive habitat types. They are utilized by hundreds of thousands of migrating and nesting waterfowl and shorebirds as well as other birds. They are home to a variety of invertebrates, amphibians, reptiles and mammals. In addition, they act as nursery habitat for a number of species of fish and act as pollution filters between upland areas and open water.

Wetlands occur throughout the entire Project and are protected through the U.S. Army Corps of Engineers (USACE) 404 Permitting process.

### *3.0 MANAGEMENT CLASSIFICATIONS AND ALLOWED USES*

Historically, Central has not experienced much conflict related to different types of uses occurring adjacent to one another, within or adjacent to the Project boundary. In some locations, adjacent landowners and lessees have settled along the shoreline in tight-knit communities that appear to thrive on the close proximity of neighboring private development and commercial operations. Other areas within the Kingsley Project system represent more rural, less intense, “residential” development patterns with few if any commercial uses within or adjacent to the Project boundary. Other areas remain completely undeveloped, presenting a primitive, open-space aesthetic.

Central recognizes that, over the course of its license term, changes in use of the Project lands and shoreline is a distinct possibility and that adjacent property owners and other users may have differing expectations of what their use experiences should be. Therefore, Central seeks to manage existing and future uses and demands actively. With input from state and federal agencies and the public, Central made qualitative evaluations of existing land and uses and environmental resources, immediate conditions, and potential new uses adjacent to and/or within the Project boundary in order to define, identify and map classifications of use. The Management Classifications encompass and anticipate a spectrum of existing and potential shoreline development and uses as they relate to:

- resources of special consideration
- existing and potential public access and use
- existing and potential private access and use
- project operational needs
- available shoreline frontage
- adjacent land-use development trends
- assessment of appropriate level of intensity of shoreline development
- assessment of appropriate commercial and/or residential uses
- user safety

Section 3.1 identifies Central’s five Management Classifications. The classifications represent differing levels of allowed development intensity and shoreline use, and they detail the parameters within which Central will consider any new uses. The classifications also recognize that, while private and commercial uses occurring adjacent to one another may be acceptable at some shoreline locations, Central must assess these uses differently to limit public, private, and commercial user conflict in relation to the classification’s intended management objective.

Section 3.2 defines the allowable uses appropriate and consistent with operation of the Project for each Management Classification area. Appendix A contains a series of Management Classification Maps identifying their locations<sup>6</sup>.

### 3.1 Land and Shoreline Management Classifications

#### 3.1.1 “A” Management Classification

While any development or use can incur unwanted or adverse effects on the environment, “A” classification areas are those most appropriate for the widest range of private and commercial uses, and for relatively high-intensity development. The areas designated as “A” classifications present no unique environmental qualities or resource values that would preclude continuation of existing uses.

In most instances, areas classified as “A” are existing lots within intensively developed areas within the Project boundary that are subject to existing leases or agreements.

A small number of lots within this classification are not currently leased or developed; however, they are lots within existing high density development or within close proximity to such. These areas are appropriate for relatively intense future development and uses based on the lack of significant environmental or cultural resources, general adjacent land use patterns, and available or planned infrastructure (*e.g.*, roadways, power supply, sewer systems, etc.).

Other areas within the “A” classification are lands adjacent to intensively developed areas as “support” areas for roads, temporary parking, and limited seasonal storage of water access equipment, etc. These areas generally do not support public recreational activities due to their separation from Project water bodies and the intense development near the shoreline. Central may allow lake associations and/or other community based groups to manage and care for the “support areas” under permits it issues.

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<sup>6</sup> Those segments of the Supply Canal not depicted in the maps in Appendix A are classified as “Project Works.”

While Central does not categorically preclude any identified allowable uses (Section 3.2) within the “A” classification areas, use proponents within this classification are subject to requirements as identified in Central’s Permitting Procedures. Central upholds FERC’s recommendation regarding separation of commercial uses, and requires a half-mile separation as the minimum acceptable distance between commercial uses within “A” classification areas.

### 3.1.2 “B” Management Classification

The “B” Management Classification areas have or may have development adjacent to, but not within, the Project boundary. The primary difference between “B” and “A” classification areas are that private uses (i.e. buildings) may not be permitted within the Project boundary in “B” classification areas, but might be permitted in “A” classification areas (subject to lease conditions and permitting requirements). Additionally, the “B” classification areas require a shoreline buffer, where the “A” classification areas do not.

In some of these areas that have been developed prior to implementation of this Plan, Central has specific agreements in place with adjoining landowners regarding shoreline spacing and setback requirements, such as the Plum Creek Land Use Reclassification approved by the FERC. Although the minimum spacing and setback requirements for these areas may be more or less restrictive than those intended for the “B” classification, Central proposes no changes to previous FERC orders or approvals.

Other areas in the “B” classification consist of existing development outside the Project boundary that may currently have uses within the Project boundary. Central currently has, or will require, individual agreements with these adjoining landowners. These agreements may allow for construction of private water access facilities and erosion control structures that are subject to Central’s Permitting Procedures.

Some areas in the “B” classification do not currently have existing adjacent development, but due to the lack of significant environmental or cultural

resources and general adjacent land use patterns, would support a less intense development than the “A” classification. In an effort to manage and maintain a less intense level of development and uses within “B” classification areas, Central requires more shoreline length or spacing be available to use proponents within the Project boundary to buffer private uses from public uses and maintain a less intense development pattern. Private users must meet the minimum shoreline spacing of 500 linear feet per shoreline use. If private use proponents cannot meet the minimum shoreline spacing requirements identified in its Permitting Procedures, Central requires the use of common use facilities to minimize overall effects to the shoreline within these areas. Central also requires a minimum shoreline setback of 50 feet within the “B” classification areas.

Central does limit some allowable uses (Section 3.2) within the “B” classification areas. Use proponents within the “B” classification are subject to currently existing lot-line setbacks which limit structure spacing’s as identified in the Permitting Procedures. Central upholds FERC’s recommendation regarding separation of commercial uses, and requires a half-mile separation as the minimum acceptable.

### 3.1.3 “C” Management Classification

Some areas within the Project boundary, because of shoreline topography, existing adjacent dispersed development patterns, aesthetic values, known or potential environmental or cultural resources, or Project operation needs, will not or should not support as high a level of private and commercial development as represented by classification “A” or “B.” Central classifies these areas as “C” Management Classification. It anticipates that these classification areas will, over time, represent a residential aesthetic, interspersed with limited to no commercial uses adjacent to the Project boundary. Specific development constraints may include (but are not limited to) shallow areas that would require dredging to service new water-dependent activities , narrow coves that do not provide adequate width or water depth for safe navigation, or limited shoreline space to accommodate larger/more intense development.



In an effort to manage and maintain a less intense level of development and uses within “C” classification areas, Central applies requirements for allowable uses at these locations more stringently. Primarily, Central requires more shoreline length or spacing be available to the use proponents within the Project boundary to buffer private uses from public uses and maintain a less intense development pattern. Private users must meet the minimum shoreline spacing of 1,320 linear feet and a minimum shoreline setback requirement of 100 feet, as identified in the Permitting Procedures. If private use proponent’s uses cannot meet the minimum shoreline spacing requirements identified in its Permitting Procedures, Central requires the use of common use facilities to minimize overall effects to the shoreline within these areas.

While not expressly disallowed, Central does not encourage commercial uses within the “C” classification. Accordingly, it exercises a higher level of scrutiny for these types of uses. Central requires strict buffer zones separating commercial uses both from other commercial uses and from private development within the “C” classification. FERC’s standard, recommended distance for separating commercial uses is a one-half mile minimum radius. Considering the relatively small size of most reservoirs within the Project, Central determined that a one mile separation is the minimum acceptable distance between commercial uses and a one-half mile separation between commercial and private uses within the “C” classification areas. Commercial use proponents must also include a clear and supportable purpose and needs analysis for the use in their applications. Central may require a commercial use proponent to meet other standards related to agency, county, public and local residents’ input on the potential effects of the proposed use.

#### 3.1.4 Resource Protection Classification

As described in Sections 2.1 and 2.2, FERC charges Central as a licensee with the responsibility for management of all Project lands and waters. The Project license also requires Central protect a variety of environmental and cultural resources. Central classifies Project lands and waters designated for

specific resource management, species protection, and environmental purposes as “Resource Protection”.

The presence of any or all of these resources at a proposed use location does not preclude Central approving a use within the Resource Protection classification. If a use is proposed for an area designated a Resource Protection classification, Central will undertake special evaluations to determine if the proposed use of the site is compatible with protection of the resources in question. Central may attach specific conditions to any permit it issues to assure protection is not compromised.

The Permitting Procedures (see Appendix I) identify specific development and management requirements for uses within known or potential protected resources as Section 2.2 describes. Central developed these specific conditions in coordination with state and federal resource agencies to address anticipated issues of shared use of these lands. Where uses are sought beyond those anticipated and the conditions are inappropriate or inadequate, Central will consult with the agencies in developing alternatives.

### 3.1.5 Project Works Classification

The Project Works classification includes areas occupied by the dams, powerhouses, canals, and other primary structures or facilities that are essential to Central’s operations and to which it may legitimately restrict use due to safety, operational, or other constraints.

## 3.2 Allowable Uses

Central considers the structures, activities, and uses identified in Table 3-1 as generally appropriate or otherwise acceptable at some (but not all) locations within the Project boundary provided permits are obtained from Central under the LSMP (See Section 4.0). Even where Central allows uses, such uses may be subject to Permitting Procedures or other requirements as appropriate to the land use classification, resource protection needs, or other reasons. For specific resources that FERC requires management plans, such as least terns and piping plovers and/or eagles, the pertinent plan

governs and informs Central's responsibilities and, in some instances, ability to allow particular uses. Some of the identified allowable uses may also require review and approval by local, County, State, and/or Federal authorities. Other federal agencies may exercise jurisdiction, such as the USACE and/or FERC, as defined by the Project license.

Central will also consider authorizing uses not listed below on a case-by-case basis, and may require additional information and permitting review beyond that necessary for the identified allowable uses. Additionally, Central generally allows passive, low and no impact uses such as hiking, biking, fishing etc at all locations within the Project boundary, unless the area is otherwise posted or requires restricted access for Project security, public safety, or resource protection. Section 4.0 provides further details on the review and permitting process for uses.

### 3.2.1 Allowable Use Considerations by Management Classification

Not all allowable uses are appropriate for all of the Management Classifications. As section 3.1 describes, Central developed Management Classifications to manage and direct appropriate levels of shoreline development within the Project. Central defined and delineated the Management Classifications, as well as the associated allowable uses, recognizing the need to protect existing environmental and cultural resources and to plan for future mitigation or enhancement of those resources should development affect them.

Accordingly, classification "A," which Central applies to areas with few or no resources requiring special consideration, is the least restrictive and Central allows all identified uses that are compatible with the immediate area and are properly permitted. While Central conditionally allows most uses in classification "B", they may be subject to more stringent permitting requirements because of the potential to affect identified resources. In particular, "B" is more restrictive than "A" in terms of shoreline buffers, shoreline spacing and residential structures Central does not allow many of the identified uses in the more restrictive classifications, such as "C," Resource Protection, and Project Works, because of the existence of resources requiring protection. Where uses are allowed in "C",

Resource Protection, and Project Works classification areas, such uses may be subject to yet more stringent permitting requirements.

While the LSMP “grandfathers” certain existing uses within the Resource Protection classification (provided the owner or permittee maintains these uses properly and Central permitted them at the time of enactment of this LSMP (See Section 1.7 & 4.5), new uses in Resource Protection classification areas may be severely limited, and only allowed with specific restrictions designed to protect the resource in question.

Central will consider new “permanent” uses proposed for a designated Resource Protection area only if the use proponent can:

1. justify the use as proposed as the only feasible alternative,
2. provide specific protection, mitigation and/or environmental enhancements as may be prescribed by Central or through consultation with jurisdictional agencies, and
3. meet prescribed resource specific structural, timing, or design conditions Central has established with state and federal resource agencies<sup>7</sup>.

Central may permit, on a case-by case basis; those temporary activities that do not require long-term use or any form of construction, or that do not result in any adverse effect on the protected resource. Examples of temporary activities include one-time outdoor events and educational projects or programs associated with schools, universities, service clubs, or youth organizations. Temporary permits will be highly restrictive to avoid negative effects to sensitive resources.

Table 3-1 depicts general allowable uses by Management Classification. The uses listed in the table are defined on pages 3-6 through 3-8. It should be noted that, although these detailed descriptions may include examples of types of uses, it will not always be the case that Central will allow one or more of the specific examples given, although it would allowed the general use. For instance,

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<sup>7</sup> Proposed permanent uses within Resource Protection areas outside the scope of Central’s programmatic agreement with state and federal resource agencies may require the proponent to provide additional information or undertake some form of environmental assessment prior to Central’s approval.

whereas lakeside decks and patios and beaches may be given as examples of Shoreline Access Facilities, actual uses in most cases may be restricted only to sidewalks and pathways of a limited width. It should also be noted that there are some common “uses” that are not explicitly listed because they are instead actually a collection of combined uses at a single location. Examples would be that a “residential lot” might be a combination of a private building and accessory uses, or a “concessionaire” or “marina” might be a combination of buildings, watercraft launching facilities, watercraft housing facilities, etc. It should also be noted that these uses are not always mutually exclusive. For example, a structure may be constructed to span both land and water, such that it is both a shoreline and waterside access facility, or a sign may be a logical accessory use for a building used by a concessionaire. Central may consider uses not listed in Table 3-1 on a case-by-case basis, and may require agency consultation or FERC approval as appropriate.

While Central may identify a use as “allowable” within a classification, this does not mean that Central will automatically issue a permit for that use at all locations. Permit issuance is always dependent on the specific circumstance, the actual request, and the information provided in the permit application. Section 4.0 provides clarification of permitting conditions. The Permitting Procedures provide detailed descriptions of both permitting conditions and application protocols. If a use proponent cannot meet the specific requirements established in the LSMP or the Permitting Procedures, Central will not approve the application.

Central’s final determination of the appropriateness of any allowed use may be dependent on the site specific resources at a proposed location.

Table 3-1: Allowable Uses by Land and Shoreline Management Classifications

Uses	Private Use					Public Use				
	Management Classification					Management Classification				
	A	B	C	Resource Protection	Project Works	A	B	C	Resource Protection	Project Works
1. Parks and Campgrounds	N	N	N	N	N	Y	Y	Y	R	R
2. Fish Cleaning Stations	R	R	Y	R	N	R	R	Y	R	R
3. Hike and Bike Trails	N	N	N	N	N	Y	Y	Y	R	R
4. Buildings	Y	N	N	R	N	Y	Y	Y	R	R
5. Accessory Uses	Y	R	R	R	R	Y	Y	Y	R	R
6. Water-Side Access Facilities	Y	Y	Y	R	N	Y	Y	Y	R	R
7. Shoreline Access Facilities	Y	Y	Y	R	R	Y	Y	Y	R	R
8. Watercraft Housing Facilities	Y	R	R	R	N	Y	Y	Y	R	R
9. Watercraft Launching Facilities	Y	Y	Y	R	N	Y	Y	Y	R	R
10. Swimming Facilities	Y	Y	Y	R	N	Y	Y	Y	R	R
11. Shoreline Stabilization	Y	Y	Y	R	N	Y	Y	Y	R	R
12. Water-Side Dredge, Excavate and Fill Activities	R	R	R	R	N	Y	Y	Y	R	R
13. Landward Excavate and Fill Activities	R	R	R	R	R	Y	Y	Y	R	R
14. Vegetation Modification	Y	R	R	R	R	Y	Y	Y	R	R
15. Wildlife Areas	R	R	R	R	R	R	Y	Y	R	R
16. Hunting Structures	R	R	Y	R	R	R	R	Y	R	R
17. Fish Habitat	R	R	Y	R	R	Y	Y	Y	R	R
18. Bridges and Roads	R	R	R	R	R	Y	Y	Y	R	R
19. Low-Impact Passive Uses	Y	Y	Y	R	R	Y	Y	Y	R	R
20. Discharges	N	N	R	R	R	R	Y	Y	R	R
21. Fueling Facilities	N	N	N	N	N	R	R	R	R	R
22. Water Intake and Pumping Facilities	R	R	R	R	R	R	Y	Y	R	R
23. Agricultural Uses	R	R	Y	R	R	R	Y	Y	R	R
24. Utilities	R	R	R	R	R	Y	Y	Y	R	R
25. Signs	R	R	R	R	R	Y	Y	Y	R	R

Y = Typically allowed if permitting requirements are met.

R = Restricted, less likely to be allowed or may require additional conditions for approval.

N = Not allowed

#### *4.0 PERMITTING PROCEDURES AND STANDARDS*

FERC license Article 422 grants Central limited authority to grant permissions for certain types of uses and occupancies of project lands and waters, provided such uses and occupancies are consistent with protecting and enhancing the scenic, recreational, and other environmental values of the Project. License Article 422 also mandates that Central supervise, control, and monitor such uses; and enforce compliance and take corrective actions if necessary. In furtherance of these authorities and requirements, the license article provides for the establishment of a program for issuing permits for the use and occupancy of project lands and waters. Volume II, Appendix E contains Article 422 in its entirety.

This LSMP establishes the broad-based management criteria Central uses in evaluating proposed new uses for both commercial and residential activities as well as facility construction standards for each activity. To do so, Central developed and manages a permitting system with use and resource specific standards. These Permitting Procedures (see Volume II, Appendix I) detail standards, conditions, specifications and inspection schedule details and other specific information related to permitting requirements for uses. The Permitting Procedures provide detailed permit application processes, information on specific requirements for allowed uses detailed within this LSMP, and shoreline use construction and maintenance requirements. While the LSMP is a high-level management tool, the Permitting Procedures and specifications are more focused and dynamic. Central may update them more frequently than the LSMP. Accordingly, anyone considering modifications to an existing shoreline use or construction of a new use should consult Central staff for the most recent Permitting Procedures before initiating any shoreline use installation.

All proposals for new or replacement structures and facilities within the Project boundary are subject to Central's permit approval process. That process requires commitments from the use proponent to pursue the construction process with due diligence; to carry out appropriate environmental, wildlife or aesthetic protections; not to impair public use; and to comply with applicable federal, state and local regulatory requirements and assurances that the work will meet the requirements of this Plan. Central may also require bonds or other assurances be posted to insure that the use proponent completes construction in compliance with the Plan and due

diligence. Central may amend its permit approval process from time to time, but will be consistent with the framework and standards set forth above at all times.

Regardless of the classification within which a proposed use may occur, Central will evaluate proposed modifications or new uses based on:

- the relative extent of the public and/or private need for the proposed facility and activity,
- the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed facility or activity,
- the beneficial and/or detrimental effects that the proposed facility or use is likely to have on other uses,
- consistency with existing governmental jurisdictional regulations and classification designation, and
- the proposed facility meeting Central's current standards.

#### 4.1 Agency Consultation for Rulemaking

In an effort to streamline the permitting process while appropriately addressing resource agencies concerns and mandates for protection of species, Central developed its permitting design and construction standards in consultation with those agencies charged with protection of specific species. As a result, these agencies concluded that, if Central is willing to adopt and implement such standards, the need for project specific consultation with them is limited to those instances where a use proponent cannot meet the LSMP or permitting standards or requests a waiver from those standards (See Section 4.9).

#### 4.2 General Permitting Standards Related to Resource Protection

Any proposed shoreline use must be consistent with this Plan's purpose and intent of protecting and enhancing the scenic, recreational, and other environmental values of the Project. As Central developed these standards and conditions in consultation with state and federal resource agencies, it may not modify, eliminate, or waive such standards without prior consultation of the appropriate agency or agencies.



It is important to note that specific permitting standards and conditions may vary in accordance with the resource of concern present at the location of the proposed use. For example, as Section 2.2 describes, transient species such as bald eagles use large trees along the shoreline for nesting and roosting. These trees are located throughout the Project and may occur in any of the Management Classifications. The Permitting Procedures related to these “transient” resources include specific timing restrictions on construction and limitations on removal and trimming of these trees within all classifications. In other instances, Central has designated most shoreline areas known to provide tern and plover habitat as Resource Protection. Central does not, however, preclude all uses within this classification. If a use proponent is willing to accommodate conditions (as detailed in the Permitting Procedures) such as controlled access to the shoreline use through fencing of all sensitive areas, restriction of motorized vehicles within sensitive areas, timing of construction, etc., it may be feasible to site a shoreline use within the Resource Protection classification. In a more restrictive shoreline location, such as areas designated as Resource Protection for aesthetic and/or open space values, the essence of the protected status is maintaining a “primitive” or wilderness aesthetic. Accordingly, Central is unlikely to permit shoreline structures in any form at these locations.

#### 4.3 Activities that May Not Require a Permit

Certain uses may occur within the Project for which a formal permit is not required. Central generally does not require prior approval or permit application for passive, low, and no impact uses such as hiking, biking, fishing, etc. at all locations within the Project boundary, unless the area is otherwise posted or requires restricted access for Project security.

Some other, generally passive uses such as placement of mooring buoys, planting native vegetation within the project boundary etc. may not require a permit from Central. Central makes this determination based on its assessment of:

- whether these uses pose little or no potential adverse effect to resources or project operation,
- the particular use proponent’s history of compliance with other permitting requirements and/or,
- the scope, or frequency, or duration of that particular use.

Where uses are allowed to take place without a permit, Central may still establish rules or other standards governing such uses. Where uses not requiring a permit have the potential to affect protected resources, Central will develop such rules or standards in consultation with the appropriate resource agencies.

#### 4.4 Transfer of Permits

When any permitted use changes ownership, Central may allow current permits to transfer to the new owner. In other instances, Central may require that the new owner apply for a new permit. This will notify Central of the change in ownership, formally commit the new owner to the conditions associated with the permit, and to allow for changes in permit conditions as Central deems appropriate. The permit transfer or new issuance process may include a review of the existing structure(s) or use within the Management Classification, any recommendations or requirements for modification noted in the existing permit, and any modifications proposed by the new owner. A new permit may require the new owner to repair or modify the use to comply with deferred LSMP and permitting standards (*i.e.* correct a previously grandfathered condition).

#### 4.5 Grandfathering

Central may “grandfather,” or allow, certain prior-existing uses that have not received the appropriate prior permission and/or that do not meet current use requirements to continue. Grandfathering is a discretionary function of Central’s under this LSMP. Central is not obligated and this Plan does not require Central to grandfather prior unpermitted uses where Central does not deem it appropriate to do so. Central’s ability to grandfather does not create, and is not intended to create, an opportunity to automatically allow or continue prior unpermitted uses. Where Central is grandfathering a prior-existing, but previously unpermitted, use it may require that the use proponent

apply for a permit which specifies Central's most current requirements for that particular use.

In determining what uses to grandfather, Central may take into account such factors as the duration of the existing use, lease relationships or other agreements, the extent to which the existing use infringes upon other uses of the land or shoreline designated under the LSMP, cost and condition of improvements, the cost of correction or removal, and the impact of the use on environmental, cultural, and recreational resources. In permitting grandfathered structures and facilities, Central may relax some of its usual permitting standards for a period of time and/or require the permittee to bring the structures and facilities into compliance with standards for new uses.

Central may allow grandfathered structures and facilities to remain in place until they become unsafe, require replacement, or need major repair. Central defines major repair as more than 50 percent of the structure or of its value, as determined by Central. If fire, natural disasters, or other events destroy or damage a previously permitted or grandfathered structure such that it needs major repairs involving more than 50 percent of the structure, the owner will need to seek new permits to repair or replace the structure, and the repaired or replacement structure must comply with the most current requirements and procedures as established by this LSMP. Materials used to repair or replace grandfathered structures must be those approved for such use by Central and local, state, and/or federal agencies at the time of the repair or replacement.

Central's ability to grandfather certain uses does not create any rights for previous unpermitted uses. Additionally, the potential opportunity for grandfathering does not remove consequences for undertaking such unpermitted uses. Central will not grandfather illegal or potentially unsafe structures or facilities that do not meet the requirements of local, state, and federal laws, regulations, and ordinances. Central may also deny a grandfathering for an existing use if it determines that the use is not allowed under the LSMP, poses an environmental or public safety hazard, or if the structure or facility is, in Central's opinion, deteriorated to a point that repairs could not bring the use into compliance with current standards. Central may also deny grandfathering an existing

use if a) Central would deny a similar new use in that location, and b) Central determines that the extent to which the existing use infringes upon other uses of the land or shoreline designated under the LSMP is unacceptable.

If a prior-existing, but previously unpermitted, land or shoreline use meets all of the permitting standards for a new use, the owner, operator, lessee or grantee may receive a permit subject to standard conditions to assure that the use remains in compliance with the LSMP as described in section 3.0. If Central grants a permit “grandfathering” a use that is not fully compliant with the permitting standards, Central will, in addition, specifically identify what existing non-compliance is authorized to continue and may include a period of time by which the owner must bring the shoreline use to current standards.

Central’s ability to grandfather is not intended to override or to nullify and void the terms existing agreements between Central and other parties, where such agreements require the other party to seek Central’s permission prior to making certain uses, or where such agreements contain conditions or restrictions on certain uses. Central will not grandfather uses that are in violation of the terms of existing leases or agreements with Central, except as those agreements may be replaced or otherwise changed with Central’s consent to allow for the existing use in question<sup>8</sup>.

#### 4.6 Use Evaluation

Central reviews permit applications for uses under procedures established by this LSMP and permitting standards established in its Permitting Procedures. Using the LSMP Maps provided in Volume I, Appendix A and reviewing the allowable use matrix included in Table 3-1, Central identifies the location of a proposed shoreline use and determines which Management Classification applies at that location. It then reviews the allowable uses that pertain to the relevant Management Classification to identify if a proposed use meets the classification and allowable use definitions. Subsequently, Central reviews the proposed design, materials, and construction methods to determine if

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<sup>8</sup> Changes in leases of other agreements may also require prior FERC notification and/or approval.

the use meets general development standards applicable to the particular use type as well as the site of the proposed project. Central will call upon environmental staff and/or other relevant resource agency specialists to provide input on projects located within Management Classifications with resource specific restrictions. In addition to evaluating uses under the above scenario, Central will also assist permit applicants in identifying other local, state, regional, and federal permits that may be required for proposed new facilities and uses.

As Section 3.0 indicates, some facilities and new uses will receive more scrutiny and will require Central to evaluate them on a case-by-case basis depending on the Management Classification areas within which they occur and the resources present at specific proposed shoreline use locations. Also, given the potential for higher use levels and effects of commercial uses, Central reviews proposed commercial and private uses differently, generally requiring a more stringent, in-depth review process for proposed commercial uses. Commercial use proponents must be prepared to justify the need and appropriateness of their proposed uses and location.

Regardless of the uses use proponent proposes, Central strongly encourages anyone considering development of a new use to contact its permitting staff prior to submittal of any application to regulatory agencies. Additionally, Central encourages use proponents to schedule an onsite visit with Central staff to discuss their proposed projects during the project planning phase.

#### 4.7 FERC Review and Involvement in Use Approvals

Article 422 of Central's license details Central's authority and responsibilities for reviewing and approving uses and occupancies of Project lands and waters, and also specifies to what extent such uses or occupancies require prior FERC notification and/or approval. Section 4.7.1 identifies uses of project lands and waters for which Central may grant permission without prior FERC approval. Any uses not specifically identified in section 4.7.1 automatically require FERC review and approval. Section 4.7.2 identifies uses of Project lands and waters that require prior FERC notification and/or approval.

#### 4.7.1 Activities Not Requiring Prior Notice to FERC

Through the issuance of the Project licenses, FERC delegates Central the authority to issue permits for certain non-Project use of lands within the Project boundary. Central may permit the following activities without prior permission from FERC:

- landscape plantings,
- non-commercial piers, landings, boat docks or similar structures and facilities that can accommodate no more than 10 watercraft at a time and are intended to serve single-family type dwellings,
- embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline, and
- food plots and other wildlife enhancements.

For the above activities, Central has the continuing responsibility to supervise and control the uses for which it grants permission, and to monitor the use. Central carries out its responsibility to supervise etc. by using a permitting process that evaluates potential uses against standards developed to protect the Project's scenic, recreational and environmental values consistent with this Plan. Central will authorize permitted uses, as described in section 4.8, through formal issuance of permits, licenses, leases or grants that will be conditioned upon meeting and continuing to meet these permitting standards.

#### 4.7.2 Activities Requiring Prior FERC Notice or Prior FERC Approval

FERC requires Central to provide them with prior notification of proposed activities dealing with the following:

- construction of new bridges or roads for which all necessary state and federal approvals have been obtained,
- sewer or effluent lines that discharge into project waters, for which all necessary federal and state water quality certification or permits have been obtained,
- other pipelines that cross project lands or waters but do not discharge into project waters,
- non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary

- federal and state approvals have been obtained,
- private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile from any other private or public marina,
- recreational development consistent with an approved exhibit R or approved report on recreational resources of an exhibit E, and
- other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from the edge of the project reservoir at normal maximum surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year.

Both Central and FERC will need to review and approve any activities not listed above. All facilities must conform to Central's general requirements and minimum design standards. In cases where Central must first inform FERC or seek FERC approval, Central will inform FERC of the Management Classification and whether or not such use is consistent with the applicable classification. Use proponents must submit a written application to Central with drawings providing location, design and dimensions, and a description of materials and type of construction. Section 4.8 identifies general permit submittal and approval procedures.

Unless and until FERC informs Central otherwise, when FERC has given prior approval of a lease or other agreement for certain uses, Central assumes that the subsequent issuance of permits by Central for uses consistent with that agreement will not require additional FERC approval. For example, if FERC were to grant approval for a lease that allows for a residential structure, FERC approval would not subsequently be needed again when Central issues permits for construction of the residential structure, installation of related utilities, etc.

#### 4.8 Permit Application Evaluation Process

Before submitting a permit application to Central, a use proponent, should:

1. determine if proposed use location is within the Project boundary,
2. determine the Management Classification (Section 3.0 and Appendix A) within which the proposed use will occur,
3. determine if the proposed use is an acceptable Allowable Use within the Management Classification (see Section 3.2), and
4. contact Central for verification and permit application information.

Upon contact by a use proponent, Central will:

1. review proposed use location, Management Classifications, and allowable use designations,
2. visit site if determined necessary, and
3. provide input on resource, design, permit requirements, and site specific issues to use proponent.

Upon receipt of permit application, Central will:

1. review the application for completeness/contact the applicant, as necessary, for additional information,
2. process the application with written approval or a written explanation of the denial, and
3. conduct a follow up site visit during construction if necessary.

Note: If the proposed use, in the sole opinion of Central, does not meet the requirements and procedures established in the LSMP, the use proponent may reassess the proposed facility or activity, finding ways to comply with Central's requirements and then resubmit the application or they may withdraw the use from consideration.

#### 4.9 Variance Process

Central developed the conditions and criteria incorporated in this LSMP and its Permitting Procedures in accordance with FERC license requirements and conditions. Accordingly, Central can only consider appeals or requests for variances for uses that do not contradict or supersede those indicated in the Projects' license.



Central may grant a variance for one or more of the specifications contained in its Permitting Procedures (Appendix I) 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:

1. the strict application of the LSMP and associated Permitting Procedures would produce undue hardship,
2. 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 classification, as appropriate),
3. the granting of the variance will not be of substantial detriment to the use or enjoyment of other property in the same vicinity, and
4. 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.

Central will review the variance request and meet with the use proponent to discuss the application. Central reserves final authority to approve an inconsistent use or amend a Management Classifications. No variance will be authorized unless Central 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 the LSMP or associated Permitting Procedures.

Written applications for the approval of a variance must be filed with Central upon forms and in a manner prescribed by Central's administration. A nonrefundable fee, as established by Central, shall be paid to Central upon the filing of each application for variance. If Central grants a variance, it may place additional restrictions on the proposed use or require additional mitigation outside the standards set in the LSMP and its permitting policies. Central will detail these conditions clearly in any variance it issues.

Once Central reviews a variance application and makes a final determination, there is no further option for the use proponent other than modifying the proposed use to meet current standards and applicable mitigation requirements or withdraw their application.

Variance requests related to uses within the Resource Protection classification may result in the need for Central to initiate additional consultation with jurisdictional resource agencies to determine if the variance request can be allowed, and if so, if additional mitigative requirements are necessary to support the request. In the case of variance requests that could result in construction or placement of uses outside Central's permitting standards where such standards are for the purpose of providing a resource protection and were developed in consultation with one or more resource agencies, Central must consult with relevant agencies prior to issuing any variance.

#### 4.10 Permitting Fees

Central assesses fees for shoreline use applications. Permit fees offset Central's costs of administering the permitting program and other shoreline management functions required by the FERC license and by good business practices. Fees may change from time to time.

## 5.0 CONVEYANCES OF PROJECT LANDS

Central generally defines “conveyance” as the transferring of a property title or right, in whole or in part, from one party or individual to another, such as may occur with sale or transfer of a fee title interest, a lease, an easement, a grant of right of way, or another grant of a right of occupancy or use. Conveyances are distinct from permits or licenses, in that permits or licenses provide a permission for use, but do not establish a property right in the use.

All conveyances of land within the Project boundary and subject to the LSMP are subject to any conditions or limitations necessary to assure that future use is consistent with the Management Classifications of that land. Conveyances must also be in compliance with the requirements of Article 422 of the Project license, which places limits on the types of uses for which Project lands or waters may be conveyed, and sets conditions for such conveyances.

### 5.1 Conveyance Provisions and Restrictions

In addition to the requirements of License Article 422, any conveyance by Central of Project lands and waters must include at a minimum:

1. assurance that the conveyance will not interfere with Central’s ability to operate and maintain the Project,
2. provisions assuring that the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; that the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project; and that the grantee shall not unduly restrict public access to project waters,
3. provisions acknowledging the that Project lands and waters are subject to regulation by the United States Government, through the Federal Energy Regulatory Commission (FERC), and by the State of Nebraska and local governments thereof, and that the Project lands and waters and use thereof, and all other rights granted by the conveyance, are expressly subject to any statute, law, rule, regulation or order now or hereinafter imposed by any governmental body having jurisdiction of the activity of Central, and may be altered or curtailed to the extent the same may affect the real estate leased herein,
4. provisions for enforcement, including without limitation, entry upon conveyed lands to perform inspections, implementation of a permitting

- system, requirements for cessation of inappropriate use or removal of inappropriate structures, and termination of the conveyance,
5. in the case of leases for private residential or recreational use, length of term not to exceed thirty years, and
  6. other terms or conditions as Central and/or FERC deem appropriate.

## 5.2 Fee Title Conveyances

Unless otherwise required by FERC, conveyances in fee title will only be allowed for the following uses, only to another governmental body or public utility, and only if it is determined that a lesser form of conveyance or permit would not be adequate:

- construction of new bridges or roads,
- sewer or effluent lines that discharge into project waters,
- other pipelines that cross Project lands or water but do not discharge into Project waters, and
- non-project overhead electric transmission lines that require erection of support structures within the Project boundary.

## 5.3 Prior FERC Notification and Approval

FERC License Article 422 specifies those cases for which a conveyance requires prior FERC notification and approval. In those cases where intended conveyances requires prior approval by FERC, Central will inform FERC of the Management Classification in the location of the proposed occupancy or use and Central's assessment regarding whether the proposed use or occupancy is consistent with such. If the intended occupancy or use is not consistent with the existing Management Classification, Central will provide FERC with an explanation of why Central believes such use should be allowed, notwithstanding the discrepancy between classification and intended use.

In some cases, Central has previously entered into leases for private residential and recreational uses, as well other conveyances or agreements, without prior FERC approval. Central has previously made FERC aware of these past conveyances, at least in general terms, through Central's past relicensing efforts, the original LSMP, and various other filings with FERC. Though these conveyances may lack some of the specific requirements of FERC License Article 422 or Section 5.1 of this Plan, Central believes that these conveyances nonetheless contain terms, whether explicit or implicit, protecting

Project operations and resources and requiring compliance with all FERC requirements, including this LSMP and any associated permitting and use requirements.

Notwithstanding the lack of prior FERC approval, unless and until FERC informs Central otherwise, Central will treat such prior conveyances in the same manner as if they had received prior FERC approval<sup>9</sup>. Central will inform FERC of any condition that might arise which Central believes could influence whether or not FERC would continue to allow Central to treat these conveyances in the same manner as if they had received FERC approval.

#### 5.4 Renewals, Extensions, Reassignments, and Modifications of Existing Conveyances

Unless and until FERC informs Central otherwise, Central will not treat renewals, extensions, reassignments or modification of existing conveyance as “new” conveyances. Accordingly, Central will not undertake prior FERC notification or seek prior approvals provided:

1. the use is consistent with Management Classifications,
2. the use would remain the same or substantially similar to that of the pre-existing use, and
3. the conveyance contains (whether contained previously or is newly added) the provisions described in Section 5.1.

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<sup>9</sup> Central does not, by way of this provision, actually seek FERC approval of these conveyances, but rather, only seeks revocable permission from FERC to treat them in the same manner as if they had been so approved.

## *6.0 MODIFICATIONS AND AMENDMENTS TO THE LSMP*

Central has committed to the long-term stewardship of Project lands and water to protect the scenic, recreational, and other environmental value of the Project. Central recognizes that the Project is a popular tourist destination and a growing residential area, and that use will most likely change over time. This type of change in use is generally slow, but can result in overall patterns that may someday necessitate reassessment of the LSMP. Central formulated this Plan to anticipate changes in existing and new uses on Project lands.

To assure that the LSMP continues to serve its intended purpose and remains relevant during the Project license term, Central has instituted certain processes to periodically review and, if necessary, amend the Plan. The following section describe how Central will accomplish this review, with whom Central intends to consult during various reviews, what actions Central considers appropriate to take without amendment to the Plan, and what triggers may warrant both agency and FERC consultation and/or amendment to the LSMP.

### 6.1 Periodic Review of the LSMP

Annually Central will review the LSMP, Management Classification mapping, and permitting activities for the purposes of compiling and tracking uses and noting any minor changes in use. This will provide long term data useful in identifying areas experiencing change and augment the required six year review of the LSMP. During the review of Project mapping Central will note minor changes such as changes in recreational uses, new shoreline facilities, and minor modifications to Project maps. These types of incremental changes do not warrant amendments to the LSMP.

As part of its annual review and ongoing public outreach efforts, Central will host an annual stakeholder listening meeting. This will allow Central to solicit feedback on, and advise stakeholders of its annual LSMP review findings. It will also provide an opportunity for stakeholders to meet with Central staff and discuss issues of community interest.

Central will undertake a more rigorous review, as directed by the FERC license, every six years. This review process will provide the means for evaluating the

appropriateness and efficacy of the LSMP program and policies. Use analysis reporting in conjunction with Form 80 surveys will be a useful tool in this review. The six-year period allows Central to assess new issues that may arise because of development around the reservoirs, as well as assess the need for any changes to the plan as it relates to public access and recreational use. These changes will be captured in Central's mapping system. If significant changes warrant (see Section 6.3), Central will create new maps or other changes to the LSMP at the conclusion of the six year review process and distribute them to FERC and relevant resource agencies, it will also make these maps available on its website.

## 6.2 Minor Modification Not Requiring LSMP Amendment

If annual review of issued permits or discussions with local, state, or federal jurisdictional agencies reveals increased demand for shoreline use in a specific location, changes in development patterns or other land use issues that may be relevant to the LSMP classification mapping and shoreline use policies, Central will monitor developments in that area more closely; however, as long as resource and use criteria established by this LSMP do not warrant change, Central will not seek additional review by stakeholders or the FERC.

Central also anticipates the potential need for site-specific changes in the location of Management Classifications to reflect on-the-ground conditions that it did not anticipate or observe when it developed the classification mapping. This will most likely involve minor relocation of classification boundaries to completely encompass resources (e.g. availability of enhanced wetland delineation) or site-specific waivers dependent on field observations. For example, during the review of the LSMP, Central will note minor changes such as new commercial or residential uses (e.g. multi-slip docks within a previously undeveloped shoreline location) or changes in recreational uses (e.g. new water access structures developed by managing entities at a public recreation facility) in Central's land use mapping database. Central does not intend to seek amendment to the LSMP for these types of modifications.

### 6.3 Changes Requiring LSMP Amendment

Major changes in use, access demand, or habitat specific resources within the Project boundary may warrant changes to management strategies and resource protection goals presented in this LSMP. Should Central find that the allowable use criteria contained within this document are no longer relevant, that resource management strategies are not effective, or that modifications to the LSMP are necessary to conform to FERC regulations or administrative procedures to be appropriately responsive to FERC, it will prepare an amendment to this Plan. An example of this would be significant expansion, contraction, or shifts in the distribution of public recreation, private development, or protected resources which might require changes in the Management Classifications or allowable uses.

### 6.4 Amendment Process

If, during the six year LSMP review, Central determines that the LSMP and/or the appendices identified as Section I may need amendment, it will initiate agency and stakeholder review of the pertinent portions of the LSMP. Central will invite a group of reviewers to include personnel from local, state, or federal agencies and other interested stakeholders to provide informal comments on Central's proposed changes to address the issues. If, after consideration of the reviewers' comments and any agency recommendations, Central determines that an amendment to the plan is necessary, Central will develop draft LSMP changes to submit to FERC for approval, such as revised Management Classification definitions or changes in allowed uses. Central will offer resource agencies and stakeholders the opportunity to comment upon draft LSMP revisions prior to submission to FERC, and will supply consultation records to FERC with its LSMP amendment application.



**LSMP APPENDICES**

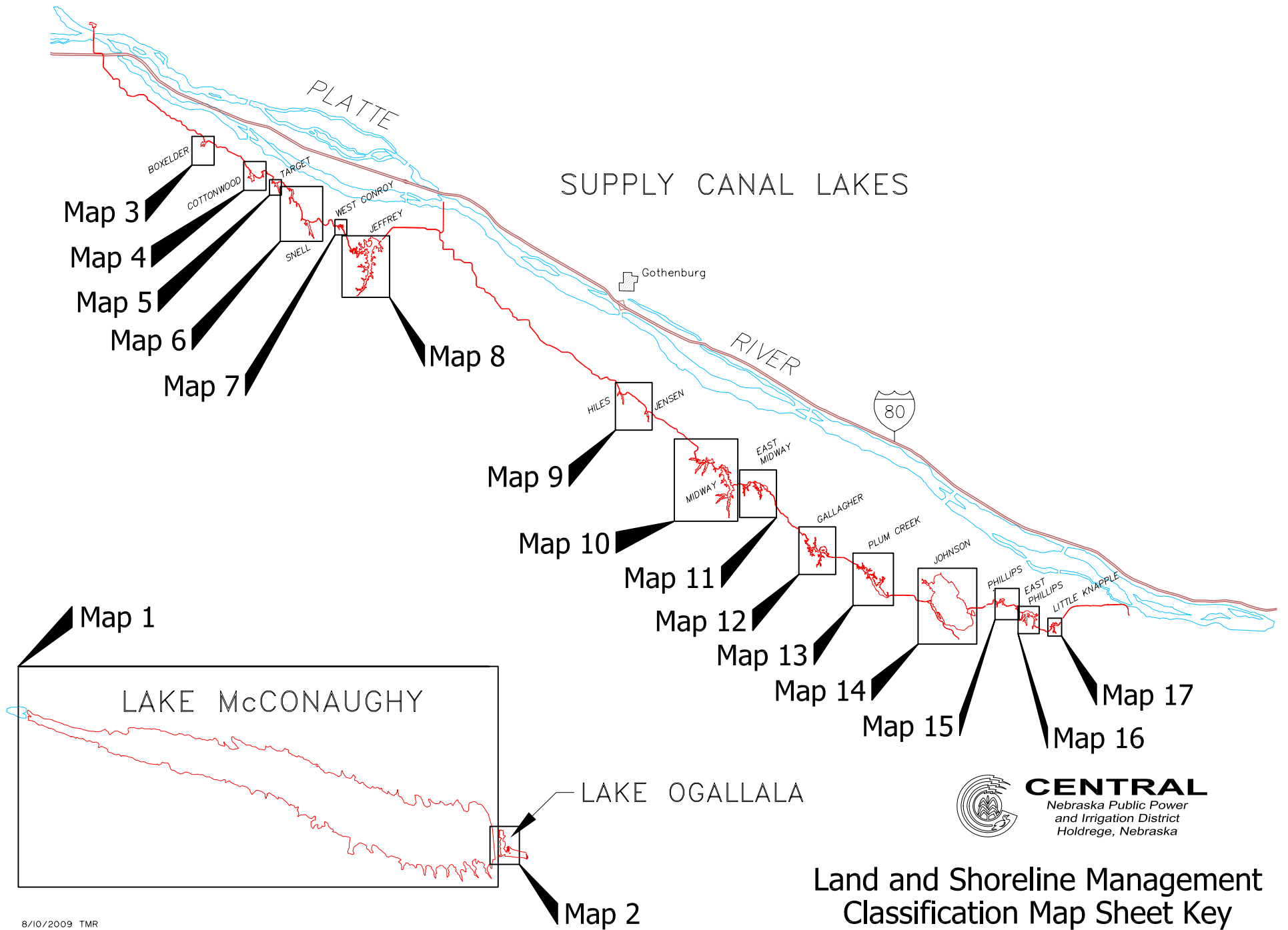
**VOLUME I**

*Central includes the information contain herein for FERC review and approval*

VOLUME I

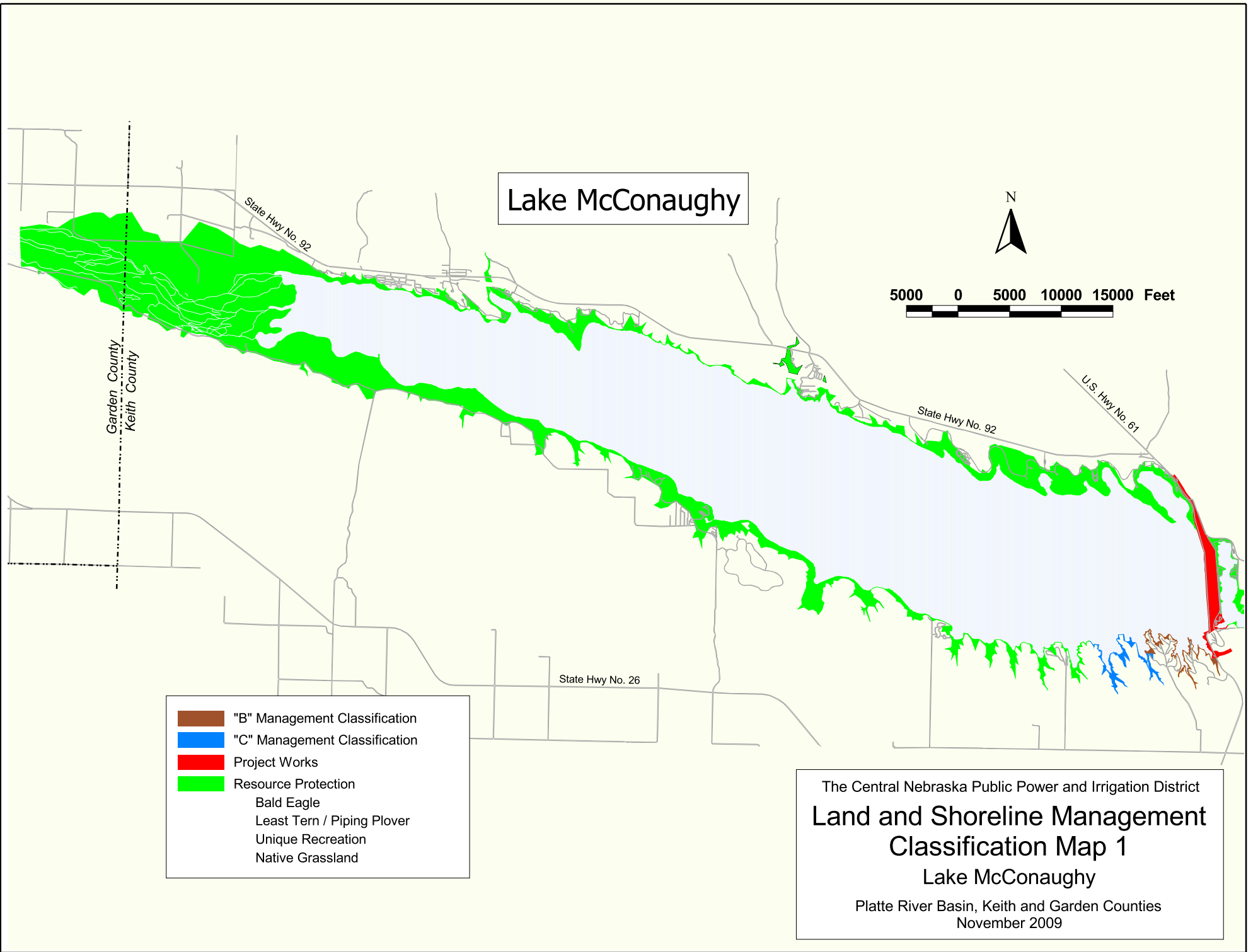
APPENDIX A

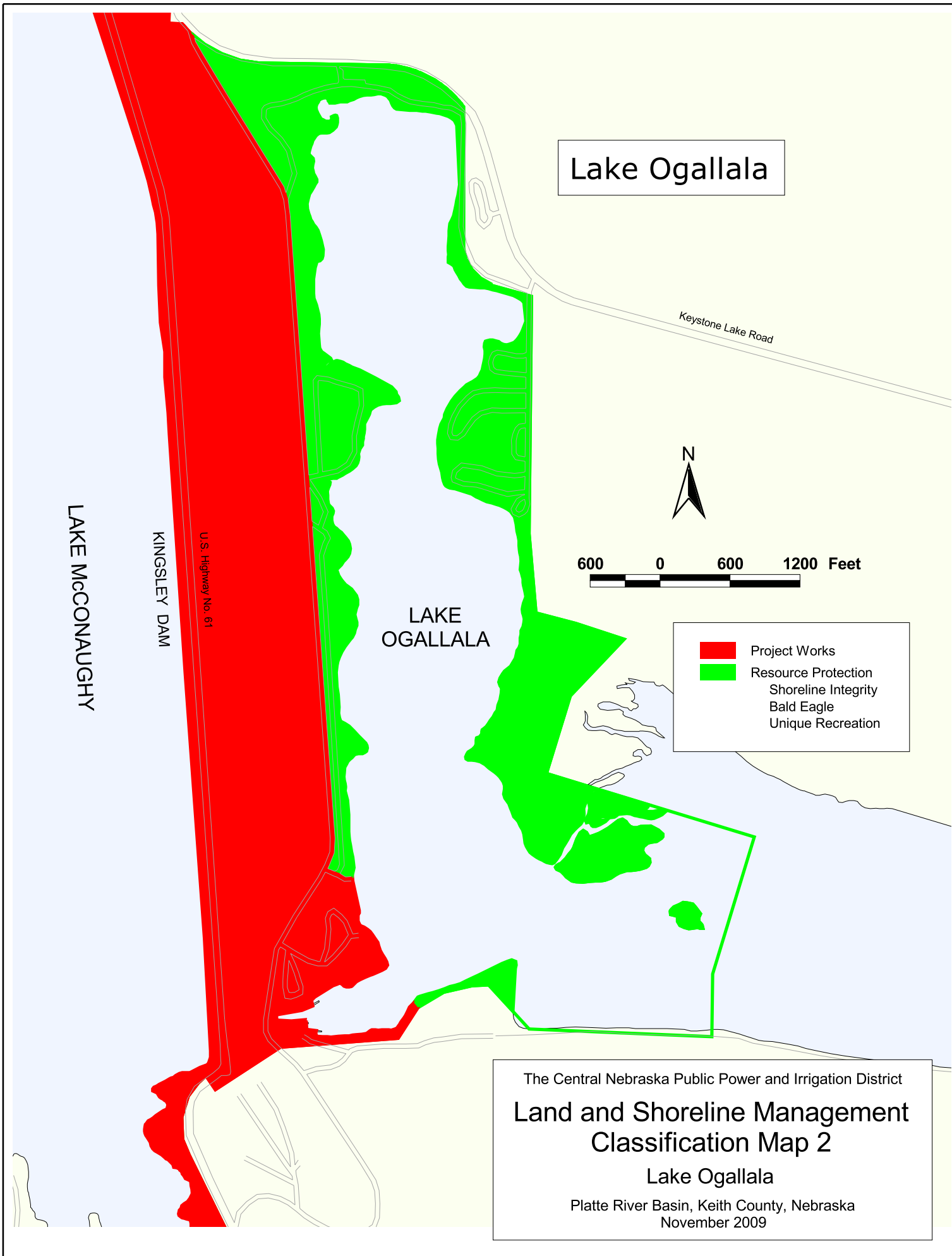
LAND AND SHORELINE MANAGEMENT CLASSIFICATION MAPS



**CENTRAL**  
 Nebraska Public Power  
 and Irrigation District  
 Holdrege, Nebraska

Land and Shoreline Management  
 Classification Map Sheet Key





Lake Ogallala

Keystone Lake Road

LAKE MCCONAUGHY

KINGSLEY DAM

U.S. Highway No. 61

LAKE OGALLALA



600 0 600 1200 Feet

- Project Works
- Resource Protection
  - Shoreline Integrity
  - Bald Eagle
  - Unique Recreation

The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
Classification Map 2**  
Lake Ogallala  
Platte River Basin, Keith County, Nebraska  
November 2009



# Boxelder Canyon Lake

State Farm Road

Boxelder Road



500 0 500 1000 Feet

	Project Works
	Resource Protection Shoreline Integrity

The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
Classification Map 3**  
Boxelder Canyon Lake  
Platte River Basin, Lincoln County, Nebraska  
November 2009

Fort McPherson Road



Cottonwood Canyon Lake

East Cottonwood Canyon Lake

Cottonwood Road



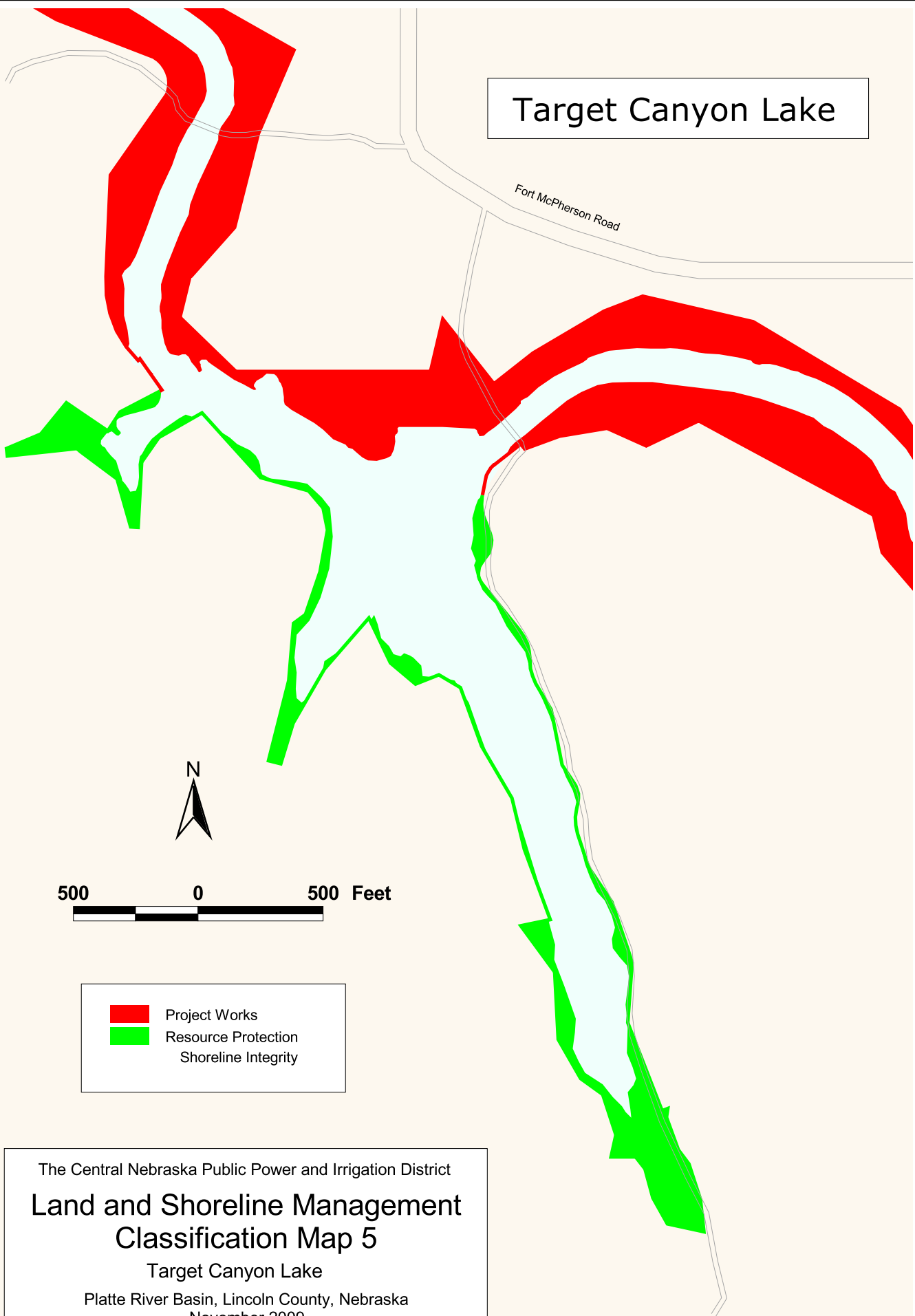
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-  Project Works
-  Resource Protection  
Shoreline Integrity

The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
Classification Map 4**  
Cottonwood & East Cottonwood Canyon Lakes  
Platte River Basin, Lincoln County, Nebraska  
November 2009

# Target Canyon Lake

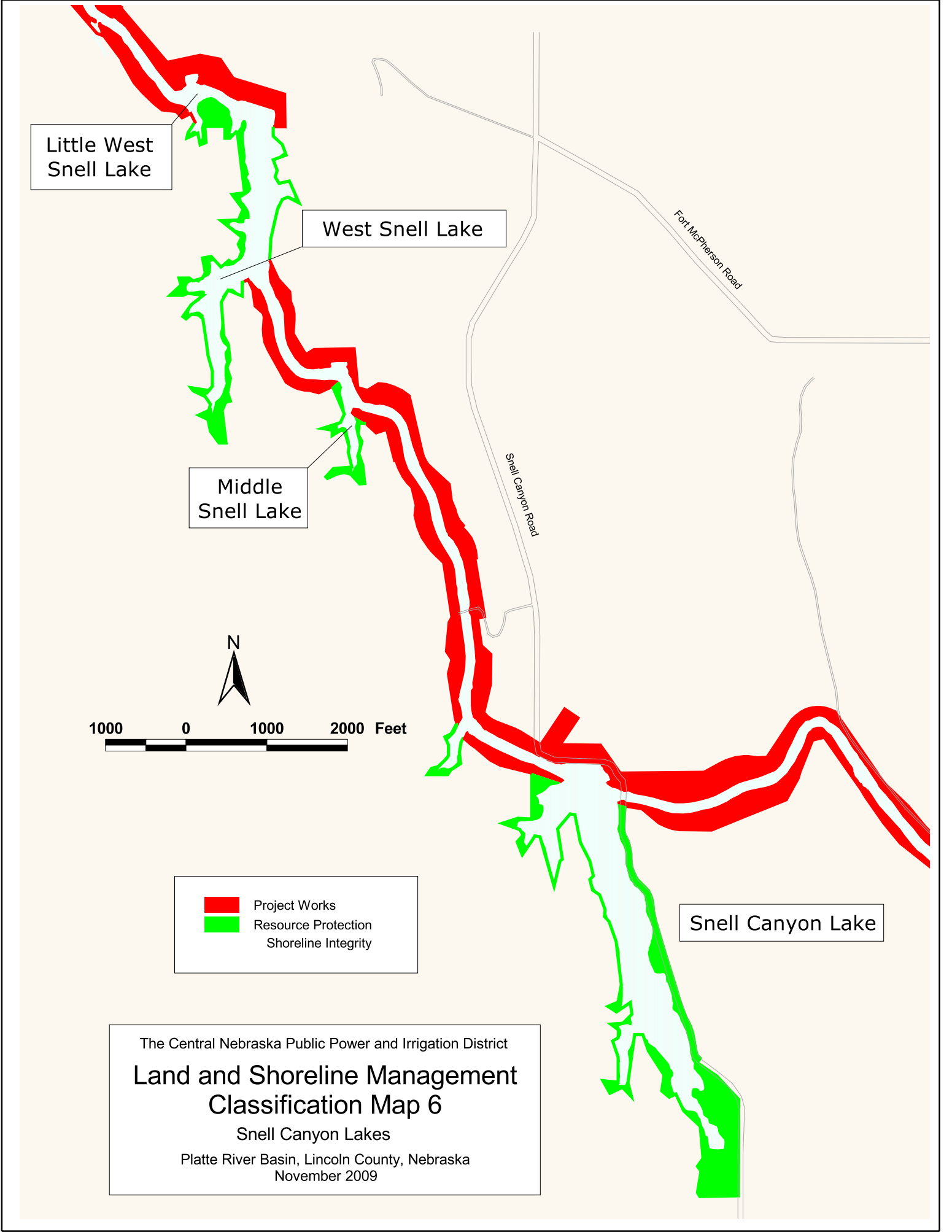
Fort McPherson Road



	Project Works
	Resource Protection Shoreline Integrity

The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
Classification Map 5**  
Target Canyon Lake  
Platte River Basin, Lincoln County, Nebraska  
November 2009





Little West Snell Lake

West Snell Lake

Middle Snell Lake

Snell Canyon Lake

Fort McPherson Road

Snell Canyon Road

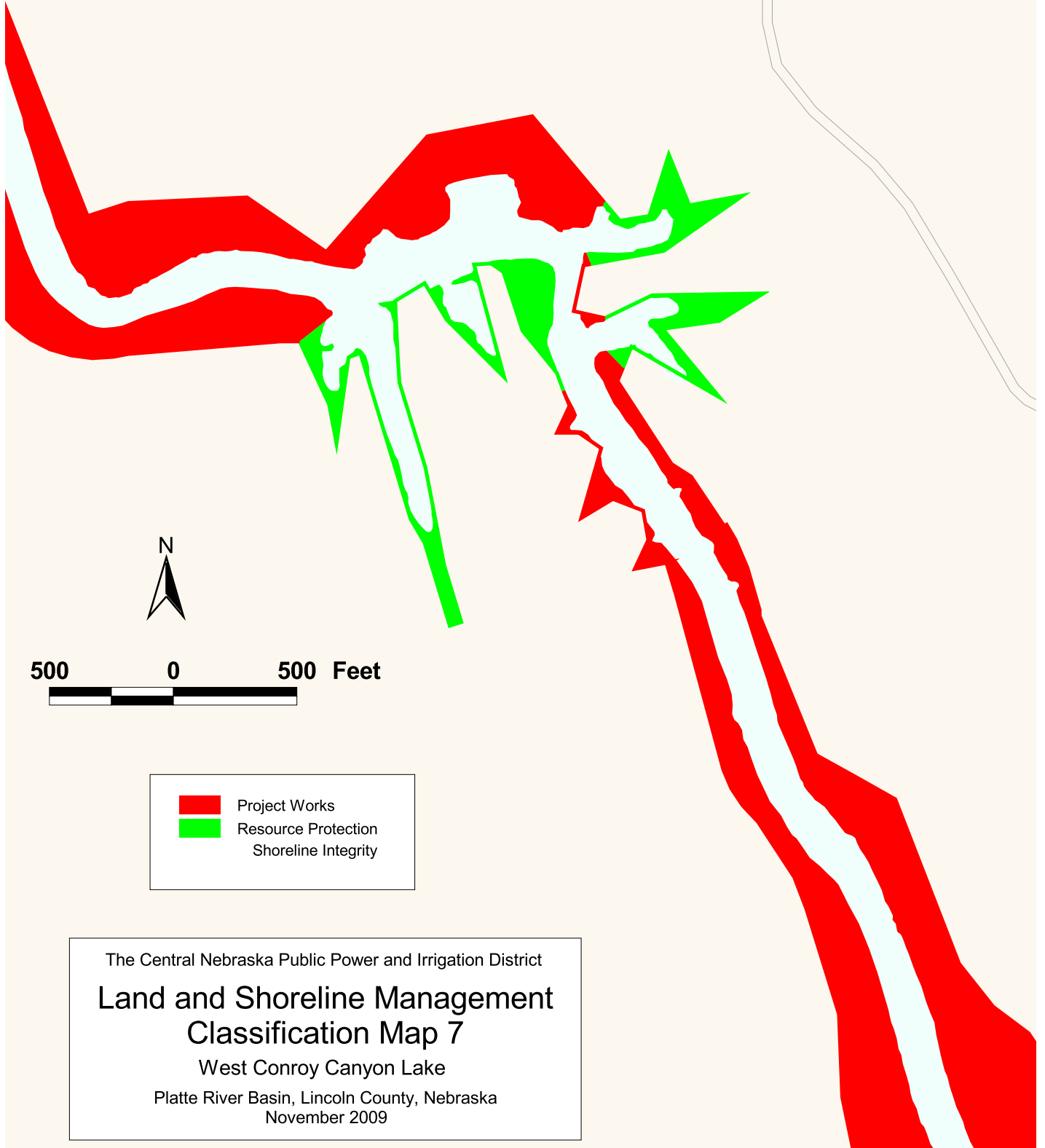


1000 0 1000 2000 Feet

- Project Works
- Resource Protection Shoreline Integrity

The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management Classification Map 6**  
 Snell Canyon Lakes  
 Platte River Basin, Lincoln County, Nebraska  
 November 2009

# West Conroy Canyon Lake

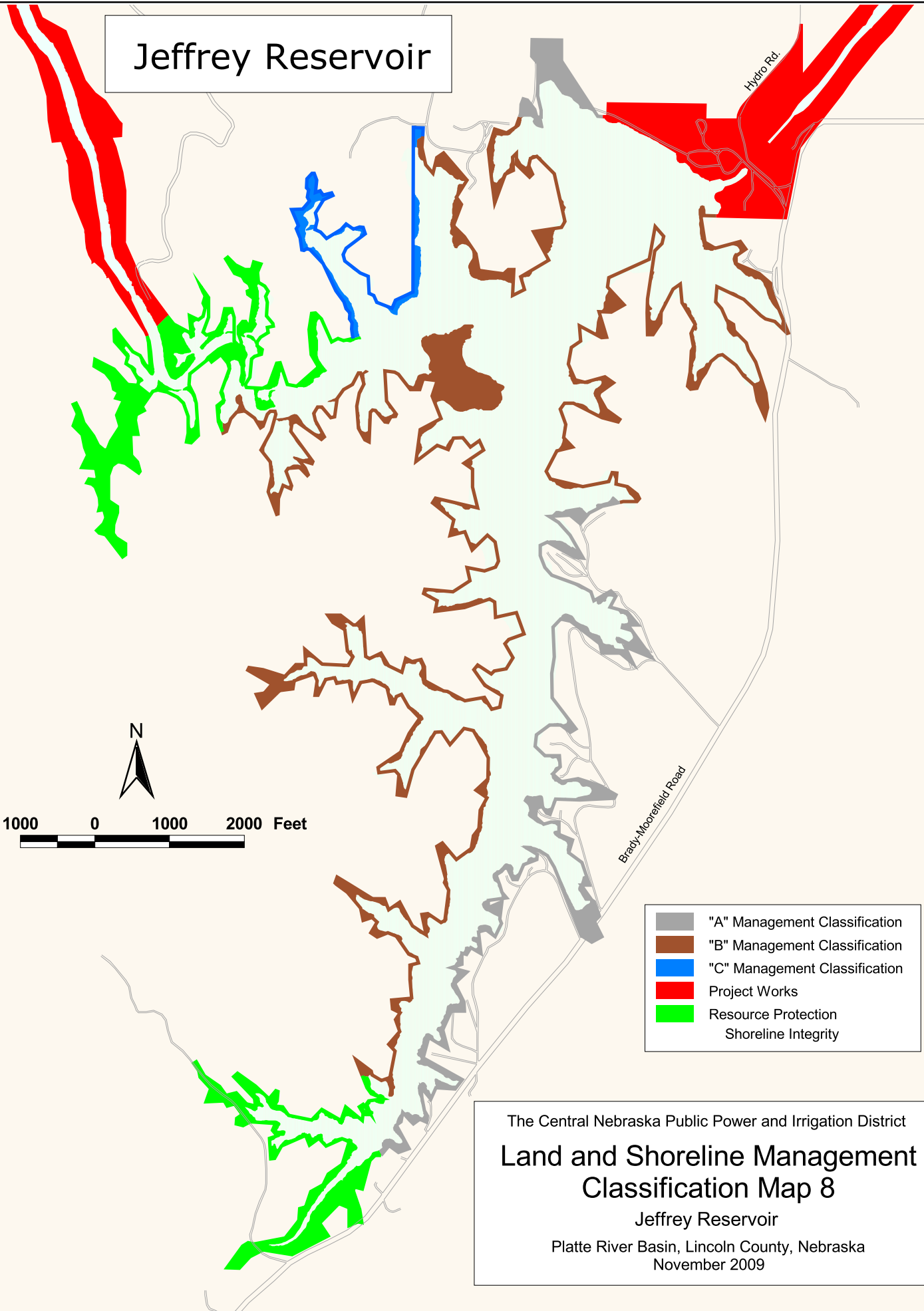


500 0 500 Feet

- Project Works
- Resource Protection  
Shoreline Integrity

The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
Classification Map 7**  
West Conroy Canyon Lake  
Platte River Basin, Lincoln County, Nebraska  
November 2009

# Jeffrey Reservoir



- "A" Management Classification
- "B" Management Classification
- "C" Management Classification
- Project Works
- Resource Protection  
Shoreline Integrity

The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
Classification Map 8**  
Jeffrey Reservoir  
Platte River Basin, Lincoln County, Nebraska  
November 2009

Co. Rd. 761

State Highway No. 47

Hiles Canyon Lake

Co. Rd. 412



Co. Rd. 760

State Highway No. 47

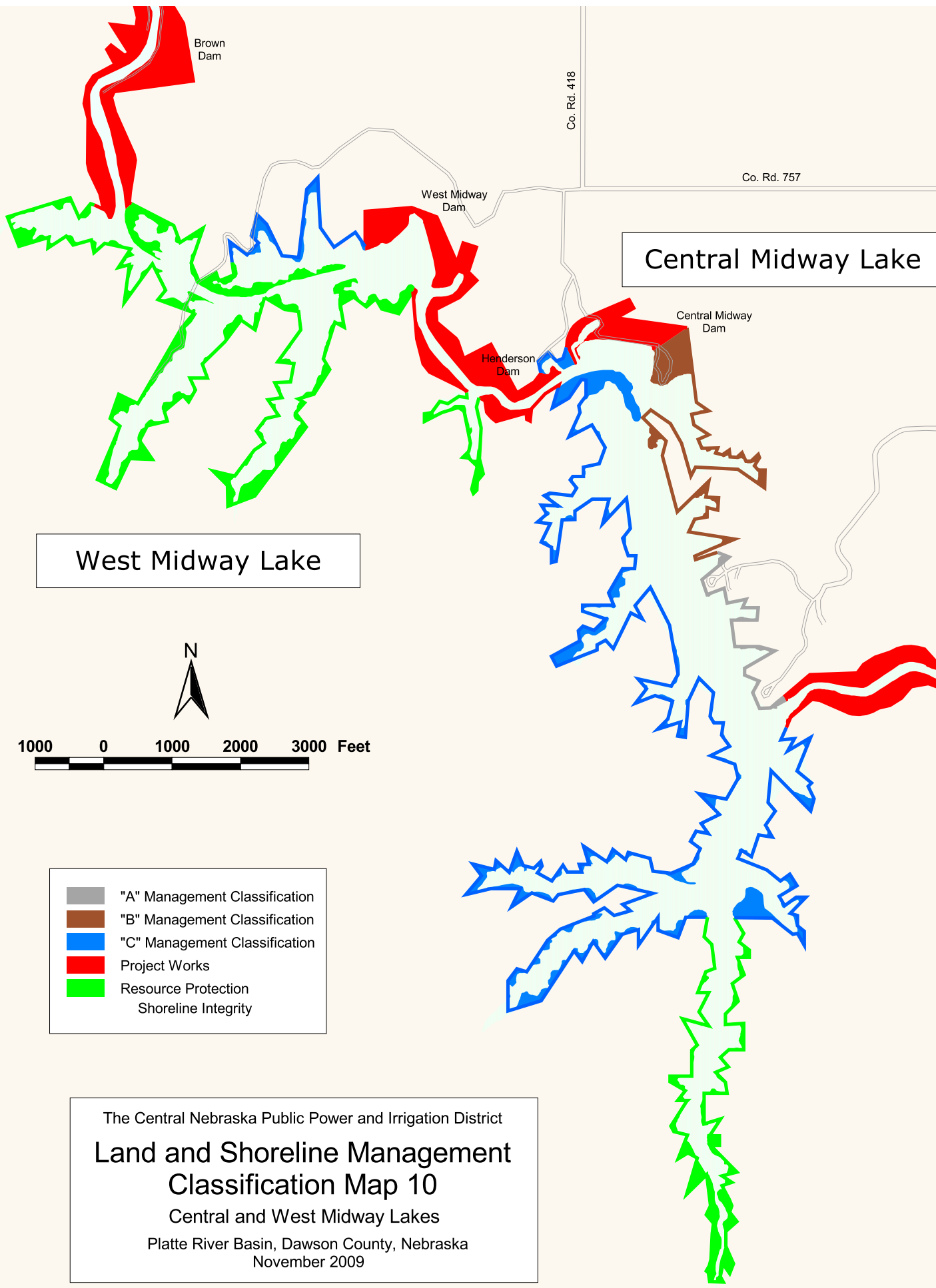
Jensen Canyon Lake



1000 0 1000 Feet

-  Project Works
-  Resource Protection  
Shoreline Integrity

The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
Classification Map 9**  
Hiles and Jensen Canyon Lakes  
Platte River Basin, Dawson County, Nebraska  
November 2009



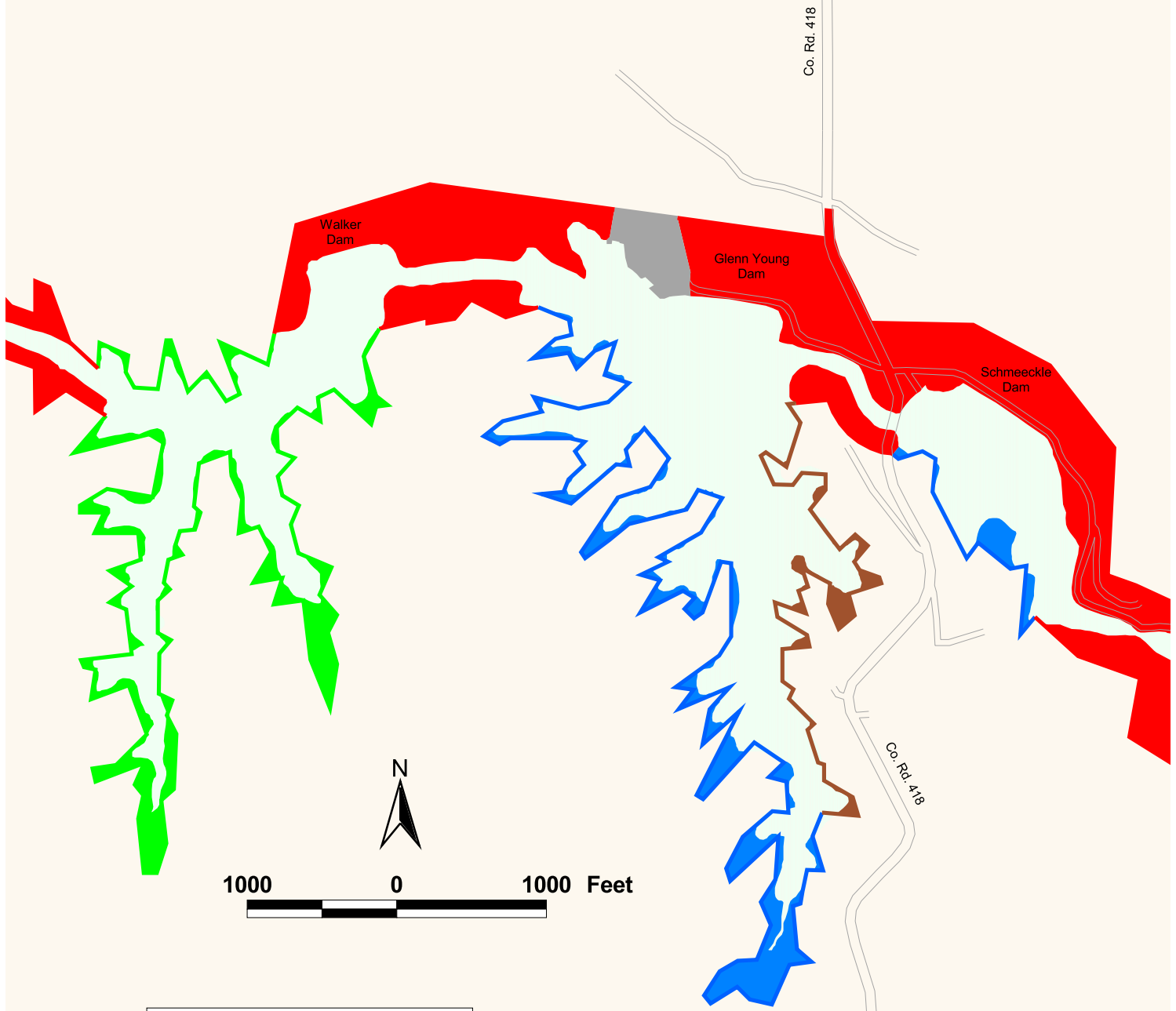
West Midway Lake






Central Midway Lake

- "A" Management Classification
- "B" Management Classification
- "C" Management Classification
- Project Works
- Resource Protection  
Shoreline Integrity

The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
 Classification Map 10**  
 Central and West Midway Lakes  
 Platte River Basin, Dawson County, Nebraska  
 November 2009

# East Midway Lake

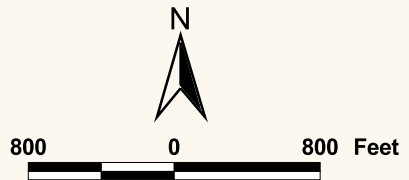




-  "A" Management Classification
-  "B" Management Classification
-  "C" Management Classification
-  Project Works
-  Resource Protection  
Shoreline Integrity

The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
Classification Map 11**  
East Midway Lake  
Platte River Basin, Dawson County, Nebraska  
November 2009

# Gallagher Canyon Lake

State Hwy. 21



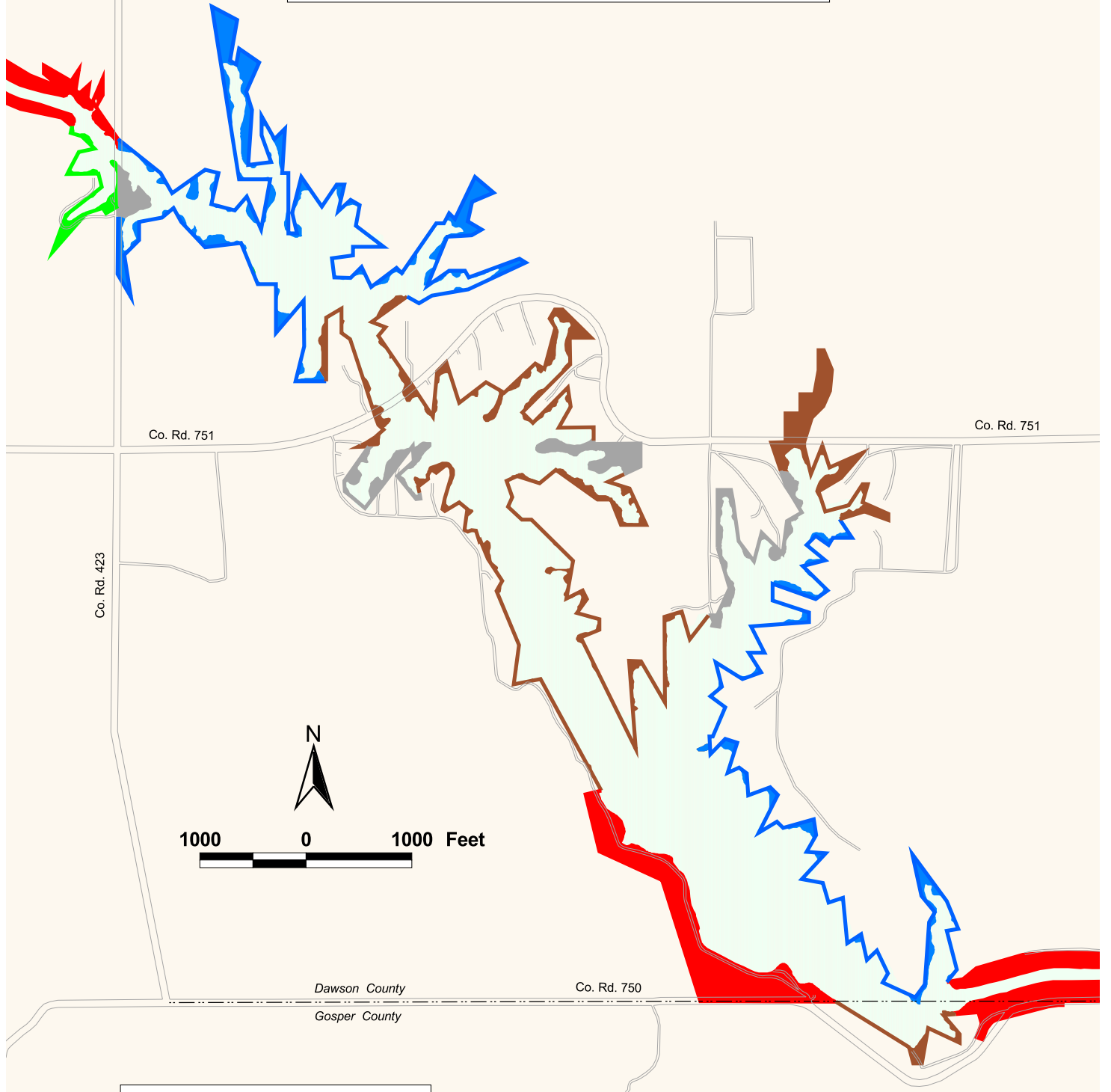
	Project Works
	Resource Protection
	Unique Recreation
	Shoreline Integrity

Co. Rd. 751

The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
Classification Map 12**  
Gallagher Canyon Lake  
Platte River Basin, Dawson County, Nebraska  
November 2009

Co. Rd. 752

# Plum Creek Reservoir

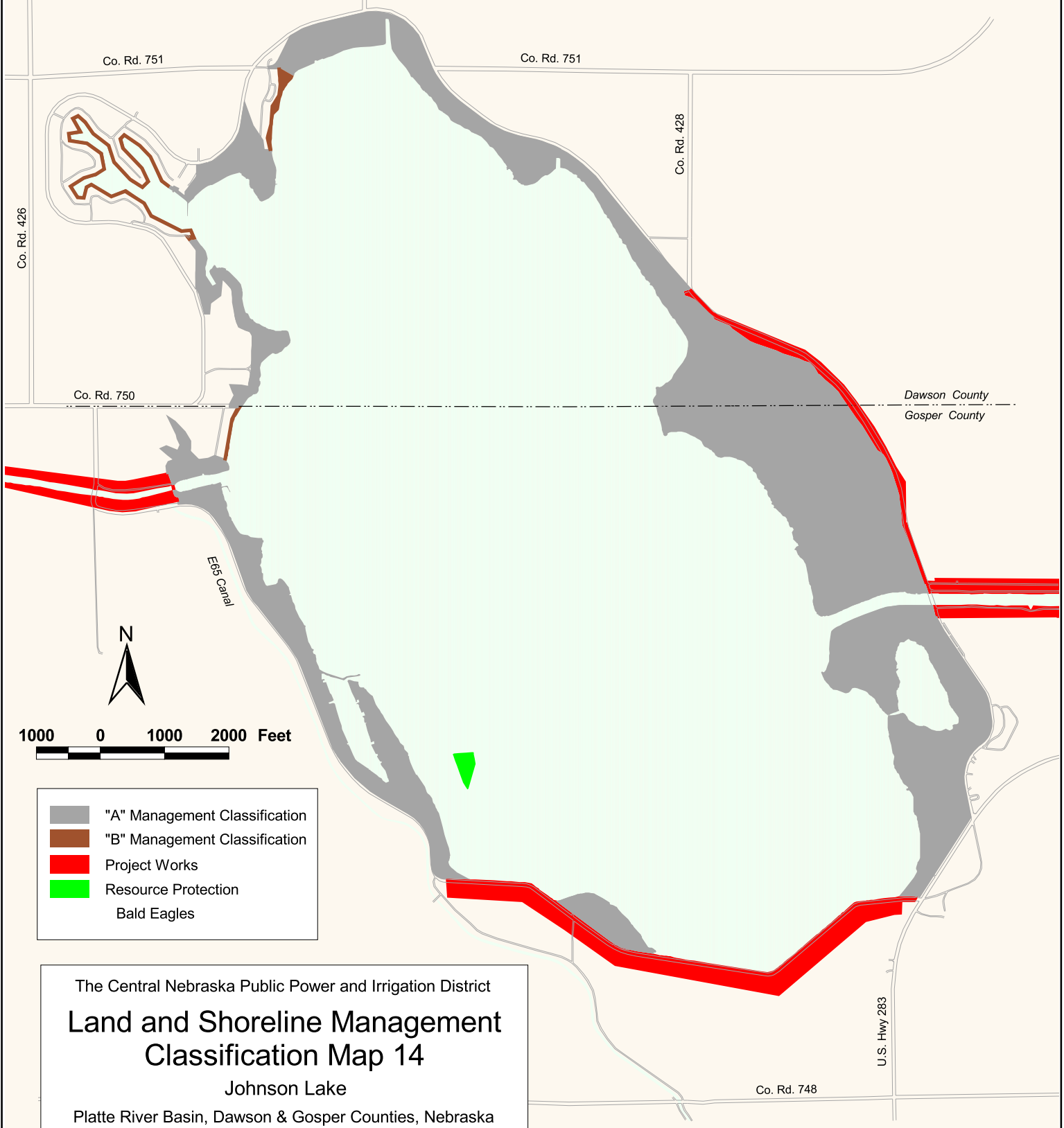


- "A" Management Classification
- "B" Management Classification
- "C" Management Classification
- Project Works
- Resource Protection  
Shoreline Integrity

The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
 Classification Map 13**  
 Plum Creek Reservoir  
 Platte River Basin, Dawson County, Nebraska  
 November 2009



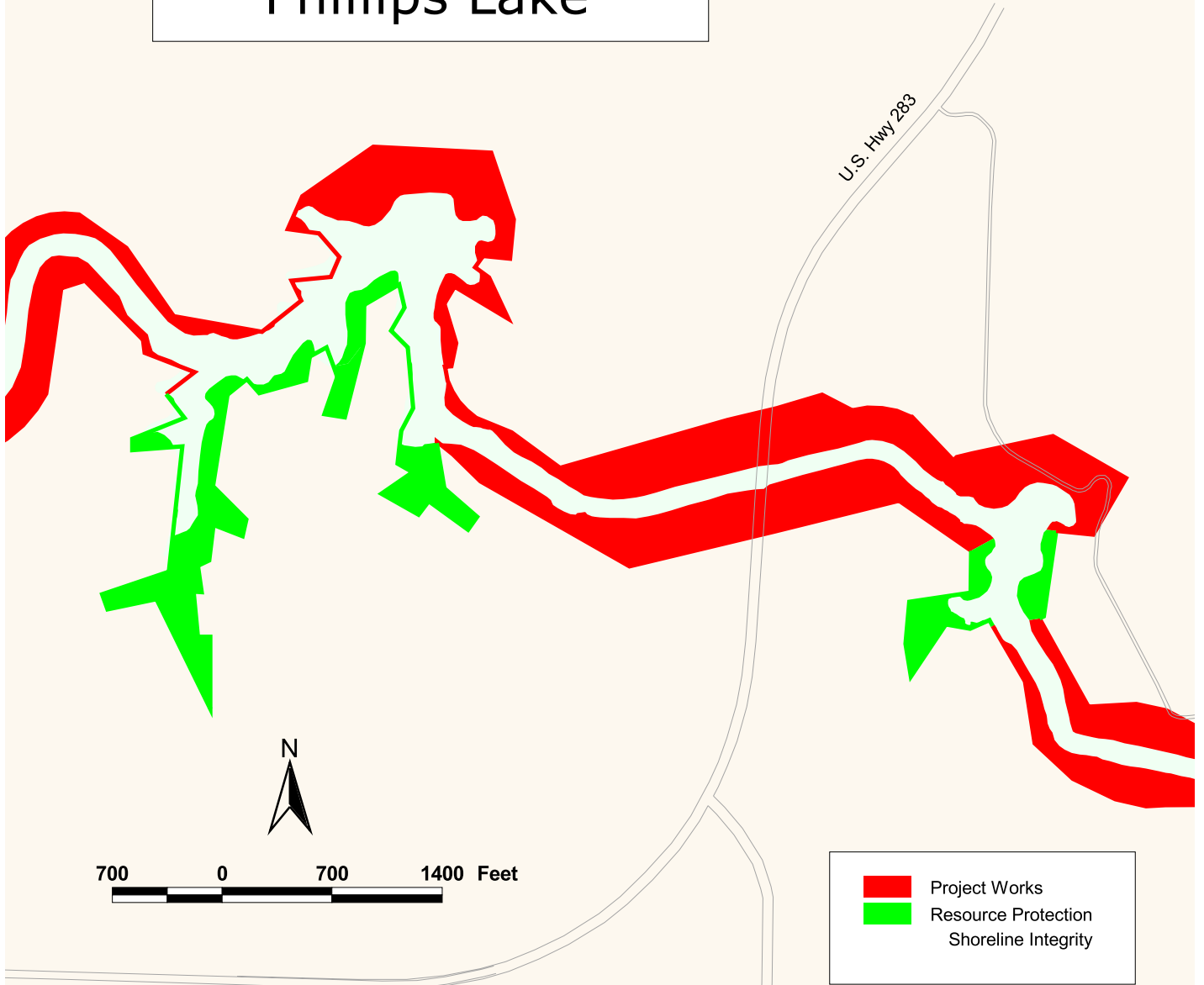
# Johnson Lake



- "A" Management Classification
- "B" Management Classification
- Project Works
- Resource Protection  
Bald Eagles

The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
Classification Map 14**  
Johnson Lake  
Platte River Basin, Dawson & Gosper Counties, Nebraska  
November 2009

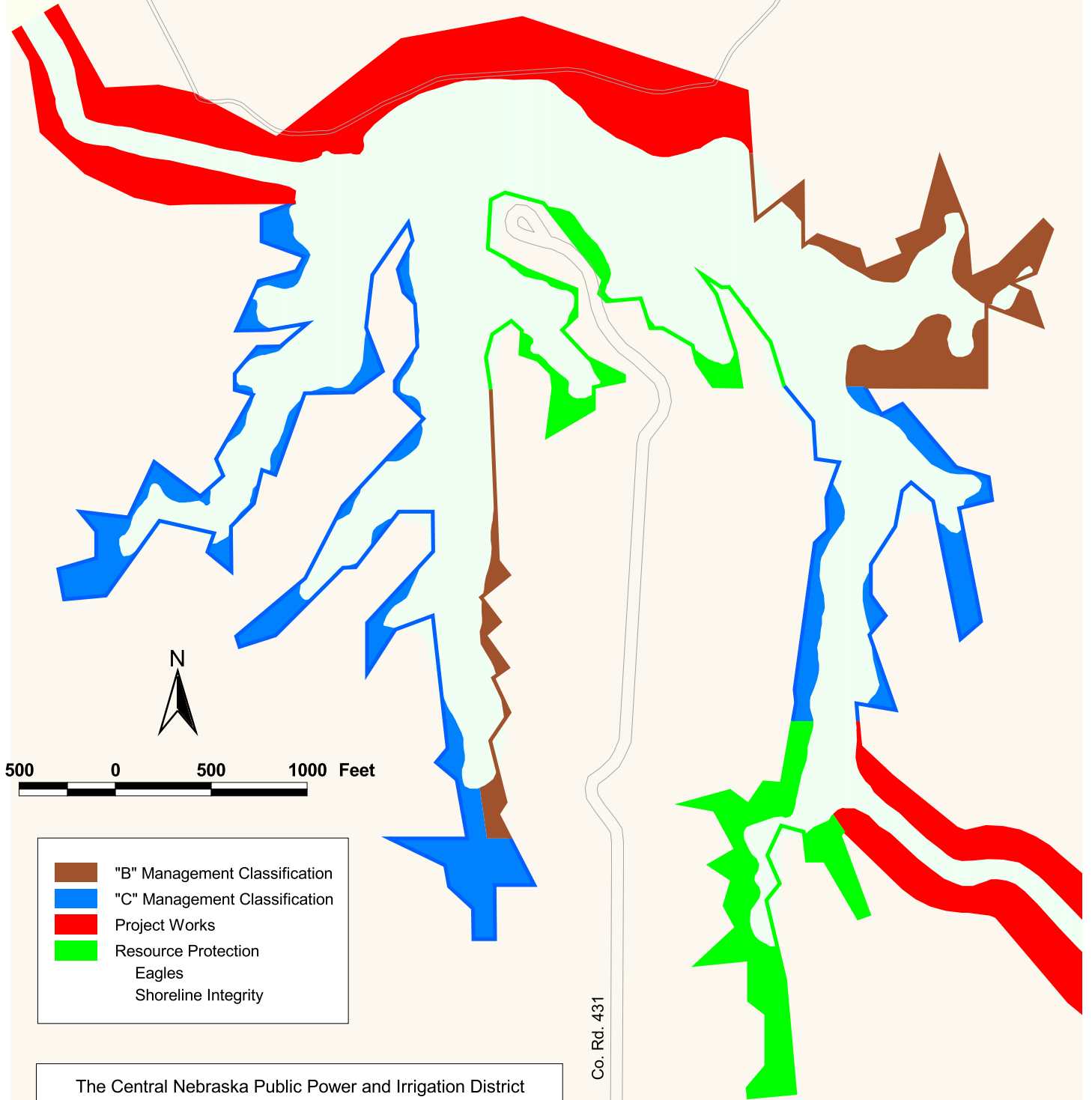
# Phillips Lake



The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
Classification Map 15**

Phillips Lake  
Platte River Basin, Dawson County, Nebraska  
November 2009

# East Phillips Lake

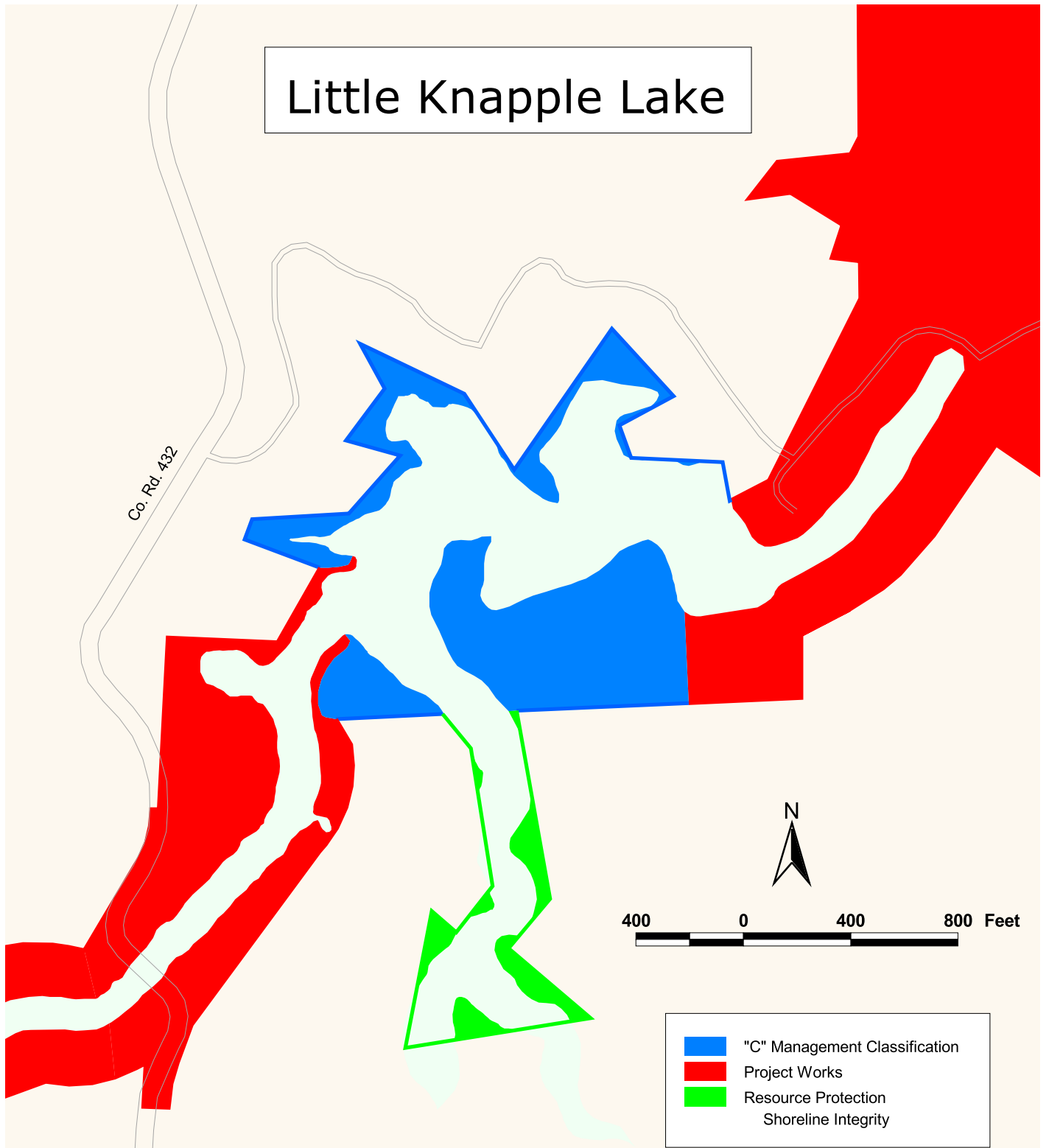


The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
Classification Map 16**  
East Phillips Lake  
Platte River Basin, Dawson County, Nebraska  
November 2009

Co. Rd. 431

# Little Knapple Lake

Co. Rd. 432



- "C" Management Classification
- Project Works
- Resource Protection  
Shoreline Integrity

The Central Nebraska Public Power and Irrigation District  
**Land and Shoreline Management  
Classification Map 17**  
Little Knapple Lake  
Platte River Basin, Dawson County, Nebraska  
November 2009

VOLUME I

APPENDIX B

PROJECT LANDS AND WATERS  
DESIGNATED FOR PUBLIC RECREATIONAL USE

***THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT  
FERC PROJECT NO. 1417***

***PROJECT LANDS AND WATERS  
DESIGNATED FOR PUBLIC RECREATIONAL USE***

Article 421 requires that the LSMP address public recreation uses within the Project, including a designation of lands and waters that may be used for certain types of recreation.

Generally, almost all Project lands and waters are available for public recreation. Public recreation within the project includes such things as boating, canoeing, swimming, fishing, hiking, hunting, campgrounds, and recreational vehicles. It should be noted that in some cases these activities may overlap (for example, fishing sometimes takes place from a boat, and canoeing is a specific form of boating). Likewise, some other more specific recreational uses are logically contained within or can be accommodated within these general categories (for example, jet skiing and water skiing can be considered to be a part of boating, bird watching and photography can be accommodated from a boat or while hiking, etc.). While this list is not all inclusive, it is representative of the majority of public recreational uses.

Table B-1 identifies Project lands, shorelines, and waters that are generally designated as available for these public recreational uses<sup>10</sup>. Exceptions to this general availability would be those specific cases where such public uses may be restricted for public safety, Project operations, dam safety and security, for resources protections, or where a conveyance for exclusive use has been granted (such as a residential lease).

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<sup>10</sup> Article 421 only requires designation for campgrounds, recreational vehicles, fishing, hunting, boating, and canoeing. Central has added swimming and hiking to the designations because of the frequency of such uses within the Project.

Though certain of the Project lands and waters are not specifically designated for certain of the public recreational uses, this does not mean that such uses are necessarily prohibited at those locations. For example, hunting may currently take place in undeveloped portions of Plum Creek Canyon Reservoir, but because of the likelihood for continued residential development in close proximity to the reservoir, a designation for such use would not be appropriate. Similarly, although some hunting might occur along stretches of the canal away from the lakes, it is so infrequent and difficult to monitor or control that it has not been designated for such use.

While these general recreational uses of the Project lands and waters are fairly stable over time, details regarding how such uses are provided (i.e., the locations of access points, what specific facilities provided at different locations, which entities are managing certain recreational sites, etc.) can and do change. A more detailed description of public recreational opportunities throughout the Project is provided in Appendix G, and is updated by Central from time to time as may be warranted.

Table B-1: Project Lands and Waters Designated for Public Recreational Use

Shading Indicates Designated Use.

		Project Lands and Waters								
		Lake McConaughy	Lake Ogallala	Jeffrey Lake	Midway Lakes	Gallagher Canyon	Plum Creek Canyon	Johnson Lake	Other Supply Canal Lakes	Supply Canal other than Lakes
Public Recreational Use	Boating [1] [2]									
	Canoeing [2]									
	Swimming									
	Fishing [2]									
	Hiking									
	Hunting [2]									
	Campgrounds									
	Recreational Vehicles									

1. Boating may be restricted to wakeless boating in some locations for safety or erosion concerns.
2. Though designated, these activities are further controlled and limited by other local, state, or federal regulations.



VOLUME I

APPENDIX C

MANAGEMENT PLAN FOR LEAST TERN AND PIPING PLOVER NESTING ON THE  
SHORE OF LAKE McCONAUGHY

**MANAGEMENT PLAN  
FOR LEAST TERN AND PIPING PLOVER NESTING  
ON THE SHORE OF LAKE McCONAUGHY**

**INTRODUCTION**

On July 29, 1998, The Central Nebraska Public Power and Irrigation District (Central) was issued a license by the Federal Energy Regulatory Commission (FERC) to operate Project No. 1417 (Project). License Article 421 requires that Central have a FERC-approved plan to manage the land and shorelines of the Project. As part of this plan Central is to evaluate the need for and include measures as appropriate to address the protection of least tern (Sternula antillarum) and piping plover (Charadrius melodus) nesting sites at Lake McConaughy. Article 421 in part states:

*“The plan shall also include, at a minimum, an evaluation of the need for, and measures as appropriate to address: (a) protection of least tern and piping plover nesting sites at Lake McConaughy similar to programs existing at the time of license issuance, which include limited fencing to exclude livestock from nesting areas and public education efforts;...”*

Central’s *Land and Shoreline Management Plan* (LSMP) addresses that requirement with this separate *Management Plan for Least Tern and Piping Plover Nesting on the Shore of Lake McConaughy* (Tern & Plover Plan). The Tern & Plover Plan identifies the measures to be undertaken by Central to protect piping plovers and least terns (collectively, the species) nesting at Lake McConaughy.

The Tern & Plover Plan details the nature and scope of Central’s activities under its FERC license. Because conditions vary from year to year, Central retains the flexibility to choose among management activities that are appropriate for that year, as identified in consultation with, and with the approval of, the U.S. Fish and Wildlife Service (USFWS) and the Nebraska Game and Parks Commission (NGPC) (collectively, the Agencies). Nothing in the Tern & Plover Plan prohibits Central from participating in habitat research efforts with the Agencies on Central’s land which could eventually lead to Central and the Agencies petitioning FERC to modify the Tern & Plover Plan.

**AGENCY REVIEW**

Annually, prior to each new nesting season, Central will consult with representatives of the USFWS and NGPC to evaluate the effectiveness of the management and monitoring activities utilized during the previous year. Based upon that evaluation and with the

concurrence of the Agencies, Central will develop an appropriate management and monitoring plan for the upcoming year.

## **HABITAT PROTECTION**

Central's LSMP and the Tern & Plover Plan seek to integrate the continuing widespread recreational use of Project lands and shorelines with protections for threatened piping plovers and endangered interior least terns (endangered species) that are seasonally present. As a primary protection tool, the LSMP identifies Resource Protection classification areas at Lake McConaughy that are known to have been used frequently in the past for nesting by piping plovers and least terns.

While it is understood that general recreational activities will continue as set forth in the LSMP, Central may, without notice to the public, restrict any or all activities on all or part of an area to protect threatened and endangered species or their habitat. If normally acceptable general recreational activities disturb the species in the area, Central will, after consultation with the appropriate Agencies, restrict access or activities as necessary to an area large enough to prevent disturbance.

Protection measures for the species and habitat along Central's shorelines are described below.

### **PRE-NESTING SEASON MEASURES**

Because the species do not use exactly the same place for nesting each year and because the width and the nature of the beaches at Lake McConaughy is quite ephemeral, it is neither prudent nor effective to initiate many protection measures until the species actually choose nest sites. However, there are areas where annual use by the species has been consistent and Central, after consultation with the Agencies, may fence out one or more larger areas (1 acre in size to 40 acres in size) in anticipation of species use.

Additionally, as described below, certain habitat measures may be undertaken under unusually high lake levels to provide alternative nesting habitat that would not otherwise be necessary. Under high water conditions, Central will maintain two or more restricted-access "beach" areas above elevation 3270 as potential nesting habitat.

Prior to the nesting season, access to these designated areas will be restricted using "psychological fencing" such as brightly colored twine or other identification and/or fencing materials agreed to by Central and the Agencies. Restricted areas will be posted with signs warning the public of endangered species use of the area and stating that access is prohibited.

## NEST SITE MANAGEMENT

### 1. Survey and Monitoring

Central personnel will survey the shore of Lake McConaughy on a weekly basis starting in mid-to late April and continue until all of the young least terns and piping plovers have fledged, typically around the first week in August. Least tern and piping plover nest sites will be identified, mapped, and then monitored on a regular schedule (frequency to be determined in consultation with the Agencies), until the chicks are fledged or are lost. This information will be provided to the Agencies as part of the annual monitoring report under Central's FERC license Article 423.

### 2. Nest-Site Protection

Variations in the levels and methods of protecting specific nest sites are expected in different locations and at different times because of the variable nature of the species nesting patterns and the wide variations in topography and recreational use in different areas of the Lake McConaughy shoreline. Central will apply the variations of the management strategy that are approved at the annual management planning meeting with the Agencies.

Access to identified nests and nesting areas will be restricted with "psychological fencing" or other types of identification and/or fencing materials agreed to by Central and the Agencies during the annual consultation process to identify the nest site to the public and/or to protect the site from intrusion. As necessary, buoys or other markers may be employed in the water to prevent boaters from entering an area frequented by the species. Typically, the area enclosed for an individual nest is expected to be approximately 200 square feet, but actual dimensions will be determined taking into account site characteristics, locations of neighboring nests, research requirements and experience. Restricted areas will be posted with signs warning the public of endangered species use of the area and stating that access is prohibited.

Various types of protective screens and/or cages, chemical deterrents, or other methods agreed upon by the Agencies during the annual consultation process may be used to protect eggs from predation.

Beyond the confines of the restricted-access area around nesting sites, beach areas adjacent to the restricted-access nesting areas will be signed to alert boaters and campers that endangered species may be in the area. Approaches to the beach in remote areas will be marked along the high banks and on fence posts to alert people that endangered species may be in the area or that use restrictions may be in force within the area. Additional or substitute warning signs and restrictions may be selected in consultation with the Agencies on a site-specific basis based on factors such as topography, accessibility, nesting patterns, anticipated recreational use of the area, the potential for human or animal disturbance, and experience.

In addition to protecting nest sites from access or disturbance, if the lake is rising, the elevation of each nest will be compared regularly to the projected maximum elevation of Lake McConaughy. If it appears the nest will be inundated by rising water levels prior to the projected hatching date of the eggs, the nest will be moved upslope to a higher elevation using the Knaggs-Britch Method<sup>1</sup>. Protective measures will be implemented to safeguard the nest in its new location.

## PUBLIC EDUCATION

Ultimately, the effectiveness of any plan to protect endangered species and their habitat depends upon public awareness and acceptance. To this end, Central will implement a number of educational programs to increase public awareness of piping plover and least tern use of Lake McConaughy.

**Signs:** Central will place large informational signs at boat ramps and beach access points explaining the natural history of the birds and showing pictures of both species. Additional signs will be used as described above to alert recreational users that endangered species may be present in an area, to warn people to keep out of an area, or to identify that certain activities are prohibited.

**Literature:** Central will publish fliers with information about both species and make those fliers available to the public free of charge. Fliers are distributed at the NGPC entrances to Lake McConaughy as well as at boat ramps and in boxes attached to the informational signs around the lake. The fliers include instructions on how to report the sighting of least terns and piping plovers, and how to report any disturbances or destruction of nests that the public may observe. The fliers also describe barriers (such as “psychological” fencing) and associated restrictions intended to protect the birds from human disturbance.

**Programs:** Central personnel familiar with the biology of the birds and the Tern & Plover Plan are available upon request to give public presentations. Additionally, Central may also periodically give programs at the Martin Bay nesting area.

## **REPORTING VIOLATIONS**

While the Tern & Plover Plan requires Central to take steps to provide warning and notice to the public, and to place restrictions on activities by members of the public where they could potentially harm the species, Central has no law enforcement jurisdiction to enforce these provisions of the Tern & Plover Plan. Duly authorized law enforcement agencies, including the Nebraska Game and Parks Commission that leases most of the beach area of Lake McConaughy where the piping plovers and least terns nest and the U.S. Fish and Wildlife Service, are relied upon to prosecute violations by the public of restrictions imposed under the Tern & Plover Plan to protect the species as part of their

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<sup>1</sup> Peyton, Mark M., A Method for Moving Piping Plover Nests on Reservoir Shorelines, Proceedings of the Platte River Basin Ecosystem Symposium, 28-30 (1997).

statutory obligations of the Endangered Species Act and/or the Nebraska Non-Game and Endangered Species Conservation Act. To facilitate such prosecution, Central's employees or its agents will take the following actions when they observe any violation of the restrictions imposed by the Tern & Plover Plan or any other action or activity they believe may be in violation of either the Endangered Species Act or the Nebraska Non-game and Endangered Species Conservation Act.

Central personnel will:

1. Attempt to get the license numbers and descriptions of vehicles or persons involved.
2. Notify the local Nebraska Game and Parks Commission Conservation Officer and the area Special Agent for the United States Fish and Wildlife Service as quickly as possible.
3. Notify Central's Kingsley Dam Foreman who in turn will notify Central's Senior District Biologist or Environmental Resources Manager or their designee who will notify, by phone, the U.S. Fish and Wildlife Office in Grand Island and the Nebraska Game and Parks Commission Office in Lincoln.
4. Document the incident and prepare a report.
5. Provide the Agencies with a copy of their report.
6. Cooperate with the Agencies in any action or proceeding which may result from Central's report.

Central will annually arrange a meeting with law enforcement representatives from USFWS and NGPC to discuss procedures related to enforcement actions.

## **REPORTING**

Every three years Central will prepare a summary report on activities under the Tern & Plover Plan pursuant to Article 421. This report will be prepared in consultation with the USFWS and NGPC.

As a practical matter, the Agency endangered species permitting processes require annual reporting to those agencies on permitted activities and any associated species monitoring. A copy of the annual endangered species report will be provided to FERC as attachments to the annual monitoring report required as part of Central's obligations under Article 423 of its FERC license.

The Central Nebraska Public Power and Irrigation District  
FERC Project No. 1417  
License Article 421

**MANAGEMENT PLAN  
FOR LEAST TERN AND PIPING PLOVER NESTING  
ON THE SHORE OF LAKE McCONAUGHY**

**AGENCY COMMENT LETTERS**

Central undertook consultations with both the U.S. Fish and Wildlife Service (USFWS) and the Nebraska Game and Parks Commission (NGPC) (collectively, the Agencies) throughout the review and update process of the Tern & Plover Plan. A December 29, 2009 Draft Tern & Plover Plan was provided to the Agencies for their formal review and comments. Copies of the USFWS February 1, 2010 and NGPC February 16, 2010 comment letters are attached. The NGPC comment letter did not recommend any changes to the Plan. The USFWS comment letter recommended a number of changes to improve the clarity of the Tern & Plover Plan, all of which were incorporated into the Tern & Plover Plan. Additionally, the USFWS comment letter raised concerns regarding the possibility of changes to the Tern & Plover Plan to allow ATV or OHV use on the beaches of Lake McConaughy. Consequently, no such changes to the Tern & Plover Plan were made.



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Ecological Services  
Nebraska Field Office  
203 West Second Street  
Grand Island, Nebraska 68801

February 1, 2010

**FWS-NE: 2010-263**

Mr. Mike Drain  
Central Nebraska Public Power  
and Irrigation District  
415 Lincoln Street  
Holdrege, NE 68949-0740

**RE: Request for Comment on the December 29, 2009, Management Plan for Least Tern and Piping Plover Nesting on the Shore of Lake McConaughy (i.e., Appendix C, Land and Shoreline Management Plan)**

Dear Mr. Drain:

This responds to your email request to provide comments on the Management Plan for Least Tern and Piping Plover Nesting on the Shore of Lake McConaughy (Tern and Plover Plan) by February 1, 2010. Please note that the following comments apply to the subject document dated December 29, 2009, only. These comments are primarily editorial in scope, and we appreciate your agency's close coordination with the Service regarding annual needs of the least terns and piping plovers nesting at Lake McConaughy.

During 2009, Service representative(s) were present at more than one meeting (at various agencies) where the possibility of opening beaches at Lake McConaughy to off-road vehicular traffic (i.e., OHVs or ATVs) was discussed. The Service's position is, and always has been, that such ATV use is not compatible with tern and plover nesting. Section 9 of the Endangered Species Act (ESA) prohibits the harassment and harm to nesting terns and plovers ("take") that would likely result from ATV use on beaches where terns and plovers are nesting. In addition, an increased potential for take from ATVs is a factor that could trigger consultation with the Federal Energy Regulatory Commission (FERC) under the ESA's section 7. Therefore, if language in the Tern and Plover Plan changes to allow such ATV or OHV use, the Service will consult with you and, if appropriate, with FERC.

We have the following specific comments regarding the December 29, 2009 draft of the Tern and Plover Management Plan.

**Page 1, second paragraph:** The clarity of the last sentence of this paragraph can be improved by changing the text to "The Tern and Plover Plan identifies... to protect piping plovers and least terns (collectively, the species) nesting at Lake McConaughy." [Note: while measures are taken to protect nesting areas, the purpose of that protection is to reduce the potential for "take" which applies only at the level of individual birds].

**received**  
2-3-10



**Page 1, last paragraph:** Improve clarity of the first two sentences by changing to:

“The Tern and Plover Plan details the nature and scope of Central’s activities under its FERC license. Because conditions vary from year to year, Central retains the flexibility to choose among management activities that are appropriate for that year, as identified in consultation with and with the approval of the U.S. Fish and Wildlife Service (USFWS) and the Nebraska Game and Parks Commission (NGPC) (collectively, the Agencies).”

Also, the third sentence in this paragraph, beginning “Central also...” is redundant and should be removed.

**Page 2, first paragraph:** Consider splitting this sentence in two by placing a period after “...the previous year...”, followed by “Based upon that evaluation and with the concurrence of the Agencies, Central will develop an appropriate....”

**Page 2, second paragraph under “Pre-Nesting Season Measures”:** Blocking off a nesting area in the parking lot before nesting least terns or piping plovers are found there can be counter-productive to your public education efforts. Either remove the last sentence of this paragraph or, at minimum, remove the term “potential” and add “...if and when the species nest there...” to the end of the sentence.

**Page 3, Survey and Monitoring, second sentence:** Change to “Least tern and piping plover nest sites...on a regular schedule (frequency to be determined in consultation with the Agencies), until the chicks are fledged or lost.” [Note: chicks can’t be both fledged and lost].

**Page 3, Nest Site Protection, first paragraph:** The second sentence in this paragraph is redundant and should be removed.

**Page 3, Nest Site Protection, third paragraph:** Change the “and” in “and other methods” to “or”.

**Page 5, top paragraph:** The second “to prosecute violations” (see fourth line) is redundant and should be removed.

Thank you for the opportunity to comment on the subject Tern and Plover Plan. Again, we appreciate your close coordination with us, and commend you on your efforts to protect least terns and piping plovers on the beaches of Lake McConaughy.

Sincerely,



Nell McPhillips  
Acting Field Supervisor

cc: Mike Fritz, NGPC



## Nebraska Game and Parks Commission

2200 N. 33rd St. / P.O. Box 30370 / Lincoln, NE 68503-0370

Phone: 402-471-0641/ Fax: 402-471-5528 / [www.OutdoorNebraska.org](http://www.OutdoorNebraska.org)

Michael A. Drain, P.E.  
Natural Resources Manager  
Central Nebraska Public Power & Irrigation District  
415 Lincoln Street  
Holdrege NE, 68949

February 16, 2010

RE: Comments on Central Nebraska Public Power and Irrigation District's Management Plan for Least Tern and Piping Plover Nesting on the Shore of Lake McConaughy, Appendix C of the Land and Shoreline Management Plan for the Kingsley Dam: FERC Project No. 1417

Dear Mr. Drain:

The Nebraska Game and Parks Commission (Commission) has reviewed Central Nebraska Public Power and Irrigation District's (Central) Management Plan for Least Tern and Piping Plover Nesting on the Shore of Lake McConaughy (Plan). The Management Plan for Least Tern and Piping Plover is being revised in conjunction with the 5-year review of the Land and Shoreline Management Plan (LSMP) for the Kingsley Dam. This is pursuant to the requirements of Central's Federal Energy Regulatory Commission (FERC) license for Project No. 1417 - Articles 421. The Management Plan for Least Tern and Piping Plover is Appendix C of the LSMP.

During the development of the Plan the Commission has communicated with Central concerning specific aspects of the Plan. The Commission has reviewed the final Plan and has no comments regarding changes to the Plan. We would like to comment regarding the design of the Plan.

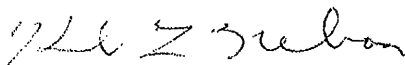
The Commission and the U.S. Fish and Wildlife Service (Service) work with Central on an annual basis to address least tern and piping plover nesting and recreational issues at Lake McConaughy. The focus of the annual coordination meetings and management activities is to protect least tern and piping plover nesting and brood rearing while still providing for recreational access to the shoreline.

An important approach of the previous Plan was a framework that identifies a range of management activities that can be applied during the multi-year period of the Plan. Within this framework, there are specific provisions that provide for an annual review and consultation process with the Commission and the Service, and the ability to tailor specific management actions based on prevailing and anticipated conditions. This flexibility is crucial to being able to

adapt management strategies to changing lake and shoreline conditions. It is significant that the new Plan has maintained the framework that allows for this adaptive management approach.

The Nebraska Game and Parks Commission appreciates the opportunity to review and comment on the Management Plan for Least Tern and Piping Plover Nesting on the Shore of Lake McConaughy. The NGPC looks forward to continuing to work with Central on the management of the endangered and threatened species through the provisions of the Plan. If you have questions concerning our comments or require additional information regarding our recommendations please feel free to contact myself at 402-471-5539 or Mike Fritz at 402-471-5419.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kirk Nelson".

Kirk Nelson  
Assistant Director  
Nebraska Game and Parks Commission

Cc: Martha Tacha, USFWS

VOLUME I

APPENDIX D

PLAN FOR REVIEWING FERC BOUNDARY

***THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT  
FERC PROJECT NO. 1417  
LICENSE ARTICLE 421***

***PLAN FOR REVIEWING FERC BOUNDARY***

**BACKGROUND**

The Central Nebraska Public Power and Irrigation District (Central or District) will undertake a review of the lands within and adjacent to the Project boundary as described below. The purposes of this review are (1) to assure that adequate lands are controlled to carry out Project operational functions, including public access to Project lands and waters for recreational purposes; and (2) to determine the extent to which the Project boundary could be changed to exclude lands used for residential or agricultural purposes without compromising Project operational needs. Based on the results of the review, if necessary, Central will propose changes in the Project boundary to the Federal Energy Regulatory Commission (FERC).

**REVIEW PROCESS**

Because of the large areas of land involved and the wide variety of uses and development patterns, Central will carry out its review of lands within and adjacent to the Project boundary in several phases, implemented sequentially. In the first phase, Central will examine Johnson Lake and Plum Creek Reservoir, the portion of its system with the greatest concentration of residential use. In the subsequent phases, Central will examine lands at Lake McConaughy, at Jeffrey Reservoir and Midway Lakes, and finally at the other canyon lakes and along the remainder of the Central Supply Canal.

All phases will use the following review process:

1. **Identifying Areas of Concern.**

Central will review aerial photographs of the entire area under review, using its Geographic Information System (GIS) to identify approximate locations of Project boundary. This initial assessment is to identify areas needing special attention in the subsequent steps of the review process. Areas identified through this initial screening

process will include those where it appears the distance between the Project boundary and Project waters may be too small to serve as a buffer, or larger than necessary for a buffer.

Central will also use this process to identify areas where erosion has occurred, areas where residential development has taken place within or adjacent to the Project boundary, agricultural areas within the Project boundary, and areas where significant use of the lands by members of the public occurs.

2. Surveying and Inspecting Areas Identified.

Central will carry out onsite inspections and surveys of all areas identified in Step 1 of this process. Based on the identification screening criteria described above, it is expected that the scope of the inspection and surveying stage in this process will vary from phase to phase. In the case of Johnson Lake, Central anticipates that the entire lake area within and bordering the Project boundary will be inspected and surveyed. At the other reservoirs, including Lake McConaughy and Jeffrey Reservoir, residential areas within and bordering the Project boundary, erosion areas and agricultural areas will all be inspected and surveyed, but are not expected to encompass all of Central's lands in these locations.

3. Identifying Lands Needed for District Operations

Using aerial photographs, and the results of the inspections and surveys, Central will identify the location of the shoreline at maximum normal operational water levels and at maximum emergency operational levels. Using these results, Central will identify lands needed for the District's operations including flowage, potential future erosion, and control of shoreline and access to Project lands and waters for public recreational and operational purposes. This Step of the process could yield the identification of lands that are needed for Project operations but are not currently within the Project boundary.

4. Assessing the Private Use of Lands to Identify Additional Lands Where Controls Are Needed to Protect District Operations

While Step 3 identified lands that can be directly impacted by District operations, this Step identifies additional lands that, because of their use, may need administrative controls in place to assure that they do not adversely impact operations, public recreation or other Project functions. Using the data collected in Step 2 of the review process, Central will examine the private residential use of lands within and adjacent to the Project boundary and agricultural use within the Project boundary.

This examination will consider the physical location and features of residential development (within and without the Project boundary) or agricultural use, along with the administrative controls governing activities that may impact Project lands and waters. It will assess the administrative controls in place for each area to prevent potential residential impacts on Project water quality (water and sewage treatment regulation), on access to Project lands and waters by the general public, on FERC and Central access to and control of lands needed for District operations, on shoreline management (access structures and facilities), and on Project aesthetics.

This Step of the process could yield the identification of lands where controls are needed but lands are not within the Project boundary. This Step of the process could also yield identification of lands within the current Project boundary that are not needed for District operations and where residential or agricultural use appears unlikely to affect District operations, public recreation, or other Project functions.

5. Developing Options for Modifying the Project Boundary and/or Administrative Controls on Lands

For each area identified in Step 3 or 4, Central will develop options for adding or reducing administrative controls, as appropriate. Such options could include removing an area from the Project boundary, adding an area to the Project, modifying reservoir-specific or area-specific guidelines for approving access or structures under the Shoreline Management Plan including requirements for setbacks, easements, structure locations,

and public access provisions, and revising the Shoreline Management Plan itself. If land not owned by Central is identified in Step 3 or 4, options to obtain necessary control may include purchase, leases, easements and management agreements.

In exploring each option, Central will identify not only the impacts on operations, public recreation and other District functions identified in Step 3 or 4, but also potential obligations to acquire or divest lands and the resultant impacts on property values, other financial impacts on cabin owners and on the District, whether otherwise similarly situated lessees should continue to be similarly treated, changes if any that might be needed in the county and state regulatory structures, and views obtained in informal discussions with potentially impacted adjacent landowners and Central lessees.

#### 6. Develop Proposed Actions

From the options explored in Step 5, Central will develop proposed actions as needed to address concerns related to each geographic area identified in Step 3 or 4. Tentatively identified proposed actions arising from each phase of the review process will be identified in annual progress reports. When the Project-wide review is complete, Central will provide to FERC a report on the review process describing each geographic area examined, and the actions proposed, if any. The report will include reasons why Central proposes that any residential areas remain within the Project boundary. Along with the report, Central will provide a petition to amend its license by changing the Project boundary to reflect any areas Central proposes to exclude from the Project boundary. Central will also provide for FERC approval a proposed implementation plan, including a proposed schedule, addressing proposed changes that involve changing administrative controls within the FERC boundary or adding lands to the FERC Project.

#### 7. Implementation of Proposed Actions

Until such time as FERC approves a petition to amend its license to exclude lands from the Project boundary, Central will continue to apply the administrative controls for Project lands set forth in its LSMP. Upon FERC approval, Central will carry out the implementation plan described in Step 7 with the understanding that any approved



schedule may be revised if the need arises to resolve issues in the Nebraska court system before approved actions can be carried out.

## SCHEDULE

Phase 1 Review -- Johnson Lake and Plum Creek Reservoir

Inspections and Surveys Completed -- Spring/Summer 2002

Proposed Actions Identified – Summer 2003

Phase 2 Review -- Lake McConaughy

Inspections and Surveys Completed – Spring 2004

Proposed Actions Identified – Summer 2005

Phase 3 Review -- Jeffrey Reservoir and Midway Lakes

Inspections and Surveys Completed – Spring 2005

Proposed Actions Identified – Summer 2006

Phase 4 Review -- Remainder of Canyon Lakes and Supply Canal

Inspections and Surveys Completed – Spring 2007

Proposed Actions Identified – Summer 2007

Report on Review Process Filed with FERC -- July 31, 2008

The schedule above may be revised if the need arises to address issues related to the reviews in the Nebraska court system.

## REPORTING

Central will provide to FERC an annual status report on progress under this plan by July 31 of each year beginning in 2002 until the final report is filed as described above.

**LSMP APPENDICES**

**VOLUME II**

*Central provides the information contained herein for informational purposes. Central does not seek FERC review and/or approval for this information*

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APPENDIX E

FERC MANDATED LICENSE RESPONSIBILITIES

***THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT  
FERC PROJECT NO. 1417***

**FERC MANDATED LICENSE RESPONSIBILITIES**

Central's FERC License contains provisions regarding Central's responsibilities for management of Project lands and waters. Key license articles, or key portions of license articles, related to management of Project lands and waters are provided below.

Article 3 provides in pertinent part:

Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Article 5 requires Central to:

Retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights or occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission.

Article 18 addresses availability of Project lands and waters for public recreation with this language:

So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and

waters for navigation and for outdoor recreational purposes, including fishing and hunting: Provided, That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

Article 21 reinforces the jurisdiction of FERC and the Corps over certain activities within the Project Boundary:

Material may be dredged or excavated from, or placed as fill in, project lands and/or waters only in the prosecution of work specifically authorized under the license; in the maintenance of the project; or after obtaining Commission approval, as appropriate. Any such material shall be removed and/or deposited in such manner as to reasonably preserve the environmental values of the project and so as not to interfere with traffic on land or water. Dredging and filling in navigable water of the United States shall also be done to the satisfaction of the District Engineer, Department of the Army, in charge of the locality.

Article 421 is the license article requiring the Land and Shoreline Management Plan

Article 421. Within twenty-four months of license issuance, the Licensee shall file for Commission approval a plan to manage the lands and shorelines of the project. The LSMP shall identify project lands and shorelines that are and will be reserved for present and future wildlife, public recreation, residential, agricultural and other uses. Any proposed change in the use of project lands from uses in existence at the time of license issuance shall be identified. To the extent project lands may be included in the lands managed pursuant to Articles 417 through 420, their use and management shall not be governed by the LSMP. Nothing in this article shall be construed to limit the Licensee from leasing lands and shorelines subject to management under the plan, provided, however, that the lessee's use of the land is consistent with the plan.

The LSMP shall include a plan addressing use of project lands and shorelines designated for public recreational use under the LSMP, and the recreational use of project waters. The recreational component of the LSMP shall include designation of project

lands and/or waters for campgrounds, recreational vehicles, fishing, hunting, boating and canoeing. The plan shall be consistent with wildlife protection measures required by this license.

The plan shall also include, at a minimum, an evaluation of the need for, and measures as appropriate to address: (a) protection of least tern and piping plover nesting sites at Lake McConaughy similar to programs existing at the time of license issuance, which include limited fencing to exclude livestock from nesting areas and public education efforts; (b) suitable protection of bald eagle perch and roost sites on project lands that were in existence at license issuance; (c) measures for controlling aquatic vegetation and sedimentation in project reservoirs, as appropriate.

The Licensee shall prepare the LSMP after consultation with the USFWS and the NGPC. The Licensee shall allow a minimum of 30 days for the consulted agencies to comment and make recommendations on the plans before filing them with the Commission. The Licensee shall include with its filings documentation of such consultation including copies of the comments and recommendations on the proposed plans during consultation. Further, the Licensee shall identify in its filings how the comments or recommendations are accommodated by the proposed plans. If the Licensee does not adopt a recommendation, the filing shall include the Licensee's reasons, based on project-specific information. The Commission reserves the right to require reasonable changes in the plans. Upon Commission approval, the Licensee shall implement the plans as approved by the Commission.

The Licensee shall file updated reports on the Lands and Shoreline Plan every five years after plan approval. Any change in the use of project lands and shorelines must be highlighted and summarized at the beginning of the update report.

The Licensee shall periodically reevaluate the tern and plover nest protection and bald eagle perch and roost site protection components of its plan in consultation with the USFWS and the NGPC in the same manner as the initial consultation. A report on such reevaluation and consultation, and any resultant revisions shall be filed with the

Commission every three years after initial plan approval. Any comments received from the consulted entities shall be documented and included with the filing.

Article 422 is the Standard Land Use Article

Article 422. (a) In accordance with the provisions of this article, the Licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain types of use and occupancy, without prior Commission approval. The Licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the Licensee shall also have continuing responsibility to supervise and control the use and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the Licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the Licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, canceling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The type of use and occupancy of project lands and water for which the Licensee may grant permission without prior Commission approval are:

1. landscape plantings,
2. non-commercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 watercraft at a time and where said facility is intended to serve single-family type dwellings,
3. embankments, bulkhead, retaining walls, or similar structures for erosion control to protect the existing shoreline, and
4. food plots and other wildlife enhancement.

To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the Licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The Licensee shall also ensure, to the satisfaction of the Commission's authorized representative that the use and occupancies for which it grants permission are maintained in good repair and comply with applicable state and local health and safety requirements.

Before granting permission for construction of bulkheads or retaining walls, the Licensee shall:

1. inspect the site of the proposed construction,
2. consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and
3. determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline.

To implement this paragraph (b), the Licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of reasonable fee to cover the Licensee's costs of administering the permit program. The Commission reserves the right to require the Licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

(c) The Licensee may convey easements or rights-of-way across, or leases of, project lands for:

1. replacement, expansion, realignment, or maintenance of bridges or roads where all necessary state and federal approvals have been obtained,
2. storm drains and water mains,
3. sewers that do not discharge into project waters,
4. minor access roads,
5. telephone, gas, and electric utility distribution lines,
6. non-project overhead electric transmission lines that do not require erection of support structures within the project boundary,
7. submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less), and
8. water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir.



No later than January 31 of each year, the Licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.

(d) The Licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for:

1. construction of new bridges or roads for which all necessary state and federal approvals have been obtained,
2. sewer or effluent lines that discharge into project waters, for which all necessary federal and state water quality certification or permits have been obtained,
3. other pipelines that cross project lands or waters but do not discharge into project waters,
4. non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary federal and state approvals have been obtained,
5. private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile (measured over project waters) from any other private or public marina,
6. recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E, and
7. other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from project waters at normal surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d) (7) in any calendar year.

At least 60 days before conveying any interest in project lands under this paragraph (d), the Licensee must submit a letter to the Director, Office of Hydropower Licensing, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked exhibit G or K map may be used), the nature of the proposed use, the identity of any federal or state agency official consulted, and any federal or state approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the Licensee to file an application for prior approval, the Licensee may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraph (c) or (d) of this article:

1. Before conveying the interest, the Licensee shall consult with federal and state fish and wildlife or recreation agencies, as appropriate, and the SHPO.
2. Before conveying the interest, the Licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved exhibit R or approved report on recreational resources of an exhibit E; or, if the project does not have an approved exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.
3. The instrument of conveyance must include the following covenants running with the land: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project; and (iii) the grantee shall not unduly restrict public access to project waters.
4. The Commission reserves the right to require the Licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised exhibit G or K drawings would be filed for approval for other purposes.

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APPENDIX F

DETAILED PHYSICAL DESCRIPTION OF PROJECT RESERVOIRS AND LANDS

***THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT  
FERC PROJECT NO. 1417***

***PHYSICAL DESCRIPTION OF PROJECT LANDS AND WATERS***

This Appendix F provides a detailed description of Project lands and waters. This Appendix F may be modified from time to time as may be appropriate to reflect changes in Project lands and waters.

***LAKE MCCONAUGHY***

Lake McConaughy, 21 miles long and up to 4 miles wide, is the largest of the lakes in the Project, with 30,500 surface acres and 76 miles of shoreline. (For comparison, Johnson Lake, the largest lake on the canal system, has 2,500 surface acres.) The Lake McConaughy area includes the most diverse physical terrain and land and recreation uses. (See Land and Shoreline Management Classification Map 1 in LSMP Appendix A.)

The western portion of Lake McConaughy is shallow, with the North Platte River moving in winding streams through a vast wetland area. The lake reaches its maximum depth of 135 feet near the control structure of Central's Project. The dam is three miles long and forms the eastern border of the lake. The east-west orientation of the lake, with wetlands on the west and the dam to the east, has focused development, lake access, and recreation areas to occur along the north and south shores.

Grassy sandhills dominate the north shore of Lake McConaughy. The grasses that cover the sand hills hold much of the sand in place. Fine white sand beaches are present along the shorelines. Cottonwood trees line sandy beach pockets along the shoreline. High steep clay bluffs border approximately five miles of the south shoreline, beginning at the dam. Wind and waves sculpted the bluffs into steep cliffs with unusual formations. As the bluffs gradually decrease in height, terrain becomes similar to that of the north shore, with sandy grassland, rocky outcrops, and occasional sand beaches

Lake McConaughy supports diverse land uses along the shoreline, including residential development, fully developed campgrounds, primitive camping, commercial marinas, and a wildlife management area, as shown on Management Classification Map 1 in LSMP Appendix A. One of the distinctive features of the north side of the lake is the railroad tracks that run parallel to the entire north shoreline of the lake. Road access to the north shore is via Highway 92, which also runs parallel to the lake, but the railroad tracks limit direct road access. Central's Right of Way generally extends to the railroad right-of-way, except in a few areas. There are private residential subdivisions in these areas. Three small cabin-lease areas lie within the Project Boundary on the north side of the lake. One is located adjacent to the wildlife management area on the west end of the lake, the second is near the middle of the lake, and the third occurs in the cove closest to the dam. The only other leased residential site within Central's Right of Way is located near the dam on the south side of the lake.

Central leases the remainder of its property around the lake to the NGPC. The NGPC manages these lands either for public recreation or for wildlife management. The recreation areas managed by NGPC on the north shore range from primitive camping sites with no amenities to fully developed campgrounds with paved camper pads, electric and water hook-ups, restroom/shower buildings with hot water, and facilities accessible to the disabled. On the south shore, there is a narrow band of land between the shoreline and Central's Right of Way. There is limited road access via Highway 26, which lies anywhere from two to five miles from the shoreline. Because of the narrow strip of available land and the lack of road access, NGPC provides fewer recreation facilities on the south shore of the lake.

NGPC subleases parcels of its leased recreation land to private concessions that operate public recreation-related businesses around the lake. There are five concessions on the lake: three on the north shore, and two the south shore.

The Project Works classification area at the eastern end of the lake, includes Kingsley Dam, the powerhouse, offices, maintenance buildings, emergency spillway and other structures necessary for Central's operations. Housing for Central employees is also

located in this area. Central leases concession space in its office building providing restaurant and meeting facilities.

### ***LAKE OGALLALA***

Lake Ogallala lies below Kingsley Dam. It was created when sand was pumped from the riverbed to form the downstream side of the Dam, (see Management Classification Map 2 in LSMP Appendix A). It covers 650 surface acres and has approximately four miles of shoreline within Central's Project boundary. Only the "western half" of the lake is within the Project. The eastern arm of the lake is part of the Nebraska Public Power District's FERC Project 1835. Because cold water drawn from the bottom of Lake McConaughy feeds Lake Ogallala, the lake has the reputation of being one of the finest trout fishing sites in Nebraska.

Central classifies the majority of the Lake Ogallala shoreline as Resource Protection. Central leases the remainder of its property to NGPC. An eagle-viewing center constructed by Central, just east of the Kingsley Hydroelectric plant, is a popular attraction from mid-December through February, since large numbers of bald eagles come to feed on fish in the open water flowing through the Kingsley generating facilities. A point of land extending into the lake on the eastern shore contains a small grove of trees used by bald eagles for perching and roosting. The area across from the point is a mature wetland. NGPC maintains the area and has added a fishing pier accessible to the disabled and a bridge at the north end of the lake, along with camping facilities and public boat ramps.

### ***THE SUPPLY CANAL SYSTEM***

Central's Diversion Dam is located below the confluence of the North Platte and South Platte Rivers and east of the town of North Platte in Lincoln County, approximately 50 miles downstream of Lake McConaughy. The Diversion Dam diverts Platte River flow into the 75-mile long Supply Canal, which flows east through Lincoln, Dawson, and Gosper Counties providing surface water irrigation to Lincoln, Dawson, Gosper, Phelps, and Kearney Counties. The Supply Canal incorporates 27 dams and impoundments and

three 18-Megawatt hydroelectric power plants (Jeffrey, Johnson No. 1, and Johnson No. 2). The Supply Canal is monitored and repaired as needed throughout the system.

Central allows public access to the banks and waters of the Supply Canal system for fishing and wakeless boating. Bridges cross the Supply Canal; several are associated with county and state roads, and the others provide access for landowners on both sides of the canal or to Central's canal maintenance road.

### **Lincoln County**

There are nine lakes on this stretch of canal between the diversion dam and Jeffrey Reservoir. The lakes differ only in size and accessibility. This part of the Plan will focus only on those lakes with surface areas greater than 20 acres and which are publicly accessible by land. Land-based activities such as nature photography, hiking, hunting, and picnicking are more common due to the size and steep slopes of the banks.

**Boxelder Canyon Lake** has 22 surface acres, with adjacent road access. (See Management Classification Map 3 in LSMP Appendix A) Except for the area adjacent to the road access, steep banks surround the remainder of the lake. Central has leased lands adjacent to the lake and inside the Project boundary to the NGPC for a wildlife management area.

**Cottonwood Canyon Lake** has 33 surface acres and direct road access from Highway S56A (see Management Classification Map 4 in LSMP Appendix A). Central provides one gravel public-access boat ramp at the lake. There are two agricultural leases within Central's Project boundary in this area.

**Snell Canyon Lake** has 53 surface acres (see Management Classification Map 6 in LSMP Appendix A). This lake is long and narrow, and the steep banks forming the shoreline make access difficult.

**Jeffrey Reservoir**, with 575 surface acres and 25 miles of shoreline, is the westernmost impoundment along the Supply Canal in Lincoln County with residential development (see Management Classification Map 8 in LSMP Appendix A). This reservoir is long, with numerous fingers and steep hillsides rising from the shoreline. The northern end of the reservoir has been subject to deposition from the eroded shorelines, as well as sedimentation from the Supply Canal as the water slows upon entering this lake.

The Project Works area, on the north end of the lake, incorporates the dam and powerhouse area, a permanent boat dock facility, several small residences and lodge Central uses for conferences and meetings. South of this area, the NGPC leases an area of shoreline that has a boat ramp, a pit toilet, and primitive camping. The remainder of the shoreline land use around the shore is either residential or undeveloped.

Jeffrey Reservoir's residential development is located at the northwest corner adjacent to the dam and along much of the southeastern shore. This area is accessible by Highway L56D and county roads. The shoreline on the west is almost inaccessible due to steep bluffs rising from the shoreline and lack of roads.

## **Dawson County**

Dams built across the north ends of the canyons created the series of canyon lakes in Dawson County. These lakes vary in size, accessibility, and facilities. While there are ten lakes on this stretch of canal, this report will focus on Hiles Canyon Lake, the Midway Lakes, and Gallagher Canyon Lake. The smaller lakes in this chain have no facilities. As with most of the lands and waters within Central's Right of Way, these lakes are open for public recreational use, although access may be only on foot or by canoe.

**Hiles Canyon Lake** has 19 surface areas and is easily accessible by Hwy 47, which parallels this long, narrow lake (see Management Classification Map 9 in LSMP Appendix A).



**The Midway Lakes** may be considered six lakes, although only West Midway Lake, Central Midway Lake and East Midway Lake are labeled on Management Classification Maps 10 & 11 in LSMP Appendix A. (Central, Recreation Resources and Facilities, 1991).

West Midway Lake, with 116 surface acres, is very shallow and used mostly for hunting, fishing, and more passive types of recreation. Access to this property is limited, as the only unimproved road, access is through private property.

Central Midway is the largest of these lakes, with 341 surface acres and convenient road access to several sections of the lake. There are two leased residential developments inside the Project boundary. The adjacent property owner leases some trailers on the private property near the northwest corner of the lake. Recently, individual homes have been built near the shore on private land that abuts Central's Right of Way.

East Midway Lake, as shown on Management Classification Map 11 in LSMP Appendix A, appears as two lakes connected by a short span of canal. The western lake is approximately 82 surface acres, and the smaller, adjacent lake contains 22 surface acres. The western lake has one small area of leased residential cabins that are located within the Project boundary on the north edge of the lake. The high steep slopes of the lakeside areas constrain development.

**Gallagher Canyon Lake** has 182 surface acres of water and 15 miles of jagged shoreline, including one mile-long arm (see Management Classification Map 12 in LSMP Appendix A). The NGPC has leased land within Central's Project boundary for recreational access. This area is forested with evergreen and cottonwood trees and features primitive camping sites, a boat ramp, grills, toilets, and playground equipment. Fishing and canoeing are popular activities. Even though the lake is fairly large, due to its shallow water and narrow channels it is designated for wakeless boating only.

**Plum Creek Canyon Lake** has 252 surface acres, and while it has steep banks, they are not as high as those found on the Midway Lakes (see Management Classification Map 13 in LSMP Appendix A). Popular with water skiers, Plum Creek provides diverse water-related recreational opportunities for the general public.

The NGPC leases a small wildlife management area on the south shore and provides a boat ramp. Residential homes are scattered around the reservoir. Homes occur on private property and on Central owned lands, both within and outside the Project boundary. Central permits boating access for the leased homes. Homes on adjacent property of Plum Creek Canyon Lake are allowed water access subject to the Permitting Procedures. In many cases, property owners have constructed boathouses, boat docks, and/or steps down the banks to the water.

**Johnson Lake** is the largest lake along the Supply Canal, with 2,500 surface acres, and it is the only lake in the system that lies within two counties (see Management Classification Map 14 in LSMP Appendix A). The northern half of Johnson Lake is located in Dawson County, while the southern half of the lake and the canal are located in Gosper County.

Due to its location near Interstate 80, and its proximity to larger towns, such as Lexington, Cozad, Gothenburg, Holdrege, and Kearney, Johnson Lake has experienced intense residential development and has been "built out" for the past couple of decades. While the majority of residential homes around the lake are located on land leased from Central. There are three areas in the northwestern portion of the lake where homes occupy private property outside Central's Right of Way. Overall, residential development occupies the majority of the land adjacent to the Lake.

The NGPC leases two recreation areas from Central on Johnson Lake. Anglers and boaters use the NGPC recreation area on the western inlet canal heavily for fishing and boat access. The site includes handicapped fishing access. One side

of the inlet has improved campsites and restrooms, while the other side provides primitive camping. The second NGPC recreation site is located in the southeast end of the lake. This site has an extensive campground with excellent facilities, including restrooms and shower buildings, electric hook-ups, and access to the facilities for the handicapped. A swimming beach is near the campground at the southeast end of the lake, and is marked off with buoys during the summer months. Six recreation concessions on the Lake all have leases with Central. They include full service marinas, watercraft rentals, camping, gas, cabin rentals, R. V. hookups, and restaurant services.

Central designates the remaining areas around the lake as Project Works. The Project Works areas include the dam on the south end of the lake, and the canal channels on the east and west sides of the Lake. The Johnson Hydro 1 Powerhouse is located in the outlet canal to the east of the Lake. A golf course leases land within the Project boundary on the downstream side of the dam. Agricultural leases, a meeting facility lease, emergency medical services lease and an airstrip lease, for an agricultural spraying service, are also within the Project boundary.

Central has applied the RPC to one area on Johnson Lake and to part of the outlet canal area near Johnson Lake because of use by bald eagles and migratory waterfowl. The first site is the island in the southwestern portion of the lake, which has a few trees surrounded by shallow water. The second site is below the J-1 powerhouse east of the Johnson Lake outlet.

## **Gosper County**

The Phillips and Little Knapple Lakes are small canyon lakes in Gosper County created by dams at the northern ends of the canyons (see Management Classification Maps 15-17 in LSMP Appendix A). This area of the canal system is predominantly used for hunting, fishing and other land and water-based recreational activities.

**Phillips Lake** is located just a short distance east of Johnson Lake below the J-1 powerhouse and is relatively small, with 32 surface acres (see Management Classification Map 15 in LSMP Appendix A).

**East Phillips Lake** has a surface area of 142 acres, with three long arms that reach south, away from the main body of the lake (see Management Classification Map 16 in LSMP Appendix A). The NGPC has leased land within Central's Right of Way at this lake for public access. This 13-acre public access site provides a boat ramp, primitive camping sites, and water for use by visitors.

**Little Knapple Lake**, the small water body above the J-2 powerhouse is the last lake inside the Project boundary before the Supply Canal returns to the Platte River (see Management Classification Map 17 in LSMP Appendix A).

VOLUME II

APPENDIX G

DETAILED DESCRIPTION OF PROJECT RECREATIONAL OPPORTUNITIES

***THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT  
FERC PROJECT NO. 1417***

***DETAILED DESCRIPTION OF PROJECT RECREATIONAL OPPORTUNITIES***

This Appendix G provides a detailed description of current recreational opportunities and uses associated with the Project. This Appendix G may be modified from time to time as may be appropriate to reflect changes in recreational opportunities and uses.

***INTRODUCTION***

This Detailed Description of Project Recreational Opportunities documents currently existing recreational development and opportunities at each of the lakes, and on the canal system at Central's Kingsley Dam Hydro Power Project, FERC Project No. 1417 (Project). Some information presented here may be redundant of other sections of the LSMP. In particular, physical descriptions of the lakes and canal system may be redundant of information contained in Appendix F (Detailed Physical Description of Project Lands and Waters).

As a general policy, Central considers all of its shorelines adjacent to the lakes and canal system open to public access, unless an operational safety concern, natural hazard, or environmental protection issue requires access restrictions. Central has leased much of the land within the FERC Project boundary and adjacent to the lakes to the NGPC, for use as State Recreation Areas (SRA's) or Wildlife Management Areas (WMA's). As a result, the majority of existing public park camping, and water access facilities on the lakes are managed by the NGPC, pursuant to the terms of their leases with Central. Concessionaires providing public marina type and related recreation facilities on Lake McConaughy sublease these sites from the NGPC. On Johnson Lake, concessionaires lease the sites inside the FERC Project boundary directly from Central. Presently (2009) no concessions have been authorized on other Project lakes. Central also leases Project lands for agricultural uses when doing so is compatible with Project operations and with Central's public recreation objectives.

The residential homes and seasonal cabins that exist in proximity to the lakeshores are located on private property or on land leased from Central. These leased sites within Central's Right of Way are both within and outside the Project boundary. Central Recreation Facilities and

Activities found in Tables G-1 and G-2 at the end of this section illustrate significant existing recreational facilities, such as boat ramps, boating, recreational vehicles, fishing, hunting, canoeing, campgrounds, picnic areas, and concessions supporting public recreation needs.

### Lake McConaughy

Lake McConaughy, the largest reservoir in the system, provides the most diverse public recreation opportunities within the Project area, and is one of Nebraska's most popular recreation attractions, according to the Nebraska Division of Travel and Tourism. The lake, and the surrounding shoreline and lands, are used for a wide variety of recreational pursuits.

The lake is the site of the annual Governor's Cup Sailboat Regatta, nationally sanctioned powerboat races have been held on its waters, air shows have occupied the sky above the lake, and marathons have been run on the land around the lake. "Women's Sports and Fitness" magazine rated Lake McConaughy as one of 10 world-class sail boarding destinations, including sites in California, Florida, the Caribbean and Italy. During the winter months, outdoor-recreation enthusiasts enjoy iceboat wind sailing, as well as ice-skating and ice fishing. These diverse recreational opportunities, combined with the media recognition, contribute to the fact that this lake, located in a relatively sparsely populated area of Nebraska, is so well known. Although the closest major metropolitan area, Denver, is 200 miles away, the lake is very popular with people from that locale. According to NGPC staff, Lake McConaughy can provide recreational opportunity for over 532,000 visitor days in a year.

Lake McConaughy is 21 miles long and up to 4 miles wide, with 30,500 surface acres and 76 miles of shoreline. The western portion of Lake McConaughy is shallow, with the North Platte River winding through a vast wetland area. The lake reaches its maximum depth of 135 feet near the control structure of Central's project. The Dam is three miles long and forms the eastern border of the lake.

The north shore of Lake McConaughy is dominated by grassy sand hills, but the absence of grass on sections of the lakeshore exposes fine white sand beaches, ideal for

recreational activities. High steep clay bluffs border approximately five miles of the south shore of the lake, beginning at the Dam. The bluffs gradually decrease in height; terrain becomes similar to that of the north shore, with sandy grassland, rocky outcrops, and sand beaches. The east-west orientation of the lake, with wetlands on the west and the Dam to the east, focuses development and lake access and recreation areas to occur along the north and south shores.

### Recreation Opportunities

Lake McConaughy provides diverse recreation uses and opportunities along the shoreline, including residential development, fully developed campgrounds and recreation areas, primitive camping areas, and commercial marinas, as detailed on Table G-1 Lake McConaughy Recreation Facilities.

All of Central's land within the FERC Project boundary surrounding Lake McConaughy, as well as some areas outside the FERC Project boundary, with the exception of the Dam area and four residential lease areas, are leased to NGPC either for public recreation or wildlife management purposes. NGPC subleases parcels of its leased recreation land to private concessionaires who operate recreation-related businesses around the lake. There are five concessionaires on the lake: three on the north shore, the fourth on the south end of the Dam, and the fifth in the middle of the south shore.

Lake McConaughy provides excellent fishing and boating, as well as other water-based activities, including hunting, sail boating, windsurfing, swimming, picnicking, ice-boating, water-skiing, SCUBA diving, spear fishing, bird watching, camping, sand volleyball, primitive camping, developed camping, power boating, jet skiing, ice skating, cross country skiing, and snowmobiling.

Fishing opportunities exist throughout the year. Game fish available in the lake include rainbow trout, channel catfish, walleye, northern pike, white bass, smallmouth bass, and tiger muskie. A few large striped bass still remain in the lake from stocking in the 1970s and 1980s. Recent stocking of wipers, a white



bass/striped bass hybrid, has provided anglers with memorable tackle-testing challenges. Fishing tournaments are frequently held at the lake, and SCUBA divers search the waters for trophy fish in the Nebraska State Spearfishing Championships.

A variety of game animals are drawn to the Clear Creek WMA by the plentiful food and ample cover. These, in turn, draw hunters, birdwatchers, nature photographers and hikers to the management area. A portion of the WMA is managed for public hunting and other activities, while the rest is managed as a refuge with restricted public access. Game animals include white-tailed and mule deer, wild turkey, ducks, geese, pheasant, quail, prairie chicken, grouse, songbirds, eagles, hawks, rabbits, antelope, and squirrels. Additional bird watching opportunities exist during the spring and fall migrations, with white pelicans and sandhill cranes, and an occasional whooping crane has been recorded.

While much of the shore of Lake McConaughy is undeveloped, there are several developed recreation areas and numerous private concessionaires. The recreation areas along the north shore, the south shore, and the leased cabin areas are discussed briefly in the following sections of this report. A summary of existing recreation facilities is provided in Table H-1.

### *The North Shore*

The following recreation areas and facilities are located, moving from west to east, along the north shoreline of Lake McConaughy.

**Omaha Beach** – An NGPC public recreation area, Omaha Beach has picnic facilities, primitive campsites, trash receptacles, and a boat ramp. Drinking water and toilet facilities are also available. The Marina Landing concession, located on private land just east of Omaha Beach, offers hunting, fishing, camping, and boating supplies, as well as groceries, gas, state hunting and fishing permits, a motel, a self serve laundry, guide service, and a restaurant.

**Cedar Vue** – This NGPC public campground facility is designed for campers who don't want to "rough it." The campground provides diverse amenities, including all-weather camping pads, electrical hookups, a shower-latrine building, two low-water boat ramps, a sandy beach, an observation point, two playgrounds, drinking water, a pay telephone, grills, picnic tables, fish-cleaning station, trash receptacles, a trailer dump station, blacktop roads, and this area is handicap accessible.

**Otter Creek** – This NGPC public recreation area is sometimes referred to as "the fisherman's headquarters," the NGPC Otter Creek recreation area has one boat ramp, in a sheltered cove, which facilitates mooring near primitive campsites. This camping area also offers picnic tables, a fish-cleaning station, primitive toilets, trash receptacles, a cookout area and hiking trails.

The Otter Creek Lodge, adjacent to the recreation area, owns and operates rental cabins and trailers, a mobile home park, in addition to retail fishing and camping supplies, gas, and groceries. The Lodge also offers dining facilities, a guide service and boat launching services.

**Spring Park** – The NGPC Spring Park is a rustic campground providing picnic tables, grills and playground equipment within a stand of mature cottonwood trees. The facilities also include a boat ramp and an observation point.

**Admiral's Cove** – This NGPC public recreation area provides primitive camping and picnic facilities. The Admiral's Cove concession offers cabin, jet ski rentals, camping supplies, permits, gas, groceries, a restaurant, boat launching, boat slip rental and other marina-related items.

**North Shore** – This NGPC recreation area offers a primitive campground, a small area with picnic tables, RV parking, grills, and a boat ramp. The adjacent concessionaire, North Shore Lodge, offers overnight lodging facilities, fishing and camping supplies, a marina, cabin rentals, boat launching, gas, groceries, a trailer

park, R.V. pads with full camper hook-ups, showers, trash receptacles, and a restaurant.

**Sandy Beach** – This appropriately named NGPC public recreation area is popular for swimming. It also serves as a sailboat launching, wind surfing, and camping on the beach is permitted. The west area features picnic tables and primitive campsites. NGPC has recently improved the east area with the addition of new facilities and paved roads.

**Arthur Bay** – This NGPC public recreation area and offers paved roads and a sandy beach. Facilities are varied, with both primitive or developed campsites and showers and flush toilets or primitive toilets available. Additional amenities in this area include trash receptacles, a pay phone, an information area, picnic tables and the area includes handicap facilities.

**Little Thunder Bay** – This NGPC public campground area provides paved roads and camping pads, recreational vehicle hook-ups, showers, flush toilets and handicap accessible facilities.

**Martin Bay** – Located next to the Dam is one of the most heavily used NGPC public recreation areas on Lake McConaughy. It offers a wide array of facilities and services that are popular with anglers, pleasure boaters, water skiers, sailors, wind surfers, jet skiers, and swimmers. In the winter months, this location offers ice fishing and ice skating. This area is handicap accessible. These recently improved facilities include: paved roads, low-water boat ramp, sandy beach, sanitary disposal station, ample tree shade, playgrounds, picnic tables, improved campsites, fish-cleaning stations, and flush toilets and showers.

### *The South Shore*

Moving from east to west, the following recreation areas and facilities are located along the south shoreline of Lake McConaughy.

**Kingsley Lodge** – This NGPC recreation area is located off Highway 61 at the south-end of Kingsley Dam that looks out over the lake and offers cabin and boat rentals, camping and fishing supplies, groceries, mobile home park and gasoline. An additional nearby concession is the Hilltop Inn, a restaurant and lounge providing a panoramic view of the lake.

**Spillway Bay** – Located at the southeastern corner of the lake, this NGPC public recreation area serves anglers interested in fishing the area near the Dam and the rocky points off the south shore. It features two low-water boat ramps, block-and-tackle equipment for sailboat masts, toilet facilities, picnic tables and a floating pump-out station for boats. The NGPC Visitor & Water Interpretive Center is located south of Spillway Bay and offers information on the Lake and region, gift shop, educational displays, conference room, theater, sells park entry permits and hunting and fishing licenses. Central donated its (non-Project) land to the NGPC for this purpose.

**Divers Bay and Million Dollar Bay** – These two bays provide sheltered coves where nearby residents store their boats. Million Dollar Bay has a variety of individual and cluster docks, covered slips, as well as boats moored off shore.

**Ogallala Beach** – This access area includes a primitive campground, toilets, water, picnic tables and a sandy beach.

**Van's Lakeview Fishing Camp** – This NGPC recreation area is currently the only lakeside concession on the south side of Lake McConaughy. Van's offers boat and cabin rentals, trailer camp sites with electrical and water hookups, primitive campground, play ground, picnic tables, food, convenience store, a shower house with toilets, boat ramp and boat launching services, gasoline, drinking water and a sanitary dump station.

**Eagle Gulch Cove** – This NGPC public recreation area provides primitive camping, picnic tables, water, and a boat ramp. Hunters and fishermen seeking a more remote area of the lake frequent this area. A nearby concession on private

land offers food, groceries, modern and primitive campgrounds, RV pads with electrical hookups, cabin rentals and fishing supplies.

### Leased Cabin Areas

Central has entered into a master lease with the Lake McConaughy Lessees, Inc. (LMLI) for the purpose of managing and subleasing four cabin areas on the lake. Three relatively small cabin areas (K-2, K-3 and K-4) are located along the length of the north shore, near the east, middle and west ends of the lakes. The fourth cabin area (K-1) is fairly large, and is located on the bluffs of the south shore, near the Dam. K-1 has private docks and boat stalls along the shoreline. Designated as "Private Cabin Areas K1, K2, K3, and K4," these areas contain a total of 125 permanent residences and summer vacation cabins.

## **LAKE OGALLALA**

Lake Ogallala lies below Kingsley Dam and was created when sand was pumped from the riverbed to form the downstream side of the Dam (See Management Classification Map 2 in LSMP Appendix A). The lake is relatively shallow, covers 650 surface acres at full capacity and has approximately four miles of shoreline within Central's Project boundary.<sup>11</sup> With the exception of the Project Works shoreline classification areas that are restricted for safety reasons, the entire shoreline is open for public recreational access. The NGPC leases all of the shoreline within Central's FERC Project for recreation or wildlife management, except for the Project Works area.

### Recreation Opportunities

The NGPC has developed and manages recreation facilities in the vicinity for camping, picnicking, and fishing, including two campgrounds near the lake. The east-side campground is highly developed and offers 82 all-weather camping pads, 18 electrical hookups, flush toilets, hot showers, and fire grates. Picnic tables, water faucets, and trash receptacles are available throughout the site. There are also campsites and

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<sup>11</sup> Only the "north-south" or the "western half" of the lake is within the Project. The eastern arm of the lake is part of the Nebraska Public Power District's FERC Project 1835.

restrooms with showers that have been designed and built with handicap accessible facilities. There is also a 1.8 mile hiking trail. NGPC has added a handicap-accessible fishing dock and a short bridge across the cove at the north end of the lake. The west side of the lake offers camping and boating access facilities, including two boat ramps, fish-cleaning stations, primitive camping facilities, toilet facilities, trash receptacles, and playground equipment.

Central constructed a multi-purpose structure and eagle viewing facility on the west side of the Lake near the Project Works classification area in 1998. The continuously flowing water from Lake McConaughy keeps the portion of Lake Ogallala immediately below this plant open in the winter, providing prime fishing opportunities for numerous bald eagles and other bird species. The viewing facility is free to the public and offers an up-close view of eagles, coyotes, ducks, geese, deer, turkeys and other wildlife. Picnic tables and restroom facilities are also located at the site.

The cold water, drawn from the bottom of Lake McConaughy, flowing into Lake Ogallala creates an ideal habitat for trout, and as a result the lake is a popular fishing venue. NGPC regularly stocks trout in Lake Ogallala because there is no natural reproduction. Lake Ogallala has also been designated as a wakeless boating lake. The lake also supports sport fish species such as yellow perch, channel catfish, white bass, and walleye. During the winter the lake becomes a popular site for ice fishing. Waterfowl hunting is also an attraction at Lake Ogallala.

## *THE SUPPLY CANAL SYSTEM*

Central's 75-mile-long Supply Canal system flows east through the Platte River Valley and canyonland country. The canal's Diversion Dam is on the Platte River below the confluence of the North Platte and South Platte Rivers and east of the town of North Platte in Lincoln County, approximately 50 miles downstream of Central's Lake McConaughy. The Diversion Dam diverts Platte River flow into the 75-mile long Central Supply Canal, which flows east through Lincoln, Dawson, and Gosper Counties and then empties back into the Platte River. The Supply Canal incorporates 27 dams and impoundments and three 18-Megawatt hydroelectric power plants (Jeffrey, Johnson No. 1, and Johnson No. 2).

Central's Supply Canal system is generally open to the public recreational access, with the exception of Project Works classification areas where safety concerns are a priority. Fishing is the most popular activity on the canal. The canal system has been designated as a wakeless boating area, with boat speed not to exceed 5 mph. Recreation uses include fishing, hiking, boating, nature photography, hunting, picnicking and canoeing on the canal.

### Recreation Opportunities

The majority of the lakes throughout the Supply Canal system are canyon lakes. The canyon lakes support diverse recreational activities, such as fishing and boating. However, land-based activities such as nature photography, hiking, hunting, and picnicking are more common due to the steep banks. Central allows public access to the banks and waters of the Supply Canal system for fishing and boating within the confines of the wakeless boating designation; however, many areas of the Supply Canal have steep banks that are susceptible to erosion. These areas will be monitored to determine if fishing or related shoreline activity is causing additional erosion or slumping. If problems are apparent, Central will consult with interested agencies to identify reasonable and effective site-specific options to address the issue.

All of the shoreline and waters of this canyon lake are open for public recreational access, except where access is limited for Project Works areas, safety, environmental or other reasons. NGPC leases one small area as a WMA. The WMA contains the only

public boat ramp on Jeffrey Reservoir, primitive campsite, and a pit toilet. The remainder of the land around the shore is residential, agricultural or open space. Table H-2 depicts specific recreation facilities and uses by lake.

### The Supply Canal System - Lincoln County

Within Lincoln County, the Supply Canal originates in the flat Platte Valley bottomland, and crops are often planted adjacent to the canal and Central's Right of Way. As the canal flows between the loess hills south of the Platte River, deep canyons and steep banks characterize the land. When the Project was originally constructed, dams were often built across the north ends of the canyons, creating the canyon lakes.

### Recreation Opportunities

A variety of recreational activities are available at these lakes, but they are generally land-based, due to the steep banks around the lakes. Dove and waterfowl hunting are among the most popular activities, with picnicking, hiking, fishing and nature photography also occurring in the area.

### Jeffrey Reservoir

Jeffrey Reservoir is a canyon lake with 575 surface acres and 25 miles of shoreline, and is the westernmost impoundment along the Supply Canal with shoreline residential development. (See Management Classification Map 8 in LSMP Appendix A.) Residential development is located on the north side of Jeffrey Reservoir at the west end of the dam, and along much of the eastern shore. Most of these cabins and homes are located within Central's Project boundary.

The dam and Central's operations area on the north end of the lake incorporate a powerhouse, a permanent boat dock facility, four small residences and a lodge that Central uses for conferences and meetings.

The west side of Jeffrey Reservoir is almost inaccessible due to steep bluffs rising from the shoreline and the lack of roads. However, waterfowl hunting is very popular in this area, and private waterfowl blinds on the west edge of the lake take advantage of the



large numbers of migratory birds that frequent the lake in the fall. Other recreational activities supported by Jeffrey Reservoir include fishing for white bass, walleye, channel catfish, and crappie, as well as primitive camping, picnicking, canoeing, boating, hiking, and hunting. Water skiing, power boating and jet skiing are also popular on Jeffrey Reservoir.

### Midway Lakes

West Midway Lake, 116 surface acres, is used primarily for hunting and fishing because it is very shallow. Access to the lake is limited, as the only access is by unimproved road through private property.

Central Midway Lake is large, with 341 surface acres, and convenient road access to several sections of the lake. These waters are used for fishing, boating, water skiing, waterfowl hunting and other recreational pursuits. There are two residential developments inside Central's Project boundary. Central has leased these to the Midway Wildlife and Recreation Club on the express condition that the Project lands and waters remain open to public use.

Camp Comeca (Camp) is a Methodist conference center that occupies private land near the east side of Central Midway Lake. The Camp has several buildings, including a new hotel-style building, large gymnasium, indoor swimming pool, large dining hall, chapel and other structures and outbuildings. While the Camp does not have direct access to the lake, visitors to the camp frequently use the lake as part of the Camp activities and programs.

East Midway Lake consists of two lakes connected by a short span of canal. The western lake is approximately 82 surface acres, while the smaller adjacent lake contains 22 surface acres. These waters are used for fishing, boating, water skiing, waterfowl hunting and other recreational pursuits. One small area of leased cabins is located within Central's Project boundary on the north edge of the western lake.

### Gallagher Canyon Lake

Gallagher Canyon Lake has 182 surface acres of water, has 15 miles of jagged shoreline, including one mile-long arm. (See Management Classification Map 12 in LSMP Appendix A.) The NGPC has leased land within Central's Project boundary, on the north boundary of the lake, for an SRA. This public park area is forested with evergreen and cottonwood trees and has primitive camping sites, a boat ramp, grills, toilets, and playground equipment. (See Table G-2 Central Recreation Facilities and Activities.)

Even though the lake is a fairly large, due to its shallow water and narrow channel it is designated for wakeless boating only. For that reason, most of the water recreation involves fishing, canoeing and swimming. Hunting, snowmobiling and cross-country skiing are also popular activities. There are numerous hiking trails in the area. In the winter, the area and its many trails are popular with snowmobile users and cross-country skiers. Game fish in the lake include white bass, crappie, drum, catfish and walleye.

### Plum Creek Canyon Lake

Plum Creek Canyon Lake has 252 surface acres and is a shallow, long and narrow lake. The NGPC leases a small WMA on the south shore and provides a boat ramp facility at that location. The recreational activities on the lake and surrounding area are similar to the other canyon lakes, including fishing, hunting, boating, picnicking, water skiing, and relaxing. Central has several residential leased lots and there are also several deeded residential lots adjacent to the Project.

### Johnson Lake

Johnson Lake is the largest lake along the Supply Canal, with 2,500 surface acres, and it is the only lake in the system that lies within two counties. The northern half of Johnson Lake is located in Dawson County, while the southern half of the Lake and the canal are located in Gosper County. Public recreational access is provided on the entire shoreline within the FERC Project boundary. Summertime activities cover the entire spectrum of recreational activities, including boating, picnicking, camping, fishing,

hiking, sailing, golfing and wildlife viewing. Wintertime activities include ice fishing, ice-skating, cross-country skiing, and snowmobiling.

The NGPC leases two parcels of Central property for SRA's on Lake Johnson. The SRA adjacent to the western inlet canal is heavily used for fishing and boat access. The south side of the inlet has a modern camping area with gravel camping pads, electrical hookups, and modern restrooms. There is a boat ramp and a fish-cleaning station, as well as a handicap-accessible fishing pier. The north side of the inlet offers primitive camping only, portable toilets, drinking water, and another handicap-accessible fishing pier. The second SRA is located at the southeast end of the lake and has extensive campground facilities, including 81 gravel camping pads with electrical hookups, excellent facilities including restrooms and shower buildings with access to the facilities for the handicapped, and a dump station. A modern fish-cleaning station was recently added to the site. A swimming beach, marked with buoys during the summer months, is also located in this area.

The seven recreation concessionaires on the Lake lease directly from Central. One concession is a marina located on the north side of the eastern outlet canal offers boat docks, boat ramp, gas, storage facilities, jet-ski rentals, and sells other items generally associated with a marina. Three concessionaires on the south side of the eastern outlet canal offer boat and sailboat slip rentals. Also located in this area is a full service marina concession offering a boat ramp, dock, gas, boat rentals, cabin rentals, R.V. sites, a restaurant and sales of related items associated with a marina. The sixth concessionaire is located on the cove in the northwest portion of the Lake. This concession is also a full service marina offering a boat ramp, dock, gas, boat slip rentals, jet ski and boat rentals, R.V. sites, a restaurant, cabin rentals and sale of marina-related items. The seventh concessionaire is also located in this area offering docks and shore stations for sale and the service to install docks and shore stations in the spring and remove them in the fall.

Almost the entire shoreline has been developed with leased residential and deeded lots.

Adjacent to the lake at the dam is the Lakeside Country Club's 18-hole golf club, which is open to the public. The golf course lies downstream of the dam, laying both inside and out of Central's Project boundary.

One area of Johnson Lake (the island) has been designated as a RPC area because of bald eagle and migratory waterfowl use, with a second area located just below the J-1 Hydro Facility.

#### Supply Canal System / Gosper County

The Supply Canal system in Gosper County travels through Phillips Lake, East Phillips Lake and Little Knapple Lake. East Phillips Lake has a surface area of 142 acres and three long arms that reach south from the main body of the lake. It is the last major canyon lake within Central's Project boundary.

#### Recreation Opportunities

The NGPC has leased land for a WMA within Central's Project boundary. This 13-acre site provides a boat ramp, primitive camping sites, and a well for recreationists. East Phillips Lakes is generally open to the public for hunting, fishing and other land and water-based recreational activities.

Table G-1: Lake McConaughy Recreation Facilities

	Omaha Beach	Cedar Vue	Otter Creek Lodge	Spring Park	Admiral's Cove	North Shore Lodge	Sandy Beach	Arthur Bay	Martin Bay	Kingsley	Divers Bay	Million Dollar Bay	Brown's Bay	Ogallala Beach	Van's Lakeview	Eagle Gulch Cove
Information and/or Visitors Center		◆	◆		◆	◆			◆	◆					◆	◆
Concessionaire	◆		◆		◆	◆				◆					◆	◆
Restaurant or Food			◆		◆	◆				◆					◆	◆
Groceries	◆		◆		◆	◆				◆					◆	◆
Trailer Park			◆		◆	◆				◆					◆	◆
Modern Campground		◆				◆		◆	◆						◆	◆
Camping Pads w/ Electrical Hookups		◆			◆	◆			◆						◆	◆
Primitive Campground	◆	◆		◆	◆		◆	◆	◆	◆	◆	◆	◆	◆	◆	◆
Rental Cabins or Motel			◆		◆	◆				◆					◆	◆
Marina			◆		◆	◆				◆					◆	
Boat Rental										◆					◆	
Marine Supplies & Service			◆		◆	◆				◆					◆	
Boat Launching			◆		◆	◆				◆					◆	
Boat Ramp	◆	◆	◆	◆	◆		◆	◆	◆	◆	◆		◆		◆	◆
Fish Cleaning Station		◆	◆			◆			◆						◆	
Fishing Supplies	◆		◆		◆	◆				◆					◆	
RV Dump Station		◆							◆	◆						
Toilets	◆	◆	◆	◆	◆	◆		◆	◆	◆				◆	◆	◆
Drinking Water	◆	◆	◆	◆	◆	◆		◆	◆	◆	◆	◆		◆	◆	◆
Picnic Tables	◆	◆	◆	◆	◆	◆	◆	◆	◆					◆	◆	◆
Fire Grates		◆					◆	◆	◆					◆	◆	◆
Observation Point		◆		◆						◆						
Handicapped Accessible		◆						◆	◆							

Table G-2: Central Recreation Facilities and Activities

	Facilities and Activities	Improved Boat Ramp	Wakeless Boating Only	Parks	Picnic Areas	Modern Campgrounds	Primitive Camping Permitted	Cottage/ Cabin Sites	Handicapped Access	Hiking	Swimming Areas	Playground Areas	Wildlife Management Area	Hunting	Fishing	Winter Sports	Marinas	Fishing Supplies & Sundries Sales	Restaurant	Lounge/Bar	Gasoline Sales	Golf Courses	Overlooks or Scenic Views	Visitors Center & Meeting Facilities	Recreational Vehicles	Canoeing	Boating
Name																											
Lake McConaughy	◆		◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆
Lake Ogallala	◆	◆	◆	◆	◆	◆			◆	◆		◆		◆	◆	◆							◆	◆	◆	◆	◆
Central Supply Canal		◆					◆			◆				◆	◆	◆							◆			◆	
Boxelder Canyon							◆			◆			◆	◆	◆	◆							◆			◆	
Cottonwood Canyon		◆					◆			◆				◆	◆	◆							◆			◆	
Target Canyon		◆					◆			◆				◆	◆	◆							◆			◆	
Snell Canyon		◆					◆			◆				◆	◆	◆							◆			◆	
Jeffrey Reservoir	◆			◆			◆	◆		◆			◆	◆	◆	◆							◆		◆	◆	◆
Hiles Canyon		◆					◆			◆				◆	◆	◆							◆			◆	
West Midway		◆					◆			◆				◆	◆	◆							◆			◆	
Central Midway							◆	◆		◆				◆	◆	◆							◆			◆	◆
East Midway							◆	◆		◆				◆	◆	◆							◆			◆	◆
Gallagher Canyon	◆	◆	◆	◆			◆			◆		◆		◆	◆	◆							◆		◆	◆	◆
Plum Creek Canyon				◆			◆	◆		◆				◆	◆	◆							◆			◆	◆
Johnson Lake	◆		◆	◆	◆		◆	◆	◆	◆	◆	◆		◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆		◆	◆
Phillips		◆					◆			◆				◆	◆	◆							◆			◆	
East Phillips				◆			◆			◆				◆	◆	◆							◆			◆	◆
Little Knapple		◆					◆	◆		◆				◆	◆	◆							◆			◆	

VOLUME II

APPENDIX H

CONSULTATION PROCESS SUMMARY

## **CONSULTATION PROCESS SUMMARY**

### ***AGENCY AND LOCAL GOVERNMENT CONSULTATION***

Pursuant to its original LSMP review consultation protocols and License Article 421, Central notified state and federal agencies of its intent to undertake revisions to the Plan in late 2007, soliciting participation specifically from the USFWS, NGPC, Nebraska SHPO, the USACE, and three counties within which the Project lies. The level of participation in the consultation process varied greatly among agencies with the active participants being the USFWS and the NGPC. The agency consultation process involved multiple meetings, conference calls, and emails over the course of two years, culminating in distribution of a revised LSMP draft for final agency comment. Central received comment letters from USFWS and NGPC that are included as attachments to this Consultation Process Summary. The USACE, SHPO, and local governments did not respond to Central's request for comments on the revised LSMP draft.

### ***PUBLIC AND STAKEHOLDER GROUP CONSULTATION***

License article 421 and the current LSMP also specify requirements for public information meetings, hearings and consultation with interested stakeholders. At the outset of the review and revision process in mid December 2007, Central held three public "listening sessions" at various locations throughout the Project area. Central used these initial meetings to solicit public feedback on the original LSMP and its initial five year implementation. Central also used these meetings to educate citizens regarding the LSMP review and revision process. It advised meeting participants of its intentions to make major revisions to the LSMP, discussed the FERC amendment process, and stakeholder opportunities to provide comments during the course of the revision process. Central provided staff contact information and identified information resources including Central's and FERC's websites where the public could both educate themselves regarding the FERC license amendment process and access draft versions of the LSMP during the revision process. Central also informally met with or received comments from individuals or groups representing unique, self-identified communities located on or along the Project throughout the revision process.



Given the level of interest in the review and revision process, Central organized a “Stakeholder Group” to serve in an advisory capacity during the LSMP revision process. A variety of individuals representing the perspectives of lake tenants, adjacent landowners, recreational users, commercial operators, agencies and local governments, and environmental interests comprised the group. Central met with and sought input from the group at various times throughout the process, including providing informal drafts of the LSMP and other materials over the course of the revision process.

Near its completion, Central publically noticed the availability of a revised LSMP draft and solicited written feedback from the public. Central subsequently held another series of “listening sessions” in September 2009 to explain key components of the LSMP, answer stakeholder questions regarding the revised Plan, and offer the opportunity for stakeholders to provide oral comments for the record. Central provides a summation of public comments in the following question/response matrix. In one case, Central received comments from representatives of a group of tenants after the formal period for public comment had ended and while Central was completing preparation of the draft for final agency review. Because of the timing of the comments, as compared to the need to complete this final draft, Central did not make any changes to the LSMP based on these comments. Additionally, the comment matrix does not include these comments. Central may consider these comments in the future. While the LSMP does not include the complete text of all written correspondence received to date, Central intends to maintain copies of these documents until FERC’s final approval of the LSMP.



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ecological Services  
Nebraska Field Office  
203 West Second Street  
Grand Island, Nebraska 68801

November 12, 2009

Mr. Michael A. Drain  
Central Nebraska Public Power and Irrigation District  
415 Lincoln Street  
PO Box 740  
Holdrege, NE 68949-0740

Dear Mr. Drain:

Please make reference to a letter from you dated November 6, 2009, requesting comments from the U.S. Fish and Wildlife Service (Service) on the revised Land and Shoreline Management Plan (LSMP). The Service has completed its review of the revised LSMP, with the exception of Appendix C, *Management Plan for the Least Tern and Piping Plover Nesting on the Shore of Lake McConaughy* (Tern and Plover Plan), and has no further comment on the document.

The Service appreciates the opportunity to review and comment on the revised LSMP. We look forward to working with the Central Nebraska Public Power and Irrigation District and the Nebraska Game and Parks Commission to provide comments on the Tern and Plover Plan over the coming months. If you have any questions regarding these comments, please contact Mr. Robert Harms of this office at [Robert\\_Harms@fws.gov](mailto:Robert_Harms@fws.gov) or telephone number (308) 382-6468, extension 17.

Sincerely,

for  
Ann Carlson  
Acting Nebraska Field Supervisor

cc: NGPC; Lincoln, NE (Attn: Frank Albrecht)

**received**  
11-17-09

From: Allison Murray  
Sent: Tuesday, December 01, 2009 4:34 PM  
To: Allison Murray  
Subject: NGPC Comments

From: Albrecht, Frank [mailto:frank.albrecht@nebraska.gov]  
Sent: Monday, November 23, 2009 3:15 PM  
To: Mike Drain  
Cc: Nelson, Kirk; Jorgensen, Joel; Fritz, Mike; Fuller, jim; 'robert\_harms@fws.gov'; Martha\_Tacha@fws.gov; Grell, Carey; Koch, Michelle; Mark Peyton; Albrecht, Frank  
Subject: Land and Shoreline Management Plan

Dear Mr. Drain:

We are writing with regard to the Central Public Power and Irrigation District's (Central) Land and Shoreline Management Plan (LSMP). Nebraska Game & Parks Commission staff members have met with and worked with staff from Central and the U.S. Fish and Wildlife Service. We offer the following comments on the LSMP.

The document states that the purpose of the LSMP is twofold. First, Central designed the Plan to comply with the requirements of its FERC license. Second, the LSMP serves to guide Central in making decisions regarding the future use of the land within the Project boundary. Central will use this LSMP as a baseline to evaluate developmental proposals and recreational needs at the Project. The LSMP provides a clear statement of how Central will manage Project lands and shoreline by identifying specific permissible uses and the procedures that Central and the public will follow to undertake these uses. The LSMP will help minimize land-use conflicts and improve Central's ability to administer its land and environmental policies in a fair and consistent manner. This LSMP is intended for management of FERC Project lands and waters within the Project boundary.

It is noted that the Management Plan for the Least Tern and Piping Plover Nesting on the Shore of Lake McConaughy will become part of the LSMP as Appendix C at a later date. Comments for the Tern and Plover plan will be submitted under separate cover.

Resource protections within the LSMP are accomplished through Land and Shoreline Management Classifications (Management Classifications, Central's permitting procedures and use standards, and the Lake McConaughy least tern and piping plover nesting plan). Project lands and shorelines are all assigned classifications. These classifications identify in a broad sense how those lands and shorelines are or may be used now and in the future. Types of allowed uses, and rules on those uses, vary according to classification.

Uses throughout the Project are subject to Central's permitting processes or other rules that set standards for such uses. Generally, these rules are applicable to such things as construction of facilities, modifications to lands and shorelines, etc. Permitting rules are imposed throughout the Project, and can vary by location, time of year, etc.. Some of these rules are established for the purpose of providing resource protections.

We were pleased to see that the document states that variance requests related to uses within the Resource Protection classification may result in the need for Central to initiate additional consultation with jurisdictional resource agencies to determine if the variance request can be allowed, and if so, if additional mitigative requirements are necessary to support the request. In the case of variance requests that could result in construction or placement of uses outside Central's permitting standards where such standards are for the purpose of providing a resource protection and were developed in consultation with one or more resource agencies, Central must consult with relevant agencies prior to issuing any variance.

The documents breaks down the Land and Shoreline Management Classifications into 5 Management Classifications;

\* "A" Management Classification -- areas are those most appropriate for the widest range of private and commercial uses, and for relatively high-intensity development.

\* "B" Management Classification -- areas have or may have development adjacent to, but not within, the Project boundary. The primary difference between B and A classification areas are that private uses (i.e. buildings) may not be permitted in B classification areas, but might be permitted in A classification areas (subject to lease conditions and permitting requirements). Additionally, the B classification areas require a shoreline buffer, where the A classification areas do not.

\* "C" Management Classification -- areas within the Project boundary, because of shoreline topography, existing adjacent dispersed development patterns, aesthetic values, known or potential environmental or cultural resources or Project operation needs, will not or should not support as high a level of private and commercial development as represented by Classification A or B.

\* Resource Protection Classification -- Central classifies Project lands and waters designated for specific resource management, species protection, and environmental purposes as Resource Protection. If a use is proposed for an area designated as Resource Protection classification, Central will undertake special evaluations to determine if the proposed use of the site is compatible with protection of the resources in question.

\* Project Works Classification -- The Project Works classification includes areas occupied by the dams, powerhouses, canals, and other primary structures or facilities that are essential to Central's operations and to which it may legitimately restrict use due to safety, operational, or other constraints.

Several changes were made to areas (reclassifications) for purposes of shoreline integrity.

\* Changes were made to an area on the southeast corner of McConaughy. The area was changed from "Resource Protection" to "B" and "C" because the beach there is comprised chiefly of exposed and broken cemented Ogallala and Brule and is not suitable for tern and plover nesting;

- \* the area between the toe of Kingsley Dam and the shoreline of Lake Ogallala was changed from “Project Works” to “Resource Protection”;
- \* (c) some areas at Jeffrey and Midway lakes were changed to allow for more development;
- \* (d) some development classifications were added at East Phillips; and (e) and area at East Phillips already classified as “Resource Protection” had eagles added as one of the purposes of the protection because eagles have started to perch in that area.
- \* Also, several small changes were noted on other maps attached to the document.

We have no objections to the changes outlined on the maps (reclassifications) or to the LSMP overall.. The document does an appropriate job of ensuring shoreline integrity.

As noted earlier, we will be submitting comments on the Tern and Plover Plan separately.

Thank you for the opportunity to comment on this proposal. If you have any questions or need additional information, feel free to contact Frank Albrecht at 402-471-5422.

Sincerely,

Frank Albrecht  
Assistant Division Administrator  
Realty and Environmental Services Division  
Nebraska Game and Parks Commission  
2200 N. 33rd St.  
Lincoln, NE 68503  
402-471-5422

**The Central Nebraska Public Power & Irrigation District  
Land and Shoreline Management Plan**

**Response to Public Comments on Draft Documents**

Comment/Question	Response
<p><i>The following are excerpts from written and verbal comments received during and following public meetings held on September 9, 10, &amp; 11, 2009. Central will retain all transcripts and letters until FERC approval of the revised LSMP. Central presents questions and comments by subject matter, not in the order in which they were presented to Central.</i></p>	
<p><b>Management Classifications</b></p>	
<p>The draft LSMP designates most of the land surrounding East Phillips Lake as Resource Protection - Aesthetic. Landowners of the surrounding land disagree with this classification as it would not allow for any kind of development. Request Central re-designate this area as “B” management classification, which would allow for future, limited shoreline development and expansion opportunities and expansion possibilities not only to landowners but to Central as well.</p>	<p>In part, Central provided the draft LSMP to stakeholders for their assessment of the proposed location of new management classifications. Additionally, after initially mapping the new management classifications, Central undertook an internal review. This resulted in reclassification of some areas within the project boundary to provide a more balanced management classification application throughout the project. Specifically at East Phillips Lake, Central proposes to apply management classification C to some shoreline areas.</p>
<p>Central’s designation of the entire shoreline of East Phillips lake as Resource Protection puts a further burden on Central financially.</p>	<p>Central acknowledges that limitations on development could reduce the potential for income derived from lease fees; however, this issue is not a determining factor on which Central bases its land and shoreline management decisions.</p>
<p>Currently, there are shoreline locations that have existing agreements regarding setbacks that are not consistent with the revised LSMP standards for management classification buffer zones. How does Central intend to address this issue?</p>	<p>The LSMP is intended to be a broad management tool that applies consistent standards and conditions throughout the Project.</p> <p>The LSMP is not intended to address site specific disputes or issues; however, Central intends to “grandfather” previously agreed upon or mandated setbacks and buffers.</p>

Why do seemingly similar shorelines along the same lake have different management classifications?

The LSMP provides a balance between project operational needs, resource protection, and public use. The LSMP must also address existing conditions while anticipating future use requirements and pressures. While there may be similar physical characteristics throughout a lake or project, in an effort to balance a variety of potential future uses, Central may assign different classifications to similar shorelines.

<b>Allowable Uses</b>	
<p>The allowable uses chart is a very helpful addition; however, the chart should include an additional set of uses. Suggest a new allowable use entitled “Recreational Grounds and Equipment” to include tennis and volleyball courts, ball fields and diamonds, playgrounds and equipment, etc.</p>	<p>It was Central’s intent that the Parks and Campground allowable use category include these uses. Central has redefined and clarified this in the final LSMP definitions.</p>
<p>How will livestock grazing be handled in the new Resource Protection classification? This practice, which Central allowed previously, could be limited with the new classifications.</p>	<p>Central will consider allowing grazing within the Resource Protection classification on a case by case basis. It will base its decision on the management objective for that particular area.</p>
<p>The shoreline-use restrictions should be sufficient to discourage intensive development.</p>	<p>Central acknowledges that particular interests at project reservoirs may wish to limit additional development; however, Central attempts to balance its application of classifications with consideration for a broader set of users’ expectations.</p>



<b>Buffer Zones</b>	
<p>Do the buffer zone requirements apply beyond the project boundary? How will Central address buffers that may be greater than the area within the boundary? The LSMP should be clearer regarding this subject*.</p> <p>*Central received multiple, similar comments/questions on this topic</p>	<p>FERC’s jurisdiction is limited to areas within the project boundary. Generally it is Central’s intent that where the FERC project boundary is narrower than the specified buffer zone that the buffer zone would end at the project boundary.</p> <p>For management consistency, where Central owns property adjacent to, but outside the project boundary, it may extend management policies established in the LSMP to those lands.</p> <p>Central has made clarifications in Section 2.2.5.1 of the final LSMP.</p>
<p>The LSMP is too vague regarding grandfathering and rebuilding in event of natural disaster for currently non-compliant residences. Also, if an existing structure that is currently inside a buffer zone experiences more than 50% damage, must a rebuild occur outside the buffer?</p>	<p>Central’s understanding is that FERC generally views structures undergoing more than 50% repair/replacement as new construction. As new construction, these structures would be subject to Central’s most current rules, which would include buffer zone setbacks.</p>

<b>Grandfathering</b>	
<p>Statements in the LSMP regarding “grandfathering” should be worded to protect the property values of the lease holders--including variances for setbacks for existing structures such as homes, boat houses, etc.</p>	<p>While Central will make every effort to work with users to address site specific grandfathering issues, it cannot assure that all pre-existing uses will be allowed to remain in place.</p> <p>Central also acknowledges the concerns lease holders and adjacent property owners have regarding the value of their properties; however, Central’s management of the project and compliance with the FERC license cannot be directed by protection of private property values.</p>
<p>Previous LSMP indicated Central <u>will</u> allow all legal and permitted structures in place, the revise LSMP now states Central may allow all structures.</p>	
<p>Recommend changing the language on the provisions set forth in Section 5, Paragraph C (General Implementation Policies) in LSMP. Existing leaseholders and potential property buyers on Johnson Lake want more assurance than the wording in the LSMP that Central “<b>may</b>” grandfather these facilities. This change from the existing plan could very easily have an adverse effect on property value.</p>	
<p>The changes in wording for “grandfathering” in the revised LSMP contain qualifications and exceptions that practically emasculate grandfathering altogether. What occurrence or event took place, if any, that prompted Central to change the grandfathering?</p>	<p>Central has concerns that stakeholders could interpret FERC approved plans containing grandfathering provisions mandate that a licensee must allow non-compliant structures within the project boundary. This is not the intent of grandfathering.</p> <p>The intent of grandfathering is to provide an opportunity for a licensee to make case by case decisions regarding whether a non-compliant use has the potential to adversely affect project operations, safety, or protected resources. If a licensee determines that the use will not have an adverse effect, then they have the option of allowing it to remain in place. FERC’s approval of a plan that contains grandfathering language is not a mandate for grandfathering, rather acknowledgement that it is comfortable that a licensee will make good decisions within the framework of their management plan.</p> <p>Accordingly, the change in language is an effort on Central’s part, to reiterate and inform stakeholders that grandfathering is a privilege rather than a right and that Central is not obligated and will not assign this right to all non-compliant structures.</p>

<p>Does Central have any communication from FERC where they stated they were going to or they might threaten you with some kind of license violation because of grandfathering issues?*</p> <p>*Central received multiple questions on this topic</p>	<p>Central’s understanding of FERC’s tolerance of grandfathering is FERC’s acknowledgement that until approximately 20 years ago, when FERC began to focus on shoreline development issues, neither licensees nor FERC strictly enforced restrictions for non-project development within the project boundary.</p> <p>To date Central has not received any written warnings or other FERC correspondence regarding Central’s grandfathering policies; however, FERC can and has directed other licensees to remove structures or uses within the project boundary. FERC is particularly troubled by houses in the project boundary and they have ordered licensees to remove those structures in whatever means they have available to them.</p> <p>More generally, Central’s understanding is FERC tolerates grandfathering because it realizes licensees are in a very awkward and difficult position in some cases. It is important to remember that grandfathering is a tool not a requirement that FERC continues to allow licensees to use.</p>
<p>If a property owner wishes to sell a non-compliant structure that Central has previously grandfathered, will they (or the new owner) have to remove or modify the structures?</p>	<p>Current owners of structures on Central’s land and/or within the project boundary need to be aware that the permits and permissions Central issues do not assure perpetual permission for a structure or use.</p> <p>FERC encourages licensees to do public outreach and education regarding shoreline policies and standards to inform stakeholders of Central’s management policies. To that aim, Central plans to have annual public meeting and continues to have staff at the lakes on a regular basis; however, identifying conditions and covenants attached to a property the time of a sale is the seller and buyer’s responsibility. Should a buyer or seller have a concern they can also contact Central prior to the sale regarding whether a specific non-compliant structure will be required to be removed or modified.</p>

<b>General Comments &amp; Questions</b>	
The LSMP should clearly identify an appeal process for individuals and stakeholders—to Central along with an optional grievance path to FERC.	
The LSMP leaves open a wide range of judgment calls that Central staff and board will need to make to fulfill the recreational, scenic, and environmental mandates in the plan. The LSMP should outline a clear way for the public to hold Central, as well as “occupiers” accountable to these standards.	Central has more clearly identified stakeholder options for appealing Central decisions in Section 1.4 of the LSMP.
Central’s announcement that it intends to hold an annual stakeholders’ listening session is welcomed but in itself is not fully adequate.	To solidify its intent, Central has included specific reference the annual stakeholder meeting in the LSMP.
The LSMP should include and discuss the role of neighborhood groups, individual lease holders, and associations in policy development and management to empower the public.	Central acknowledges and appreciates that neighborhoods and communities within the project include active and concerned groups; however, as the licensee, it is Central’s obligation to manage the project.
The neighborhoods and associations of well-meaning and friendly people should be identified and named as an important resource in the plan—both to Central and to FERC.	As a broad management document, the LSMP cannot specifically empower or identify a particular group. These group can and do, however, have the option to meet independently and to nominate/send representatives to Central’s annual LSMP outreach meeting. Central staff are also available to meet with the public and/or facilitate public outreach as appropriate.
Is there a name that would affirm us—rather that “occupiers” or “stakeholders” or “leasees?” A good name would honor our place in the lake community and with the entities with which we relate.	While Central appreciates and understands the desire for further acknowledgement and recognition, it does not intend to modify language in the LSMP.
Request that Central identify how the input from individuals, public meetings, and citizen outreach has changed or improved the plan.	As noted, Central has met on a periodic basis with the public to advise them of ongoing changes to the LSMP and to solicit comments. Ongoing public outreach will include the annual stakeholder listening session. The public may also contact staff via email and telephone.
Showing the public the difference between the old and new plan will continue to be helpful. Changes in the plan were identified in the public	

meetings but still need to be communicated.	
Is there a draft document that is marked to show all changes from existing plan? If so, where and how can I get one?	<p>Because Central’s efforts to update and revise the LSMP resulted in essentially redeveloping the plan, there was no means to effectively show a “mark up”. The final LSMP will include a letter to FERC identifying the key changes in the LSMP and the reasons for those changes. Central suggests this will assist stakeholders in their review of the final plan.</p> <p>Additionally, Central will maintain the previous and proposed LSMPs on its website to allow reviewers to compare the proposed modifications. The intent of this matrix is also to highlight changes and address the reasoning behind Central’s proposed LSMP modification.</p>
Some area associations are expressing desires to take over open space.	<p>Central modified the LSMP to provide for this opportunity; however, Central reserves final authority and jurisdiction over management of open spaces.</p> <p>If an association or community group is interested in this type of agreement, it should advise Central of its intentions. Third party management of these areas cannot conflict with Central’s FERC license obligations and requirements.</p>
Does Central plan on posting the final draft?	Central will post a final draft LSMP on its website. Central expects that FERC will also post the final draft on its website at <a href="http://www.ferc.gov">www.ferc.gov</a> .
LSMP sections describing how Central will undertake amendments to the LSMP should allow for stakeholder initiatives as well as opportunities to respond to Central’s initiatives.	Central is obligated and must seek FERC approval before amending the LSMP. As part of a formal amendment, the public has an opportunity to provide comments to FERC. Additionally, as part of the annual stakeholder listening session, the public may bring initiatives to Central for consideration. This meeting is also an opportunity for Central to identify and receive feedback on any minor changes it is contemplating to the LSMP that will not warrant a formal amendment.

<p>The time frame for introducing the plan and seeking closure (Aug 31 to September 21) is too short.</p>	<p>The time frame referenced was the informal comment period on the draft LSMP prior to Central’s FERC submittal. FERC expects Central to develop a plan and only obligates it to post one week in advance of the public meeting. Central has provided multiple opportunities over the course of a two year revision process for stakeholders to provide input on the document. Central has, throughout the revision process, also provided the most current versions of the LSMP on its website, with a dedicated email address to which stakeholders could provide their comments and feedback.</p> <p>Additionally, it is important to note that stakeholders will have another, formal opportunity to comment on Central’s proposed revisions to the plan. FERC will publicly notice the availability of the LSMP, at which time stakeholders may provide further comments on the plan. Central can, upon request, provide direction regarding how to monitor the FERC website and subscribe to the LSMP amendment mailing list.</p>
<p>Other than the shoreline and dock restrictions that are in the revised LSMP, does Central contemplate making final changes to the document before submitting it to FERC that will affect the different classification areas?</p>	<p>Central does not anticipate making major changes to the LSMP prior to filing it with FERC. Minor changes may include revisions to the management classification mapping, potentially some modification to spacing requirements assigned to management classifications, and some editorial changes to address request for clarification of particular LSMP section.</p> <p>Permitting procedures, which Central will provide to FERC after filing the LSMP, are not part of the formal FERC review and are always subject to change at Central’s discretion.</p>
<p>Is the main focus of and reasons for changes between the previous Plan and this one a result of Central’s experience/relationship with FERC and others between 1999 and 2008?</p>	<p>There a multiple reasons for the changes including Central’s experiences with FERC and resource agencies, its own experiences with implementing, and stakeholder feedback on the effectiveness of the previous LSMP.</p>

<p>Is Central responsible for all land between the project boundary and the water?</p>	<p>Central is, as a licensee, responsible for management and enforcement of their policies within the project boundary. In some instances, particularly within the Resource Protection classification, Central intends to actively manage specific resources such as terns and plovers. Duplication w/other</p>
<p>Can the project boundary include lands that Central does not own?</p>	<p>While this does occur at other FERC licensed projects, Central is not aware of any location on the Project where the project boundary includes lands Central does not own. In the future, Central may be required to revise its project boundary if it determines it needs additional lands for access or operational purposes. That could be accomplished through easements or options other than total ownership.</p>
<p>The current LSMP provides Central's commitment to dredging at Jeffrey Lake. Is Central still committed to doing that?</p>	<p>Specific agreements at distinct locations are not something a LSMP, as a broad management tool, is designed to address. The revised LSMP does not include this particular agreement. It is Central's intent, apart from the LSMP, to honor its previous commitment.</p>
<p>How does/will Central address areas where the shoreline has eroded beyond the Project Boundary? Does the LSMP address that?</p>	<p>Generally, a shoreline management plan works from the assumption that the project boundary is established and above the water line, although many licensees experience similar circumstances where erosion has moved beyond the boundary.</p> <p>In response to Central's previous LSMP, FERC ordered Central to put together a separate plan for evaluating the project boundary systematically and identifying where that boundary should be changed to address site specific conditions and to maintain appropriate control over project lands.</p> <p>Central has not yet completed its project boundary review.</p>
<p>Is Central modeling its Plan off of any other Project? If so, please identify your model project?</p>	<p>Central did not model its revised LSMP on a particular shoreline management plan, but the LSMP does incorporate a variety of strategies and approaches used by other licensees successfully.</p>

<p>Why did Central decide to revise the LSMP; previous one is acceptable.</p>	<p>Central does not agree that the current LSMP is acceptable. Over the past five years Central has encountered numerous issues implementing the plan due to poor organization, inconsistent management classification, and vague policy statements contained within the existing LSMP. When Central solicited feedback on the LSMP it received similar comments from a variety of stakeholders.</p>
<p>Central has considered most of the comments of the stakeholder working group in its revised LSMP. Johnson Lake FERC Response Group believes proposed LSMP is not a perfect document but far better than what is currently in place.</p>	<p>Central appreciates the work that various groups, including the Johnson Lake Response group, have accomplished both during the LSMP revision process and in the broader community. Central thanks these forward looking and concerned citizens for their assistance. Input from these groups have resulted in a better and more fully developed LSMP.</p>
<p>Is the LSMP actually FERC's mandated plan?</p>	<p>FERC mandated Central develop an LSMP in Article 421 of the project license. Central is obliged to develop this plan and manage the project in compliance with its license. FERC retains final authority to determine if the plan meets the intent and purpose of its license article. Once FERC approves the LSMP, Central is then obligated to manage project lands in the manner it outlined in the plan. FERC can exercise further authority if it believes Central is not meeting its obligations.</p>



<b>Permitting</b>	
The permitting procedures and application of the plan need to be communicated to new lease holders to avoid mistakes because new people are not aware of these things.	As stated previously, Central will continue to undertake public outreach through its website, annual stakeholder meetings, and field staff to advise and inform the public of its responsibilities on project lands.
What is Central authority to require permits?*	As both a FERC licensee and the landowner, Central has authority and obligation to require and enforce permit conditions.
*Central received multiple questions on this topic	
What is the status of Central's permitting updates?	<p>Central is in the process of revising its existing permitting procedures to reflect new management policies and standards in the LSMP. The primary change in the current permitting procedures will be in response to the change in management classifications. The procedures will like include additional, special conditions to address resource specific issues such as timing of construction and protection of threatened and endangered species. These changes are being developed in consultation with the resource agencies, (NGPC &amp; USFWS).</p> <p>Central's intent is to develop rules that satisfy agency consultation requirements and standard conditions up front to limit or eliminate the need to consult on each proposed shoreline use on a case by case basis.</p>
Does Central need FERC approval for the permitting procedures?	At this point Central does not anticipate FERC will require approval of the permitting procedures; however, it is a requirement of the LSMP that Central have such permitting procedures.
Request that Central elaborate on its seawall prohibition in the LSMP.	Central has removed the reference to "seawall prohibition", recognizing that this term is confusing. Article 422 contains a set of considerations and restrictions that can result in prohibition of seawalls and similar structures in many cases.

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  
415 LINCOLN STREET  
P.O. BOX 740  
HOLDREGE, NEBRASKA 68949-0740

**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  
PERMITTING PROCEDURES FOR  
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](mailto: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.

THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT

CONSTRUCTION AND SPECIAL WATER ACCESS  
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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 1<sup>st</sup> through August 15<sup>th</sup>.
  - Pesticides – No broadcast pesticide applications allowed from April 1<sup>st</sup> through August 15<sup>th</sup>.
  - Beach Maintenance – No disturbance activities (disking, dragging, grading, tree cutting, etc.) allowed from April 1<sup>st</sup> through August 15<sup>th</sup> unless authorized by annual special permit.
  - Fireworks – No fireworks allowed on beaches from April 1<sup>st</sup> through August 15<sup>th</sup>.
  - Dogs – Dogs shall be on leash at all times when on beaches from April 1<sup>st</sup> through August 15<sup>th</sup>.

### **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 1<sup>st</sup> through October 31<sup>st</sup> 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 1<sup>st</sup> through August 15<sup>th</sup>.

## **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.