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July 14, 2023

Ms. Jacqueline Cowan
Arkansas Secretary of State, Rules & Regulation Filing
500 Woodlane Drive, Room 26
Little Rock, AR 72201
Via email only: register@sos.arkansas.gov

RE: Legal Notice for Proposed Rules or Regulations

Dear Ms. Cowan:

Included is one (1) proposed regulation change that will be published in the Legal Notice to the Arkansas Democrat Gazette on July 16-18, 2023. Should you have any questions or comments concerning this filing, please do not hesitate to contact Sarah Milligan or me at (501) 382-3807 at your convenience.

Sincerely,

Jim Goodhart

James F. Goodhart
General Counsel

JFG/srm
Attachment

cc: Ms. Rebecca Miller-Rice, Bureau of Legislative Research
miller-ricer@blr.arkansas.gov
Ms. Sheri Thomas, Bureau of Legislative Research
thomass@blr.arkansas.gov
aslib-govdocs@ade.arkansas.gov

ARKANSAS REGISTER

Proposed Rule Cover Sheet

Secretary of State
John Thurston
500 Woodlane, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov

Name of Department Arkansas Game and Fish Commission

Agency or Division Name Legal Division

Other Subdivision or Department, If Applicable

Previous Agency Name, If Applicable

Contact Person Sarah Milligan

Contact E-mail Sarah.Milligan@agfc.ar.gov

Contact Phone 501-382-3807 Legal Division

Name of Rule K1.01 – POLICIES ON LAND USE AROUND ARKANSAS GAME AND FISH COMMISSION LAKES

Newspaper Name Arkansas Democrat Gazette

Date of Publishing July 16, 17, & 18, 2023

Final Date for Public Comment August 17, 2023

Location and Time of Public Meeting 2 Natural Resources Drive, Little Rock AR 72205, 9:00 a.m.

2023
Fishing Regulations
Summary of Proposals **07/19/2023**

General Regulation

1. **Proposal:** Temporarily suspend structure permit fees on Lake Conway.
   Justification: The fee associated with permitting piers, boathouses, or boat slides will be temporarily suspended due to the lake being drawn down for maintenance (all other Policy requirements remain in effect).
   Code Change: K1.01

FINANCIAL / ECONOMIC IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY
(Attach additional pages if needed)

DEPARTMENT: Arkansas Game & Fish Commission
DIVISION: Fisheries
PERSON COMPLETING THIS STATEMENT: Sean Lusk
TELEPHONE #: (877) 525-8606 FAX #: (501) 525-2265 EMAIL: Sean.lusk@agfc.ar.gov
SHORT TITLE OF THIS RULE: Temporarily suspend structure permit fees on Lake Conway.

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?
Yes: **X** No:

2. Do you believe that the development of a financial impact statement is so speculative as to be cost prohibitive? Yes: No: **X** If "Yes", please explain:

3. If the purpose of this rule is to implement a **federal** rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year			**Next Fiscal Year**		
General Revenue	$		General Revenue	$	
Federal Funds	$		Federal Funds	$	
Cash Funds	$	**N/A**	Cash Funds	$	**N/A**
Special Revenue	$		Special Revenue	$	
Other (Identify)	$		Other (Identify)	$	
Total	$		Total	$	

4 What is the total estimated cost by fiscal year to any **party** subject to the proposed, amended, or repealed rule? (Estimated cost includes fees, administrative penalties, reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.) Identify the **party** subject to the proposed rule, and explain how they are impacted.

Current Fiscal Year: $0 **Next Fiscal Year: $0**

Party Subject to Rule: **Homeowners bordering Lake Conway**

Effect on Party Subject to Rule: **This regulation will temporarily suspend the fees property owners must pay to permit piers, boathouses, and boat slides on Lake Conway.**

5. What is the total estimated cost by fiscal year to the **agency** to implement this rule? Explain the financial benefit to the agency from implementing this rule.

Current Fiscal Year: $9,460 **Next Fiscal Year:** $9,460

Financial Benefit to Agency: **N/A**

6. Do alternative means exist for accomplishing the objectives of the rules that might be less burdensome to small business? Yes: **X** No:

Why were such alternatives not proposed: **It is poor practice to require to homeowners to pay to permit structures they cannot use while the lake is drawn down for maintenance**.

7. Compare this rule with federal and state counterparts:

INSTRUCTIONS FOR COMPLETING THIS FORM:

1. ECONOMIC IMPACT - In compliance with Governor's Proclamation EO 05-04, this form must be completed for **commercial licenses and permits** and submitted at the time a regulation is proposed to the Commission. The form will be forwarded to the Chief of Fiscal Services Division for review. After review, the form will be submitted to:

Director
Arkansas Department of Economic Development
One Capitol Mall
Little Rock, AR 72201

2. FINANCIAL IMPACT - After passage of any regulation changes which have a financial impact (including all sport, lifetime, and commercial licenses) this form must be completed and submitted to the Chief of the Legal Division. The form is required for filing regulation changes with the Secretary of State.

K1.01 POLICIES ON LAND USE AROUND ARKANSAS GAME AND FISH COMMISSION LAKES

By Order of the Arkansas Game and Fish Commission

Updated April 23, 2020

Table of Contents

1.0 Introduction
2.0 Definitions
3.0 Permits
4.0 Activities Requiring a Permit
5.0 Activities Allowed without a Permit
6.0 Activities Not Allowed at Any Time
7.0 Lake Regulations on Commission-owned Lakes
8.0 Violations and Variances
9.0 Commission-owned Boundaries
10.0 Applications and Permit Application Contact Information
10.8 Arkansas Game and Fish Guidelines for Resolving Real Estate Encroachments

POLICIES ON LAND USE AROUND
ARKANSAS GAME AND FISH COMMISSION LAKES
Be sure to review the Arkansas Game and Fish Guidelines for Resolving Real Estate Encroachments (Section 10.8) and the AGFC Fishing Guidebook

1.0 Introduction

The Arkansas Game and Fish Commission (the Commission, AGFC) has built many lakes throughout the state in an effort to provide fishing for the citizens of Arkansas. The Game and Fish Commission controls, manages and maintains these lakes within the established boundaries of ownership. Around each Commission-owned lake a state boundary of ownership exists. The size and extent of the state-owned boundary varies depending on the lake. These lands are necessary to provide for fluctuating water levels, to control and protect the public investments and to insure public use and access to the shoreline of these lakes. The Commission attempts to maintain boundary markings, however if construction and/or land-clearing activities are anticipated, it is the landowner's responsibility to locate all boundaries by a survey based on the metes and bounds land description.

2.0 Definitions

2.1 Lake Management Buffer – The strip of Commission-owned land adjacent to AGFC lakes that the Commission deems necessary to provide for public access, flood control, and lake management. The width of the lake management buffer varies from lake-to-lake (typically between 20 to 100 feet wide) and either is described relative to a known elevation or in metes and bounds pursuant to a survey. (Refer to Section 9 for specific lake boundary descriptions; see also the current Arkansas Game and Fish Guidelines for Resolving Real Estate Encroachments in Section 10.8). The lake management buffer is public property and is open to the public at all times.

2.2 Lakefront Property - private property that directly adjoins the Arkansas Game and Fish Commission lake management buffer. No other properties will be considered lakefront properties. Only lakefront property owners may request permits for and construct such permitted structures on the Commission-owned lake management buffers and lakes.

2.3 Mean Sea Level (msl) – A measurement of the average height of the ocean's surface; used as a standard in reckoning land elevation.

2.4 Metes and Bounds Survey: A metes and bounds survey is a survey of land by references to courses and distances around the tract (e.g. "Thence North 40 degrees West 1320 feet to a 1" pipe"), as opposed to a description of a tract of land within a subdivision (e.g. "Lot 6, Wooded Hills Subdivision"). A metes and bounds survey is typically seen in rural or non-urban areas, such as around AGFC lakes and WMAs.

3.0 Permits

3.1 General Information –Applications for all permits are provided in the Appendix. Applicants should allow at least 30 days to process the permit application(s). Permits are not transferable upon resale or transfer of ownership of the property. It is the current landowner's responsibility to disclose the Policies on Land Use Around AGFC Lakesupon resale or transfer of ownership of his/her property. New lakefront landownerspurchasing

properties with an existing pier, boathouse, boat slide or irrigation system must apply for a new permit and in the new property owner's name. Proof of home ownership is required. All permits must be renewed on the AGFC's three-year cycle as follows: by December 31, 2021, and by December 31 every third year thereafter. Permits issued on or after November 15 of a renewal year will be valid until December 31 of the following renewal year. Each permit issued will clearly indicate its expiration date. A new registration sticker will be sent with the renewed permit. New property owners are responsible for permitting or removing the structure within 90 days of taking possession. Structures not removed or permitted during that time are subject to removal by the Commission at the property owner's expense.

3.2 Agreement – The Application(s) for permits must be completed and signed by the lakefront property owner. In signing the application(s) the lakefront property owner agrees to comply with all applicable requirements outlined in the Policies on Land Use Around Arkansas Game and Fish Commission Lakes and to repair or remove boathouses, piers, boat slides, or irrigation units should they at any time deteriorate to be in violation of the Policy. The landowner assumes all liability associated with said structures. A copy of private boathouse, boat slide, or pier construction plans, dimensions, and list of materials to be used and a copy of the plat map with the boathouse, boat slide, pier, or irrigation unit location marked must accompany the Application. Failure of not sending in all required information will result in delay of permit issuance

3.3 Permit Display Requirements and Fees

Piers, boathouses, boat slides, and irrigation units must display the Arkansas Game and Fish Commission permit number on the structure. Permit numbers must be a minimum of 3 inches in height. Along with issuance of the permit, you will receive a metal placard and a colored registration sticker for each boathouse, boat slide, pier, or irrigation pump. The permit numbers shall be placed on the left side of the placard and the registration sticker shall be placed to the right of the permit numbers on the placard. Permit numbers must be clearly visible, legible and of a color that contrasts with that of the metal placard. The placard must be placed on the side of the structure facing the center of the lake, making it visible at all times. Boat slides and irrigation units must have the placard attached to a 4"x 4" post that is securely set in the ground, as a part of or near the structure. The placard must also be placed at least 3 feet above the ground or normal water elevation of the lake. The metal placard cannot be placed on doors. Upon renewal of the permit, you will receive a new registration sticker to place on the placard. If a placard must be replaced, contact the Licensing Division at ~~(501) 223-6300 or 1(800) 364-GAME~~ 833-345-0398.

- Pier, boathouse, or boat slide fee (for each structure): $30.00, except on Lake Conway only this fee shall be $0.00 from September 1, 2023, until September 1, 2028, due to the lake being drawn down for maintenance (all other Policy requirements remain in effect)

- Irrigation Permit fee (Fee required only if you do not have a boathouse and/or pier. Metal placard must be placed on a post near the irrigation unit. Refer to Section 4.6): $30.00

- Metal Placard(s) fee (For use on boathouses/boat slides/piers/irrigation units. This fee covers all required metal placards for each landowner.): $25.00

- Replacement placard fee: $5.00 per placard

4.0 Activities Requiring a Permit

4.1 Summary of Activities

Boathouses	Piers	Irrigation using lake water (Permit required only if you do not have a permitted boathouse and/or pier)
Shoreline Stabilizations	Herbicides and Pesticides	
Dredging for Boat Access	Deepening the Shoreline	
Boat Slides		

4.2 Shoreline Stabilization - Lakefront property owners may sometimes need to stabilize a shoreline adjacent to their property that is eroding due to wave action. A permit from the District Fisheries Supervisor must be obtained before beginning such work. An application form is included. A site plan drawing indicating dimensions and descriptions of the work to be performed and the materials to be used must accompany the application.

A 404 permit may be required from the U.S. Army Corps of Engineers (USACOE) depending on the size and scope of stabilization work requested. Contact your local USACOE office to determine if the permit is required.

Only approved materials may be used for stabilization work. Approved materials consist of: riprap placed over landscape fabric; cedar revetments, log cribs and vegetative cover. You must have AGFC approval for placement of any fill material on the lake management buffer. The Arkansas Stream Team Program has further guidelines for acceptable stabilization work. Call your local District Fisheries Supervisor for more information.

No other manipulation of the shoreline will be permitted. It is not permissible to:

1. Extend or cut into the shoreline in any manner
2. Dig canals
3. Construct a private boat launch
4. Construct a retaining wall
5. Construct swimming beaches.
6. Place any fill material on the lake management buffer without AGFC approval

4.3 Lake Dredging - Deepening of the lake area near the shoreline is allowed only to create a boat lane from shallow to deeper water when it otherwise would be impassable. This operation must be carried out when the lake is drawn down for maintenance or fishery purposes. No other deepening is allowed. A permit must be obtained before any work is started. A permit application form is attached. All material removed during deepening must be disposed of on the lakefront property owner's lot. You must have AGFC approval for placement of any fill material on the lake management buffer. Excavated material may not be hauled away without prior written approval from the District Fisheries Supervisor. Mitigation for removal of spawning habitat may be required (i.e. construction of spawning beds using creek gravel). A 404 Permit from the USACOE may be required.

4.4 Herbicide and Pesticide Use – Only chemicals approved by the United States Dept. of Agriculture for aquatic weed control may be used. Chemicals must be applied per the manufacturer's recommendations. Chemical application must be confined to the area of

the lake directly in front of the property owner's lakefront lot. Prior to herbicide application, property owner must obtain a permit from the District Fisheries Supervisor.

4.5 Boathouses, Boat Slides and Piers – Lakefront property owners may obtain permits tobuild one pier and either one boathouse or one boat slide on the Commission-owned property adjacent to their lakefront property. Landowners may not have both a boathouse and a boat slide. Boathouses, piers and boat slides must be separate structures, although they may be located in close proximity to each other. Construction of a new pier, boathouse or boat slide may only begin after first obtaining the necessary permit from the Arkansas Game and Fish Commission. Permit applications are attached. Commission personnel may also inspect the site before structures are built.

Boathouses, piers and boat slides may only be built using plans available from the Arkansas Game and Fish Commission and with approved materials. No other designs and material will be allowed for construction on Commission property. Plans for: floating boathouses, floating piers, fixed boathouses, fixed piers, and boat slides are provided. Commercially made piers, boathouses, and boat slides will be approved if they fall within the allowable dimensions. Framing of commercially made piers, boathouses, and boat slides may be made of galvanized metal.

Piers, boathouses and/or boat slides are the sole property of the permit holder and may be locked or gated at the entrance. Permit holders bear all responsibility and liability for upkeep and any injury resulting from the use of the structure.

4.5.1 *Dimensions & Design* – Piers may be either fixed or floating and must not exceed a total length of 50 feet and total width of 8 feet. Piers may include a "T" or "L" constructed at the end, measuring no more than 8 feet by 16 feet in size, but total length of pier may not exceed 50 feet. Piers must be placed a minimum of 1.0 feet above normal lake elevation. Roofs are not allowed on piers.

Boathouses may be either fixed or floating. Boathouses shall not exceed 24 feet in length and 16 feet in width and shall not have a walkway from shore to boathouse longer than 16 feet in length and 8 feet in width. Roofing is required on boathouses and shall be metal. Sheathing to enclose the boathouses is optional and shall be metal in an earth toned shade. Inside dimensions of boat slip can be variable as long as the structure does not exceed 16 feet wide and 24 feet long. Sleeping, living or toilet facilities in boathouses are prohibited.

Boat slides must be permanently fixed to the shoreline and cannot be floating. Boat slides cannot completely cross the lake management buffer, and they cannot change the configuration of the shoreline in any manner (digging/excavation is not allowed). Boat slides shall not exceed 20 feet in length and 8 feet in width. Handrails are allowed as long as they fit within the allowed dimensions. Roofs are not allowed on boat slides.

Placement and extension of piers, boathouses and/or boat slides into the lake must not encroach on an imaginary extension of the landowner's existing property lines. No guide lines or cables may be affixed to the shore to stabilize a pier, boathouse or boat slide.

4.5.2 *Materials* – All posts shall be 4"x 4" minimum pressure treated lumber and shall be spaced no more than 8 feet apart (8 foot spacing recommended). Posts may be driven or set in concrete. Deck framing shall be 2"x 6" minimum pressure treated lumber. Decking

shall be 5/4" x 6" or 2"x 6" minimum pressure treated lumber. Railings shall be 2"x 6" pressure treated lumber with mid-rail height of 18 inches and height of top-rail shall be 36 inches. Floor joists: On 16" centers use 2" x 8" minimum pressure treated lumber. On 12" centers, use 2" x 6" minimum pressure treated lumber. Fasteners shall be galvanized, stainless or coated steel screws. Floating structures must be buoyed with encapsulated foam flotation. Floating structures may not be stabilized by using cables, guidelines, or poles attached to concrete anchors along the shoreline or on the lake management buffer. Floating structures should utilize anchors in the lake or use standing pipe and guides.

A hand-cranked or battery operated winch/come-along system is allowed on boathouses, boat slides and piers as long as it does not change the configuration of the structure and must be mounted on a post (minimum 4" x 4" pressured treated lumber).

Rollers for boat house lifts and boat slides shall be constructed of galvanized metal or plastic. Alternatively, runners constructed of 2" x 4" pressure treated lumber, covered with marine carpet may be used.

4.5.3 *Electrical* – All electrical improvements must meet or exceed State of Arkansas and local codes. All electrical fixtures attached to piers and/or boathouses must be a minimum of 3 feet above normal pool elevation. All electric power lines attached to piers and boathouses must be encased in conduit and attached at least 3 feet above normal pool elevation. Any electric power lines that traverse AGFC property must be encased and buried according to State of Arkansas and local codes. Light poles are not allowed. Submerged electrical wiring is prohibited on the entire lake.

4.5.4 *Maintenance* – Piers, boathouses and boat slides must be maintained to be safe and functional and in good repair at all times. Failure of structures to pass inspection by the Arkansas Game and Fish Commission will be grounds for revocation of permit, mandatory removal and potential fine. Repairs must be made within 90 days of receiving notice of need to repair. Repairs will be made at the adjacent landowner's expense.

4.5.5 *Inspections* – Arkansas Game and Fish Commission personnel may inspect piers, boat slides and boathouses at any time. Property owner will be informed of maintenance needs and have 90 days to make stated repairs. Repairs will be made at the adjacent landowner's expense.

4.5.6 *Existing Structures* – Boathouses, piers, and retaining walls that were in place prior to January 1, 2008 and that do not conform to these regulations may be left in place until major repairs are needed. At that time the structure must be removed. Boat slides in place as of September 2009 will be permitted if they meet the specified dimensions (Section 4.5.1) and are not in need of major repairs. Grandfathered structures cannot have any additions added to the structures that alter the outside dimensions of the original structure. All new structures must comply with the Policies on Land Use around Arkansas Game and Fish Commission Lakes and a new permit issued. Joint boathouses will not be re-permitted and retaining walls may not be replaced. Structures not brought into compliance when major repairs are needed must be removed by property owner within 60 days at their own expense.

4.6 Lawn Irrigation – Lakefront property owners may pump water out of AGFC-owned lakes for lawn/garden irrigation needs. Irrigation for agricultural/commercial purposes willnot

be permitted. Those property owners with a currently permitted boathouse/pier/boat slide will not be required to pay irrigation permit fees or purchase a metal placard for irrigation purposes. Those property owners without a current boathouse, pier, or boat slide permit must apply for an Irrigation Permit for irrigation purposes as well as purchase a metal placard for the irrigation unit. No submersible pumps will be allowed. Relift pumps with no more than 1.5 horsepower may be used. Relift pumps may be located on an existing boathouse, pier or the landowner's property. Intake pipes must have screening on them. No part of the pump may be on the AGFC property (lake management buffer). Discharge or intake lines may traverse AGFC property. If electric power lines traverse AGFC property, they must be encased and buried according to State of Arkansas and local codes. The discharge outlet from the pump must be no more than 1 ½ -inch inside diameter within 5.0 feet of the pump and prior to dispersal for irrigation.

Water withdrawal for irrigation is prohibited when the lake elevation reaches 1.0 foot below normal lake elevation.

4.7 Damaged trees – If a tree on AGFC property is threatening a house or structure on private property, AGFC will pay for the removal of the tree (please contact your District Fisheries Supervisor as soon as possible). If structures on private property are damaged due to fallen trees originating on AGFC property, landowners must write a damage recovery request letter to the AGFC Director. The letter shall include: Location, description and date of damage; cost estimate of damage along with any incurred relevant bills that have been paid; an indication of whether the landowner has homeowner's insurance (or other relevant insurance) and what percentage of damages the insurance will pay, along with the deductible. The agency will review the damage request and determine the appropriate path moving forward. No dead timber may be removed from the lake.

5.0 Activities Allowed without a Permit

5.1 Summary of Activities

Walkways (non-elevated) Removing Dead Timber from AGFC lake management buffer
Clearing brush
Planting trees and shrubbery
Fish attractors

5.2 Walkways - Walkways may be built of wood, brick, or stone. Walkways cannot be elevated above ground level and must be open to public use at all times.

5.3 Removing Dead Timber - The lakefront landowner may remove dead timber on the Commission lake management buffer only between the lake and the owner's lot. If a tree falls on the lake management buffer and does not cause property damage, AGFC is not obligated to remove the tree. If the adjacent landowner wants to remove the tree, the District Fisheries Supervisor for that area must be contacted for approval. AGFC will not pay for damages caused to piers, boathouses, or boat slides from fallen trees.

5.4 Clearing brush – Lakefront landowners may clear weeds and brush on the adjacent Commission lake management buffer. Trees with trunks measuring up to 6 ½ inches in circumference (total measurement around the trunk of the tree) (equal to 2 inches in diameter) at waist height may be considered brush and may be cut. In no case maylive

trees, with trunks greater than 6 ½ inches in circumference (2 inches in diameter) be defaced, damaged or cut down. Trees damaged by storms or other natural causes may be removed with the District Fisheries Supervisor's approval.

5.5 Plants, Trees and Shrubbery – Lakefront property owners may plant native trees, shrubbery, and grasses. Plantings cannot be used to form a fence or impede public access of the lake management buffer.

5.6 Fish Attractors – Fish habitat may be constructed using brush, tree tops, Christmas trees, and other natural organic material. Fish attractors cannot be constructed so as to present a boating hazard. Fish attractors constructed from rock, plastics, or other non-biodegradable material must be approved by the District Fisheries Supervisor. Consult with the District Fisheries Supervisor for recommendations.

6.0 Activities Not Allowed at Any Time (Any items that obstruct public access on the lake management buffer or any type of private property, excluding permitted piers, boathouses, boat slides and irrigation pumps) *Please refer to the Arkansas Game and Fish Guidelines for Resolving Real Estate Encroachments (Appendix 10.8)*

6.1 Summary of Activities

Storage of any type of personal property	Storage sheds	Concrete slabs or patios
Water wells	Gardens	Septic systems
Fences	Burning	Cutting trees
Discharges	Doghouses	(sections 5.3 & 5.4)
Private boat ramps	Satellite Dishes	
Livestock	Permanently moored party barges	
Animal pens	Light Poles (Section 4.5.3)	
Seawalls or Retaining Walls		

If you have any questions regarding whether your proposed activity is prohibited, please call the Fisheries Division at (501) 382-9071~~(501) 223-6371~~.

6.2 Septic Systems – Septic tanks and field lines are prohibited on Commission property.

6.3 Wells – No new wells will be allowed on Commission property.

6.4 Discharges – No discharges of any kind will be allowed on Commission property or into the lake including: septic discharge, gray water and discharge from individual sewage treatment systems.

6.5 Fences and Fencing – Fences are not allowed on Commission property. Fencing is not allowed under the lake's surface.

6.6 Gardens – Gardens are not allowed on Commission property.

6.7 Personal Property –Storage of personal property is not allowed on Commission property. Personal property includes but is not limited to: old car bodies, appliances, truck beds, building material, boat trailers, campers, etc. Permanent structures of any kind are not allowed on Commission property with the exception of permitted boathouses, boat slides

and piers.

6.8 Boundary Markers – Tampering with or removal of the Arkansas Game and Fish Commission survey markers, which delineate property boundaries, is not allowed.

6.9 Livestock – No new livestock operations will be allowed on Commission property. (Existing livestock operations may not deny access to the Commission-owned lake management buffer).

6.10 Burning – Burning is not allowed on Commission property.

6.11 Party Barges – Permanently moored party barges are not allowed.

6.12 Motorized Vehicles – Operation of any motorized vehicle is prohibited on Commission property (with the exception of riding lawnmowers, which may only be used to mowthe lake management buffer adjacent to the vehicle user/landowner's property).
In accordance with Title II of the Americans with Disabilities Act (ADA), individuals with mobility disabilities are permitted to use wheelchairs and manually-powered mobilityaids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities in any areas open to pedestrian use. Disability documentation is not required. (Reference §35.137 (Title II) and §36.331 Title III) Mobility Devices). A wheelchair is defined as a manually-operated orpower-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor and outdoor locomotion. (Reference §35.104 and §36.104 – Definitions).

7.0 Lake Regulations on Commission-Owned Lakes

7.1 Firearms – Firearms are prohibited except while legally hunting waterfowl on those lakes open to waterfowl hunting. Concealed weapon permit holders may carrya modern handgun except in places where otherwise prohibited under federal, state, local law. Concealed weapon permit holders may not use it for any hunting purpose. All concealed handgun permit holders must identify themselves to a wildlife officer when complying with an inspection pertaining to birds, fish, game or other wildlife resources.

7.2 Wakes – Hazardous wakes may not be created while operating a boat. Refer to Arkansas boating regulations.

7.3 Skiing/Personal Water Craft – Water skiing and use of personal watercraft such as jet skis, and other similar craft not designed for recreational fishing are not permitted.

7.4 Floating Structures – No floating structures are allowed with the exception of permitted boathouses and piers.

7.5 Commercial Facilities – Commercial dock and launch facilities are only allowed when and where they are properly permitted. Operators of such facilities must obtain a permit and pay an annual fee before they can charge for boat launching, vehicle parking or dock rental. Commission employees in the performance of duties must be allowed free parking and launching privileges.

7.6 Obstructing Public Access – Obstruction or storage of vessels or equipment on any Commission access area, parking area, boat launching ramp or access road is prohibited.

7.7 Stakes/Pipes – Driving rebar, or any non-woody material, into the substrate of the lake is prohibited. It is illegal to nail or screw wood or any other materials to live or dead trees in AGFC-owned lakes. Stakes used for mounting yo-yos or limblines on AGFC-owned lakes must be made from wood or cane and must be removed from the lake when not in use.

7.8 Electrical Lines – Submerged electrical wiring is prohibited on the entire lake.

8.0 Violations and Variances

Violations of this policy may result in, but are not limited to, fines from $100 to $1,000 and the loss of permit privileges (refer to regulations provided below). Variances will only be considered under extraordinary circumstances and a written request must be sent to the District Fisheries Supervisor. Written approval for a variance must be received prior to commencing any construction or activity for which the variance is requested. Variances are intended to address needs for public safety and environmental health and not matters of private convenience. Upon the District Fisheries Supervisors review, written requests for any variances will be submitted to the Chief of Fisheries for approval.

19.02	**DAMAGE TO COMMISSION PROPERTY PROHIBITED**
02-81	It is unlawful to remove, dislodge or intentionally cause damage to any building, structure, sign, equipment or other property owned or controlled by the Commission. **PENALTY: Class 2**
19.03	**MOTORIZED VEHICLE RESTRICTIONS**
04-09	It is unlawful to operate any motorized vehicle on Commission-owned property where no maintained road exists. **EXCEPTIONS:** (1) In designated camping areas; (2) Persons having a valid Mobility Impaired Access Permit may operate an ATV or similar specialized device for transportation in compliance with Code 20.12; or, (3) Persons participating in the Freddie Black Choctaw Island WMA Deer Research Area East Unit Special Mobility Impaired permit deer hunt. **PENALTY: Class 1**
03.01	**LICENSE AND PERMIT REQUIREMENTS**
09-05	It is unlawful to hunt or fish when and where a license, permit, tag or stamp is required without having on the person the appropriate license, permit, tag or stamp. It also is unlawful for any person to fail to comply with the terms of any Commission-issued license, permit, tag or stamp. **EXCEPTION:** Hunting (other than big game), (Code 01.00-C, "Big Game") or fishing with a valid confirmation or authorization number received from a telephone license order transaction (Confirmation or authorization numbers are valid for 14 days including the day of the telephone transaction.); or, a valid temporary license printed from an online license order transaction. (Temporary licenses are valid for 14 days including the day of the online transaction.) **PENALTY: Class 1**
19.13	**COMPLIANCE WITH LAND USE POLICIES AROUND COMMISSION-OWNED OR -CONTROLLED LAKES; PERMIT AND SPECIFICATION**

REQUIREMENTS FOR CERTAIN STRUCTURES AND ACTIVITIES.

03-15

It is unlawful to fail to comply with the Commission's Policies on Land Use Around Arkansas Game and Fish Commission Lakes (Addendum K 1.01), including all permit and specification requirements for structures and activities. Specifically, it is unlawful to:

(A) Construct, own, or possess platforms, piers, boat slides, boathouses, or irrigation systems on Commission-owned or controlled lakes (including lake management buffers) without first obtaining a valid permit from the Commission in accordance with the Commission's Policies on Land Use Around Arkansas Game and Fish Commission Lakes (Addendum K 1.01).

(B) Conduct or engage in activities on Commission-owned or controlled lakes (including lake management buffers) that require a permit under the Commission's Policies on Land Use Around Arkansas Game and Fish Commission Lakes (Addendum K 1.01) without first obtaining a valid permit from the Commission in accordance with such policies. Activities that require a permit include, but are not limited to: shoreline stabilization; lake dredging; herbicide and pesticide use; shoreline deepening; and lawn irrigation.

(C) Conduct or engage in activities on Commission-owned or controlled lakes (including lake management buffers) that are disallowed under the Commission's Policies on Land Use Around Arkansas Game and Fish Commission Lakes (Addendum K 1.01). Activities that are disallowed include, but are not limited to: storage of any type of personal property; construction of water wells; erection of fencing or storage sheds; discharges of liquids or other materials; livestock grazing; construction of seawalls or retaining walls; construction or installation of animal pens, doghouses, light poles, satellite dishes, gardens, gazebos, concrete slabs, or patios; cutting trees; and permanently mooring party barges.

PENALTY: Class 1

9.0 Commission-owned Boundaries

Lake	Elevation	Distance (Feet)
Atkins	319.0’ msl	metes and bounds survey
Barnett	350.5’ msl (379.5’ msl flowage easement)	100 feet
Bentonville (easement only)	1276.0’ msl	metes & bounds survey
Bob Kidd	1169.5’ msl	metes & bounds survey
Cane Creek	175.0’ msl	metes & bounds survey
Charles	280.0’ msl	50 feet
Conway	263.0’ msl	20 feet
Cox Creek	260.0’ msl	50 feet
Crystal	997.0’ msl	metes & bounds survey
Elmdale	1238.2’ msl	metes & bounds survey
Frierson	367.0’ msl	metes & bounds survey
Gurdon	222.0’ msl	metes & bounds survey
Harris Brake	280.0’ msl	metes & bounds survey
Hindsville	Shoreline	highest level plus 50 feet
Hinkle	790.0’ msl	metes & bounds survey
Horsehead	670.0’ msl	contour plus 50 feet (no elevation)
Jack Nolen	520.0’ msl	metes & bounds survey
Overcup	307.0’ msl	50 feet
Saracen	207.0’ msl	metes & bounds survey
Poinsett	306.8’ msl	100 feet
Sugar Loaf	650.0’ msl	metes & bounds survey
Tri-County	194.3’ msl	50 feet
Lower White Oak	202.0’ msl	50 feet
Upper White Oak	212.0’ msl	50 feet
Wilhelmina	1006.0’ msl	50 feet

***** Normal pool elevation for Lake Overcup is 3.5 feet below the stated boundary line elevation. Normal pool elevation for Upper and Lower White Oak Lakes is 4 feet below the stated boundary line elevations. Landowner should consult with a licensed surveyor to determine the extent of ownership and precise boundary locations. The above is provided for reference only.

10.0 Applications and Permit Application Contact Information

10.1 Application for Boathouse / Boat Slide / Pier

10.2 Application for Irrigation (For those landowners who do not have a pier, boathouse or boat slide)

10.3 Application for Shoreline Stabilization / Dredging

10.4 Application for Herbicide Use on Aquatic Vegetation

10.5 Plans and Specifications for Boathouses, Piers and Boat Slides

10.6 Fisheries Division Districts and Contacts

10.7 U.S. Army Corps of Engineers Contact Map

10.8 Arkansas Game and Fish Guidelines for Resolving Real Estate Encroachments

APPLICATION FOR BOATHOUSE / BOAT SLIDE / PIER / IRRIGATION ON PUBLIC LAND

LAKEFRONT PROPERTY OWNER COMPLIANCE AGREEMENT
(Please print or type)

Name_____
(First) (Middle) (Last)

Mailing Address_____

City_____ **Zip Code**_____

Lake Address_____

City_____ **Zip Code**_____

Home Phone_____ **Business Phone**_____ **County**_____

Date of Birth_____ **Height**_____ **Eye Color**_____

Sex_____

Driver's License Number or Social Security Number _____

(Please check no more than one pier and one boathouse or boat slide)
PIER: New:_____ or Existing:_____ Floating:_____ Fixed: _____

BOATHOUSE: New:_____ or Existing:_____ Floating:_____ Fixed: _____

BOAT SLIDE: New:_____ or Existing:_____ Floating:_____ Fixed: _____

(There is a $30.00 permit fee for each structure and a $25.00 permit fee for all required metal placards. All permits must be renewed on the AGFC's 3-year cycle as follows: by December 31, 2021, and by December 31 every third year thereafter.)

☐ ***Please check box if you will be irrigating with lake water. (If you have a boathouse/pier/boatslide and will be irrigating, there is no additional cost. If you do not have a boathouse/pier/boat slide and will be irrigating with lake water, you must complete the Irrigation Application, pay a $30.00 permit fee and purchase a metal placard for the irrigation unit.)***

Location of Structure(s) and/or Irrigation System

Lake: _____

Sub-Division: _____

Lot: _____ **Block:** _____

Failure to send in all required information will result in a delay of issuance of permit.

Check-off list of documents you must provide with this application:

____Proof of property ownership

____Plat showing location of pier/boathouse/boat slide (Available from Circuit Clerk)

____Construction plans listing structure dimensions

AGREEMENT

By signing this document, I have read and hereby agree to comply with **ALL ITEMS** listed in the AGFC Land Use Policy, as revised time to time. I further agree to build any structure(s) using Arkansas Game and Fish Commission plans, maintain the structure(s) listed on this application in good repair and to remove structure(s) if they at any time are damaged or deteriorated beyond repair or abandoned. I also understand that I accept all liability associated with said structures. I understand that I must renew my permit on the AGFC's triennial cycle by paying the applicable fees and that a Commission employee may inspect my permitted structures and adjacent AGFC lake management buffer at any time. I also understand my failure to abide by this agreement may result in fines and/or mandatory removal of the structure(s).

Requested activity cannot commence until receipt of approved permit.

PLEASE MAKE CHECK OR MONEY ORDER PAYABLE TO ARKANSAS GAME AND FISH COMMISSION OR

VISA/MASTERCARD/DISCOVER#_____
EXP. DATE_____

_____
APPLICANT SIGNATURE

_____
DATE

Send completed form, other information and application fees to:

Arkansas Game & Fish Commission
#2 Natural Resources Dr.
Little Rock, AR 72205

Do not write below this line (Office use only)

Application Received:_____
(Date and Initial)

Site Visit:_____
(Approving AGFC Biologist / Wildlife Officer Date and Sign)

Permit Approved as Submitted:_____

Expiration Date for work to be performed by:_____

Permit Approved with Modifications:_____**(Modifications noted on project site plan and scope of work)**

Permit Denied:_____**Reasons for denial:**_____

APPLICATION FOR IRRIGATION ON PUBLIC LAND
LAKEFRONT PROPERTY OWNER COMPLIANCE AGREEMENT

(Please print or type)

Name_____
(First) (Middle) (Last)

Mailing Address_____

City_____ **Zip Code**_____

Lake Address_____

City_____ **Zip Code**_____

Home Phone_____ **Business Phone**_____ **County**_____

Date of Birth_____ **Height**_____ **Eye Color**_____

Sex_____

Driver's License Number or Social Security Number _____

(There is a $30.00 permit fee for irrigation and a $25.00 permit fee for metal placard for each irrigation system.)

Location of Irrigation System

Lake: _____

Sub-Division: _____

Lot: _____ **Block:** _____

Failure to send in all required information will result in a delay of issuance of permit.

AGREEMENT

By signing this document, I have read and hereby agree to comply with **ALL ITEMS** listed in the AGFC Land Use Policy, as revised from time to time. I further agree to comply with Section 4.6: Lawn Irrigation. I understand that I must renew my permit on the AGFC's triennial cycle by paying the applicable fees and that a Commission employee may inspect my property at any time. I also understand my failure to abide by this agreement may result in fines and/or mandatory removal of the irrigation system(s).

Requested activity cannot commence until receipt of approved permit.

PLEASE MAKE CHECK OR MONEY ORDER PAYABLE TO ARKANSAS GAME AND FISH COMMISSION OR

VISA/MASTERCARD/DISCOVER#_____
EXP. DATE_____

_____
APPLICANT SIGNATURE

_____
DATE

Send completed form, other information and application fees to:

Arkansas Game & Fish Commission
#2 Natural Resources Dr.
Little Rock, AR 72205

Do not write below this line (Office use only)

Application Received:_____
(Date and Initial)

Site Visit:_____
(Approving AGFC Biologist / Wildlife Officer Date and Sign)

Permit Approved as Submitted:_____

Permit Approved with Modifications:_____(Modifications noted on project site plan and scope of work)

Permit Denied:_____ Reasons for denial:_____

APPLICATION FOR SHORELINE STABILIZATION / DREDGING WORK TO BE PERFORMED ON PUBLIC LAND/WATER

LAKEFRONT PROPERTY OWNER COMPLIANCE AGREEMENT

(Please print or type)

Name_____

Mailing Address_____

City_____ **Zip Code**_____

Lake Address_____

City_____ **Zip Code**_____

Home Phone_____ **Business Phone**_____ **County**_____

Location of Affected Area

Lake: _____

Sub-Division: _____

Lot: _____ **Block:** _____

Materials and Methods to Be Used

_____

_____

_____

_____

AGREEMENT

By signing this document, I have read and hereby agree to comply with **ALL ITEMS** listed in the AGFC Land Use Policy, as revised from time to time. I further agree to conduct shoreline stabilization / dredging work according to recommendations from the Arkansas Game and Fish Commission District Fisheries Supervisor.

I understand that I must submit further application should the scope of this work at any time exceed the previously outlined specifications or if further shoreline / dredging work is needed in the future. I also understand that a Commission employee may inspect my property at any time and that my failure to abide by this agreement may result in fines and/or mandatory reconstruction of the area according to the District Fisheries Supervisor's recommendations.

_____
APPLICANT SIGNATURE

_____
DATE

Send completed form, other information listed below and application fees to:

Arkansas Game & Fish Commission
#2 Natural Resources Dr.
Little Rock, AR 72205

Attach a project site plan and scope of work describing work to be done, dimensions, and materials used. Allow up to six weeks for the application to be reviewed, a site visit scheduled, and permit to be processed.

Do not write below this line (Office use only)

Application Received:_____
(Date and Initial)

Site Visit:_____
(Date and Initial)

Permit Approved as Submitted:_____

Permit Approved with Modifications:_____(Modifications noted on project site plan and scope of work)

Permit Denied:_____ Reasons for denial:_____

Herbicide Treatment Permit Application

Please fill out application and return to address listed below.

Applicant's Name: First_____ Last _____

Mailing Address: _____

City:_____ State:_____ Zip code: _____

Lake Street Address: _____

Home Phone:_____ Work Phone: _____

Signature: _____

Date: _____

All chemicals must be applied according to manufacturer's label directions. Misuse of chemicals may result in revocation of permit.

Mailing Address: **Arkansas Game & Fish Commission**
#2 Natural Resources Dr.
Little Rock, AR 72205

- - - -

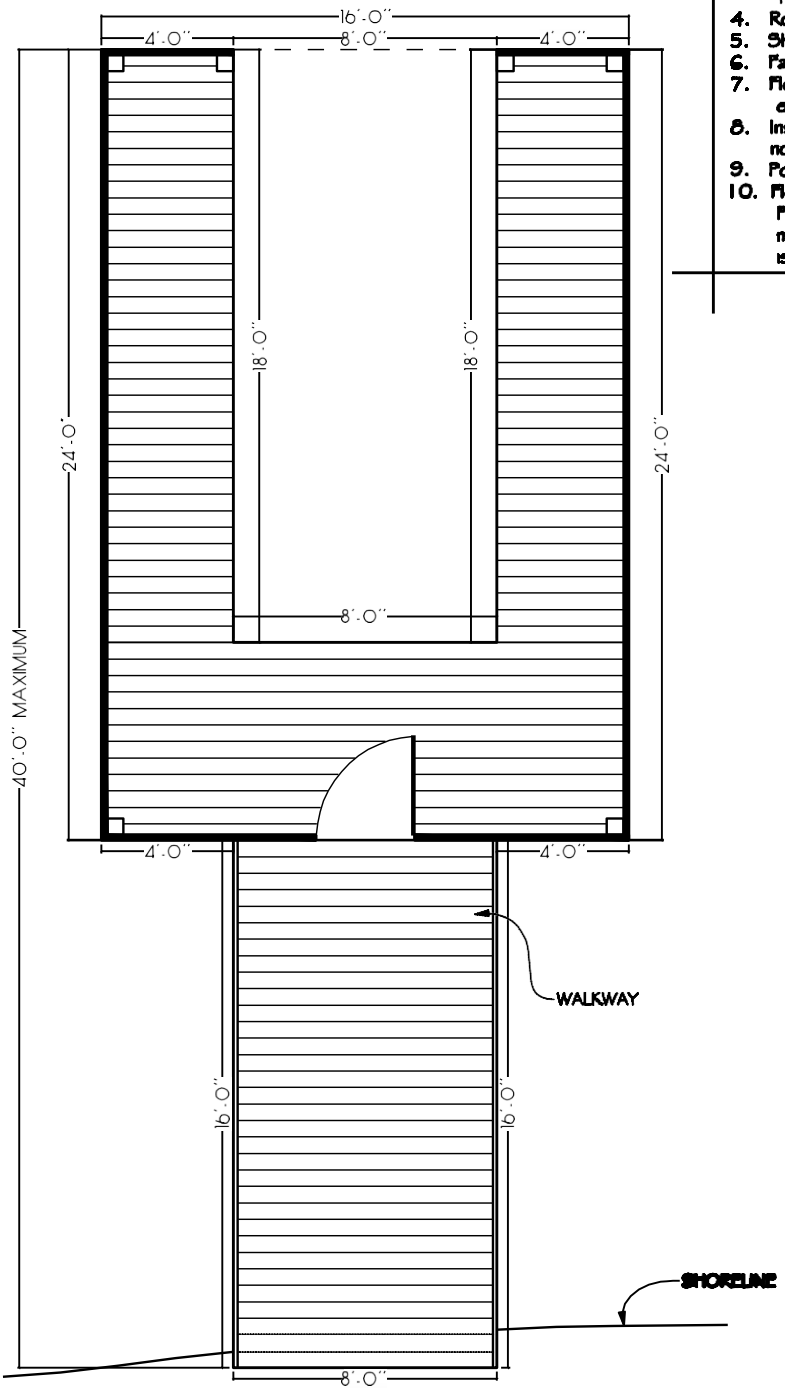
Fisheries approval: _____

Date: _____

This permit will only be valid through the calendar year indicated in the date section of this permit. Treatment for the next season will require another permit.

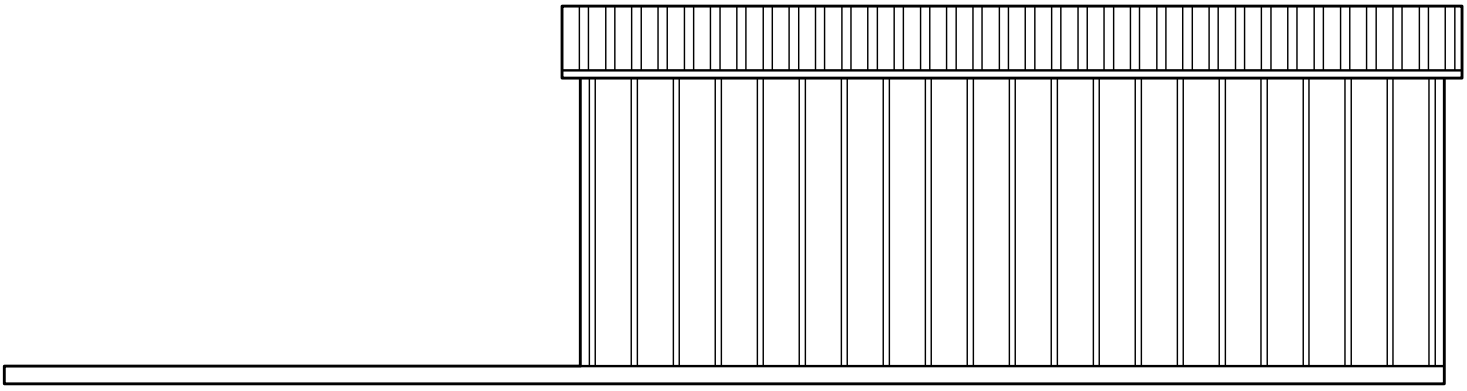
BOATHOUSE REGULATIONS

1. All posts shall be 4" X 4" minimum Pressure Treated Lumber and shall be spaced no more than 8 feet apart (8 foot spacing recommended).
2. Deck framing shall be 2" X 6" minimum Pressure Treated Lumber.
3. Decking shall be 5/4" X 6" or 2" X 6" minimum Pressure Treated Lumber.
4. Roofing shall be metal.
5. Sheathing shall be metal in an earth toned shade.
6. Fastenings shall be galvanized or coated screws.
7. Floating boathouses, same dimensions with encapsulated foam.
8. Inside dimensions can vary as long as outside does not exceed 16' X 24'.
9. Posts may be driven or set in concrete.
10. Floor joists: On 16" centers use 2" X 8" minimum Pressure Treated Lumber; on 12" centers use 2" X 6" minimum Pressure Treated Lumber. Maximum spacing is 16 inches.

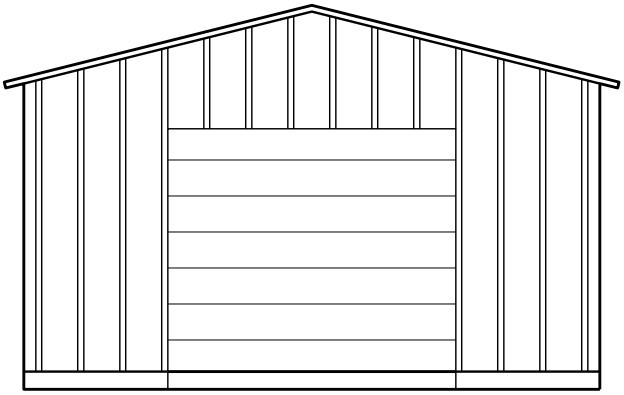


1 **PLAN VIEW**

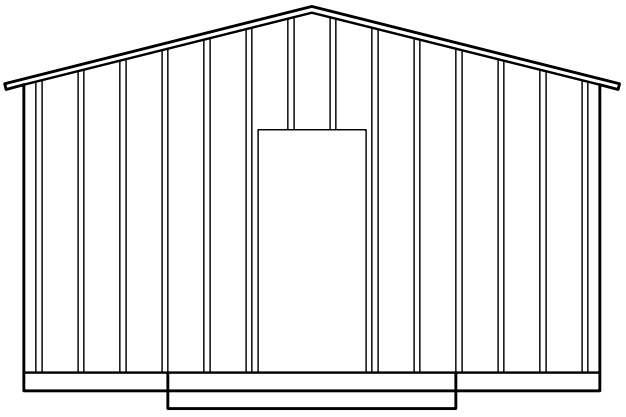
3/16"=1'-0"



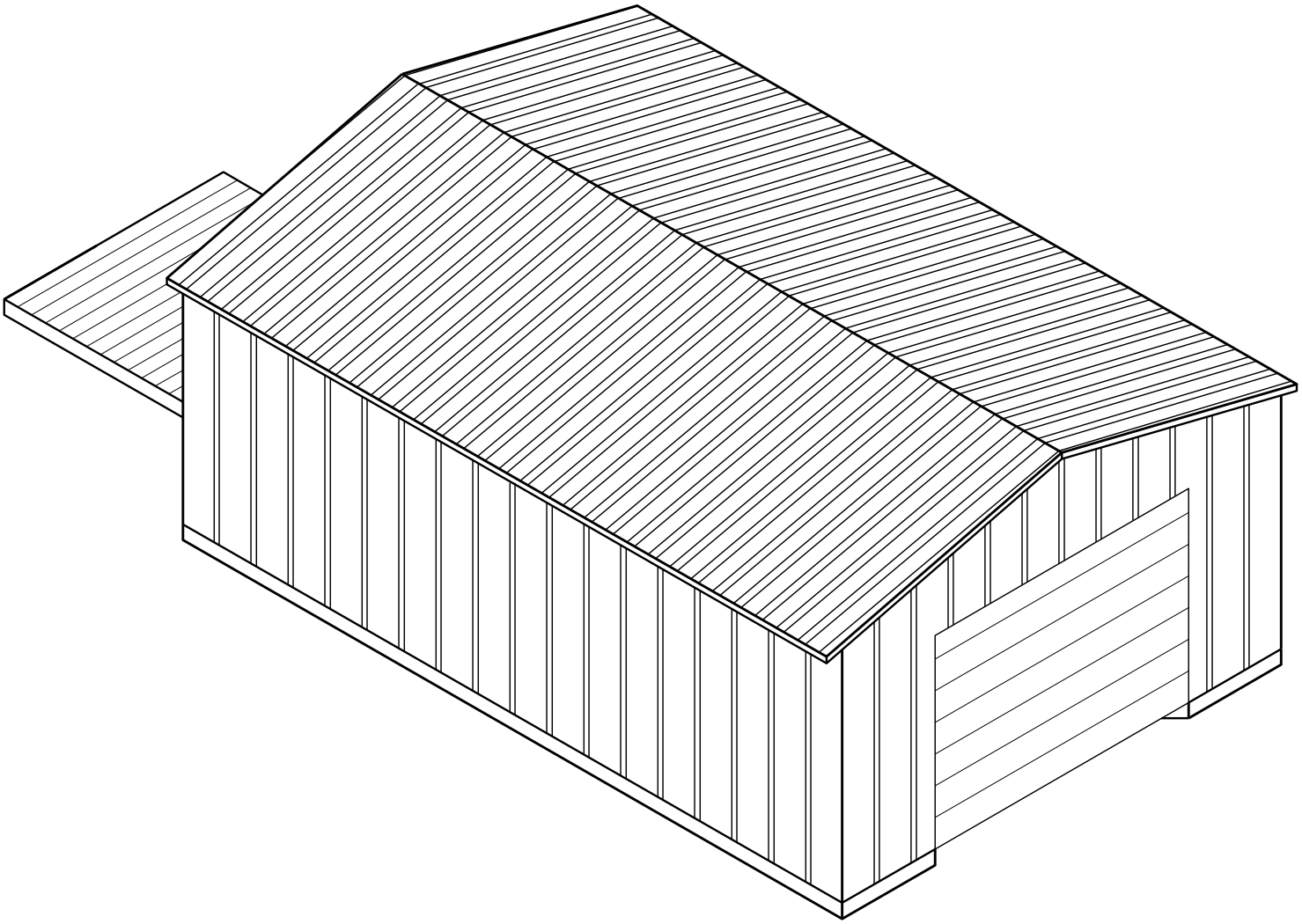
1 **SIDE ELEVATION**
3/16"=1'-0"



2 **FRONT ELEVATION**
3/16"=1'-0"



3 **REAR ELEVATION**
3/16"=1'-0"

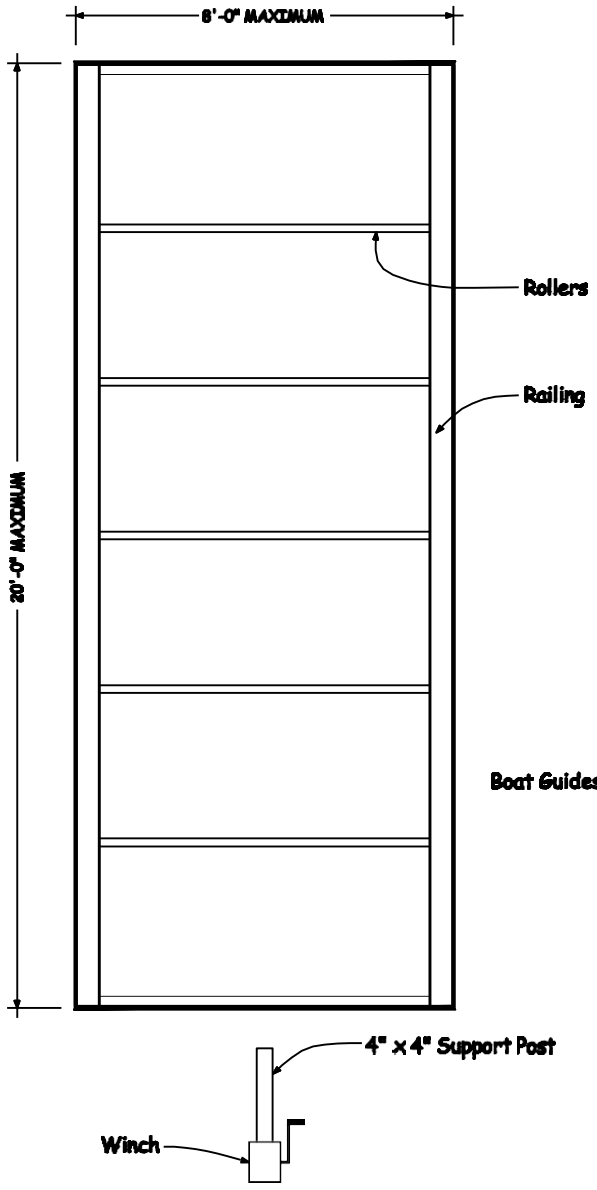


1 **ISOMETRIC VIEW**

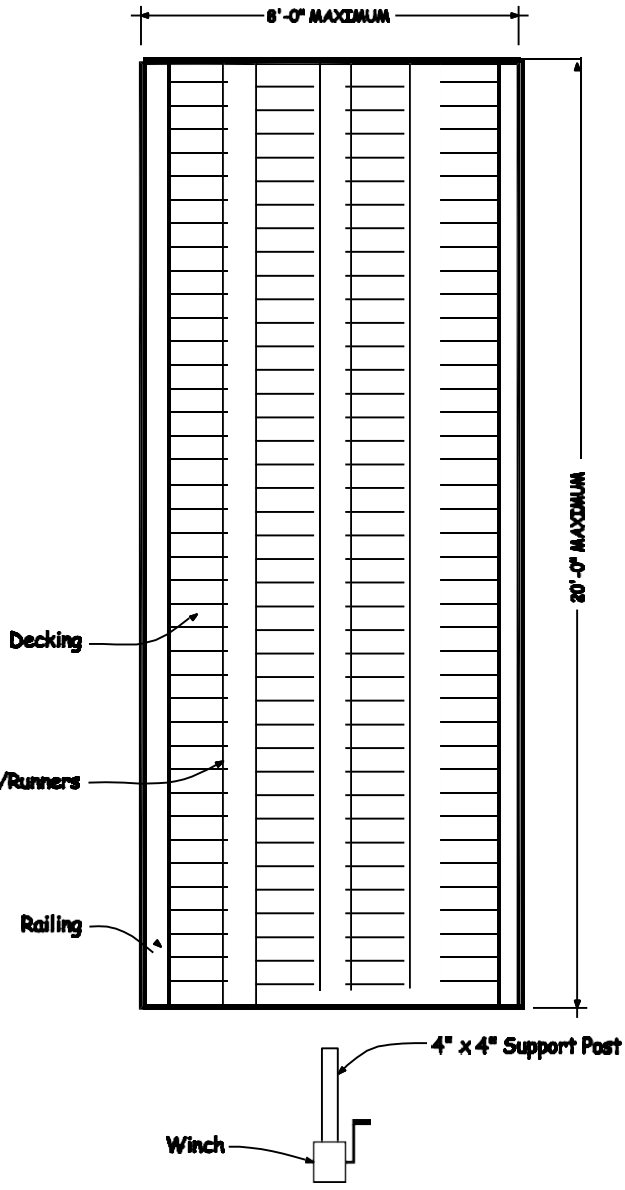
3/16"=1'-0"

BOAT SLIDE REGULATIONS

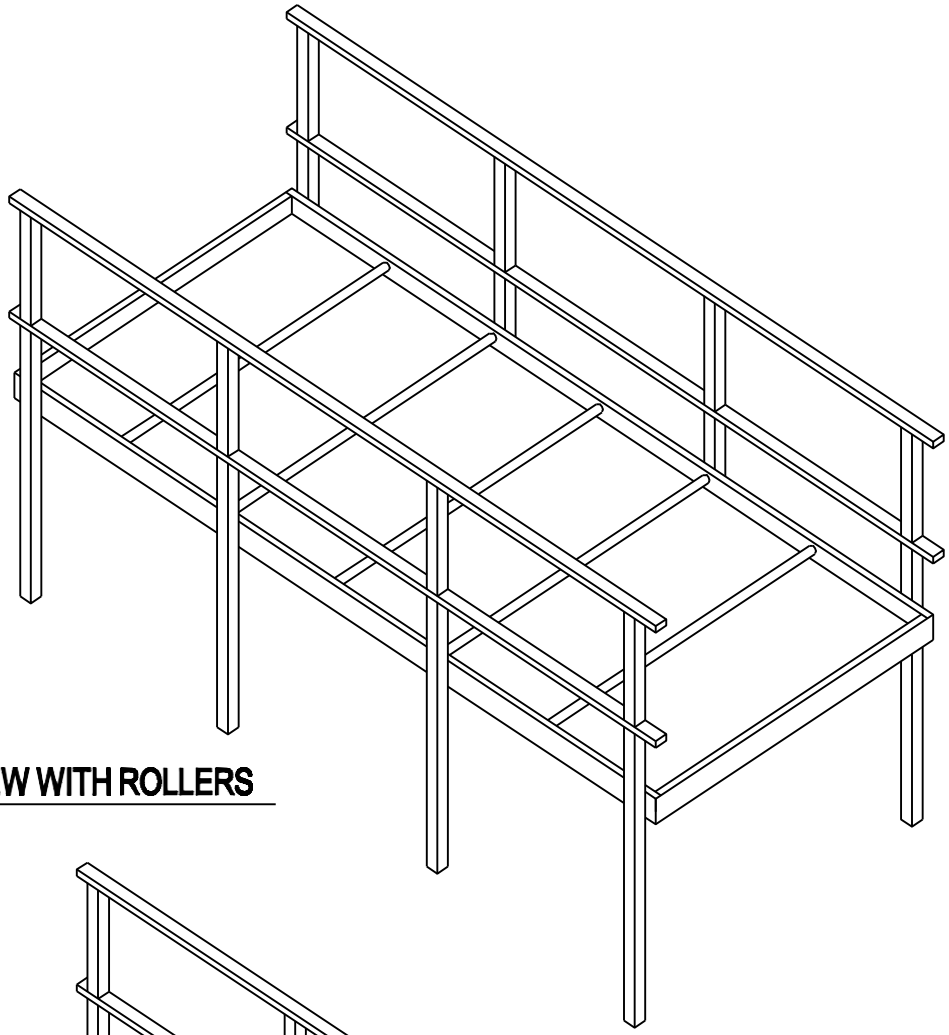
1. All posts shall be 4" X 4" minimum Pressure Treated Lumber and shall be spaced no more than 6 feet apart.
2. Deck framing shall be 2" X 6" minimum Pressure Treated Lumber.
3. Decking shall be 5/4" X 6" or 2" X 6" minimum Pressure Treated Lumber.
4. Railings shall be 2" X 6" Pressure Treated Lumber with mid-rail height of 18 inches and height of top-rail shall be 36 inches.
5. Floor joists: On 16" centers use 2" X 8" minimum Pressure Treated Lumber. On 12" centers, use 2" X 6" minimum Pressure Treated Lumber.
6. Fasteners shall be galvanized, stainless or coated steel screws.
7. Rollers shall be galvanized metal or plastic.
8. Runners shall be constructed of 2" X 4" Pressure Treated Lumber, covered with marine carpet.
9. Posts may be driven or set in concrete.



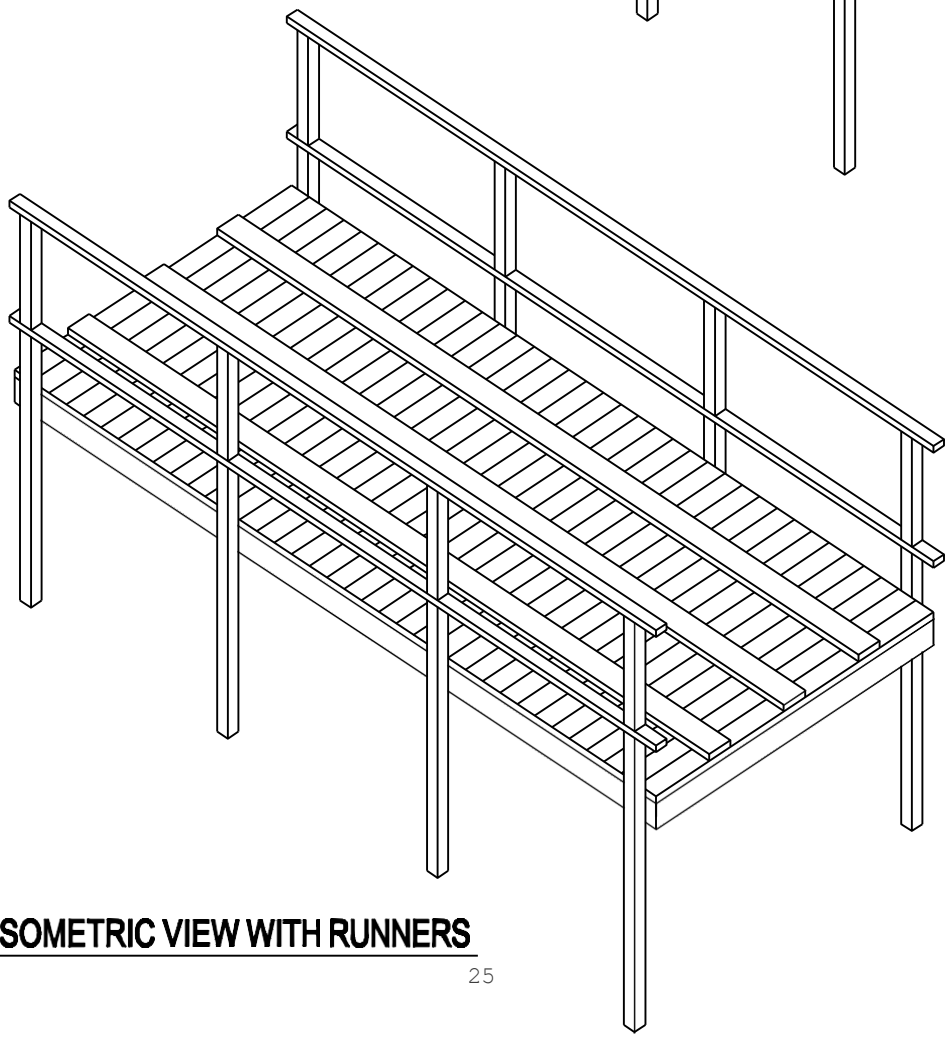
1 PLAN VIEW WITH ROLLERS



2 PLAN VIEW WITH RUNNERS



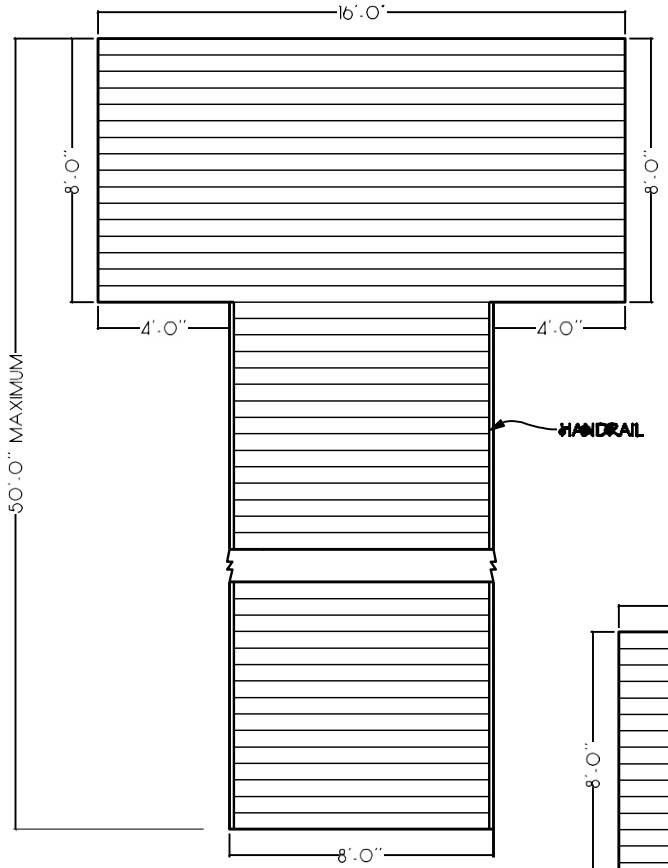
1 ISOMETRIC VIEW WITH ROLLERS



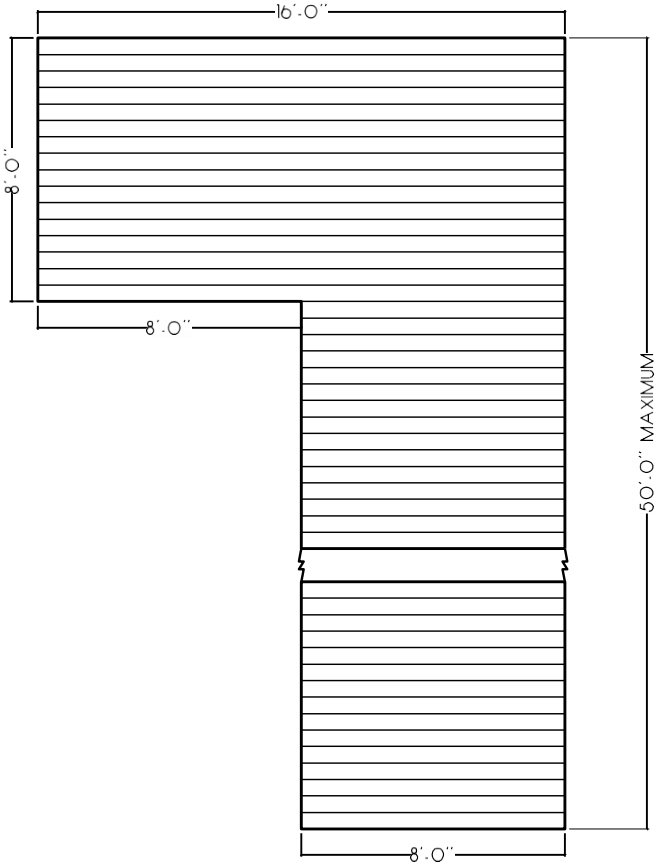
2 ISOMETRIC VIEW WITH RUNNERS

PIER REGULATIONS

1. Outside dimensions shall not exceed 50 feet in length and 8 feet in width.
2. "T" or "L" on end of pier shall not exceed 16 feet in width and 8 feet in length and total length of pier must not exceed 50 feet.
3. Posts shall be 4"X4" minimum Pressure Treated Lumber and shall be spaced no more than 8 feet apart (8 foot spacing recommended).
4. Deck framing shall be 2"X6" minimum Pressure Treated Lumber.
5. Decking shall be 5/4" X 6" or 2"X6" minimum Pressure Treated Lumber.
6. Railing shall be 2"X6" Pressure Treated Lumber, mid-rail and height of top-rail shall be 36".
7. Fasteners shall be galvanized or coated screws.
8. Floating piers require encapsulated foam.
9. Posts may be driven or set in concrete.
10. Floor joists: On 16" centers use 2" X 8" minimum Pressure Treated Lumber. On 12" centers use 2"X6" minimum Pressure Treated Lumber. Maximum spacing is 16 inches.



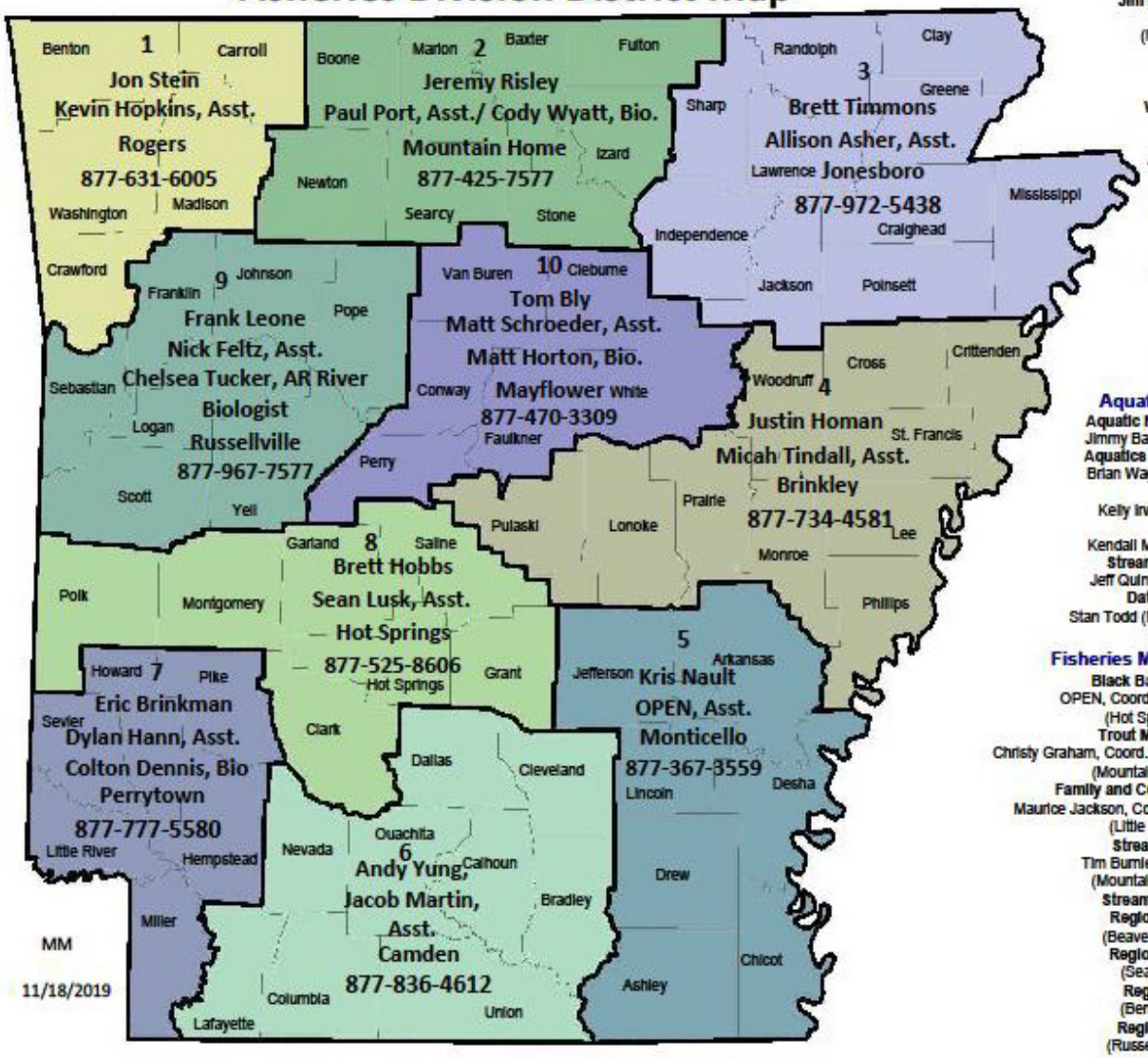
1 PIER PLAN (T)
3/16"=1'-0"



2 PIER PLAN (L)
3/16"=1'-0"

Fisheries Division

Fisheries Division District Map



Fish Culture

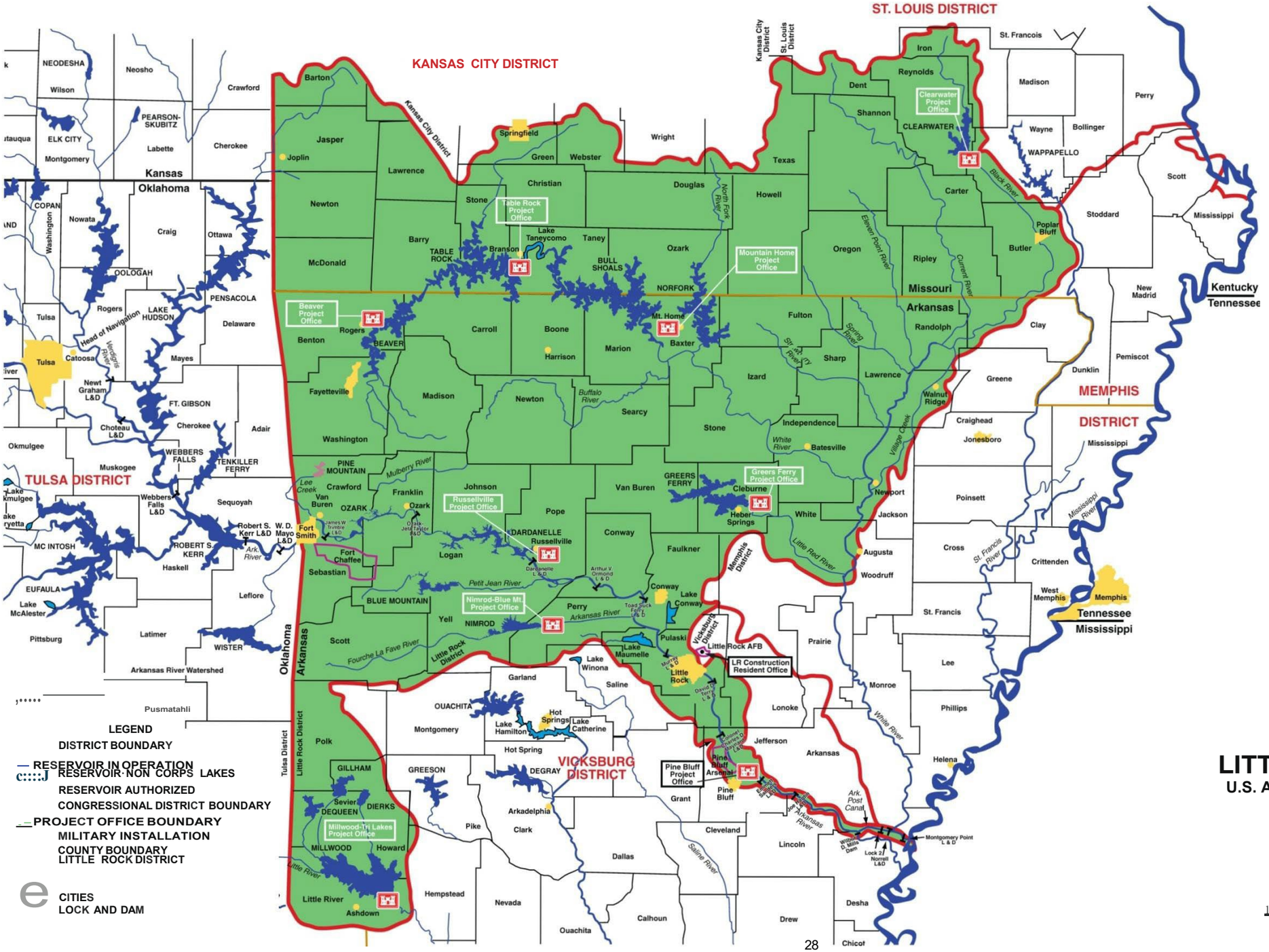
Jim Hinkle Spring River Fish Hatchery
Melissa Jones, Mgr.
(Mammoth Spring) 877-625-7521
Joe Hogan Fish Hatchery
Jason Miller, Mgr.
(Lonoke) 877-676-6963
Wm. H. Donham Fish Hatchery
Mark Harness, Mgr.
(Corning) 877-857-3676
Andrew Hulsey Fish Hatchery
Jeff Newman, Mgr.
(Hot Springs) 877-525-8606
Charlie Craig Fish Hatchery
Joe Adams, Mgr.
(Centerton) 877-795-2470
Jim Collins Net Pen Facility
Alex Gilbert, Mgr.
(Mt. Ida) 501-617-0259
Fish Pathologist
Kelly Winningham
(Hot Springs) 877-525-8606

Aquatic Wildlife Diversity

Aquatic Nuisance Species Program
Jimmy Barnett (Benton) 877-847-2690
Aquatics Wildlife Diversity Biologist
Brian Wagner (Benton) 877-847-2690
Herpetologist
Kelly Irwin (Benton) 877-847-2690
Malacologist
Kendall Moles (Benton) 877-847-2690
Stream Management Biologist
Jeff Quinn (Mayflower) 877-470-3309
Database Administrator
Stan Todd (Mountain Home) 877-425-7577

Fisheries Management Programs

Black Bass Program Biologist
OPEN, Coord.; Jeffrey Buckingham, Asst.
(Hot Springs) 877-525-8606
Trout Management Program
Christy Graham, Coord.; Wes Sleeper, Asst.; Joe Kaiser, Asst.
(Mountain Home) 877-425-7577
Family and Community Fishing Program
Maurice Jackson, Coord.; Clint Coleman, Sr. Technician
(Little Rock) 800-364-4263
Stream Habitat Program
Tim Burnley,Stream Habitat Coord.
(Mountain Home) 877-425-7577
Stream Team Coordinators
Region 1: Sean Saunders
(Beaver Lake) 501-765-9208
Region 2: Stephen O'Neal
(Searcy) 501-351-6208
Region 3: Tate Wentz
(Benton) 501-776-8362
Region 4: Matthew Irvin
(Russellville) 479-264-3319
ColdwaterHabitat Program
Eli Powers, Trout Habitat Biologist
(Mountain Home) 877-425-7577



Points of Contact

U.S. ARMY CORPS OF ENGINEERS

Regulatory Activities-Little Rock District & Adjacent Districts

Little Rock District
ATIN: CESWL-RD
700 West Capitol Avenue
LittleRock,AR 72201-3221
(50I) 324-5295

Memphis District
ATIN: CEMVM-OD-R
167 N. Main Street, Rrn B-202
Memphis, TN 38103-1894
(901) 544-3471

Vicksburg District
ATIN: CEMVK-OD-F
4155 Clay Street Vicksburg,
MS 39183-3435 (601) 631-7660

Kansas City District
ATIN: CENWK-OD-R
635 Federal Bldg.,Rrn 402
Kansas City, MO 64106
(816) 389-3990

St. Louis District
ATIN: CEMVS-OD-F
1222 Spruce Street
St. Louis, MO 63103-2833
(314) 331-8575

Tulsa District
ATIN: CESWT-RO
1645 South 101" East Avenue
Tulsa, OK 74128
(918) 669-4968

N

LITTLE ROCK DISTRICT

U.S. ARMY CORPS OF ENGINEERS

10.8: ARKANSAS GAME AND FISH GUIDELINES FOR RESOLVING REAL ESTATE ENCROACHMENTS

September 18, 2014

The following guidelines are intended to assist Arkansas Game and Fish Commission ("AGFC or "the Commission") staff in identifying, classifying, and resolving encroachments on Commission real estate in a manner that appropriately balances the Commission's duty to wisely manage the property it holds in trust for all people of Arkansas with its desire to be a "good neighbor" to those with whom it shares a boundary.

DEFINITIONS

Closing Costs: All expenses associated with the Commission conveying property to a neighboring landowner to resolve an encroachment including, without limitation, attorney's fees, title search fees, appraisal fees, settlement fees, document preparation fees, and fees associated with clearing up any clouds on title that the encroachment caused.

Encroachment: Any structure, improvement, or other physical object that extends from private property onto adjoining Commission property without authorization by signed written agreement or easement acknowledged by the Commission.

Fair Market Value (FMV): The price that property would sell for on the open market between a willing buyer and a willing seller, with neither being required to act and both having reasonable knowledge of the relevant facts. Typically, an appraisal prepared in accordance with current Uniform Standards of Professional Appraisal Practice (USPAP) will be used to determine the price.

Flowage Easement: The legal right to submerge, flood, or overflow property.

Lake Management Buffer: The strip of Commission-owned land adjacent to AGFC lakes that the Commission deems necessary to provide for public access, flood control, and lake management. The width of the management buffer strip varies from lake-to-lake (typically between 20 to 100 feet wide) and either is described relative to a known elevation or in metes and bounds pursuant to a survey. (Refer to Appendix A for specific lake boundary descriptions; see also the current Policies on Land Use Around Arkansas Game and Fish Commission Lakes.)

Quitclaim Deed: A deed that passes any title, interest, or claim that the Commission may have in property while neither professing that such title is valid, nor containing any warranty or covenants for title.

Residence: A person's home, which may include a garage that is attached or detached but architecturally-similar to the home.

Survey Costs: All expenses associated with the boundary survey work conducted by a Commission- approved, Arkansas-licensed professional land surveyor to resolve an encroachment by a neighboring landowner.

OVERVIEW

Addressing encroachments on Commission real estate pursuant to these guidelines is a three-step process. First, AGFC staff should be vigilant to identify suspected encroachments and confirm that they are indeed on Commission property. Second, AGFC staff should preliminarily classify the confirmed encroachment as a **Level 1**, **Level 2**, or **Level 3** encroachment. Third, based on the particular classification of the encroachment, AGFC staff should either directly address the encroachment (e.g., Level 1) at the division level or propose a specific resolution to the Director and, when appropriate, the Commissioners for approval to proceed. The three steps are detailed below.

STEP 1: IDENTIFICATION OF ENCROACHMENTS

Normally, suspected encroachments will be brought to the Commission's attention either internally from AGFC field staff or externally by a landowner who has contacted the Commission requesting resolution of an encroachment. To aid in identification and prevention of encroachments, all boundaries between AGFC property and private property should be surveyed and visibly marked wherever possible (examples of acceptable markers that can be used for future boundary marking around AGFC lakes or WMAs are shown in Appendix B). Existing land surveys of AGFC properties generally are recorded in the county land records (i.e., at most county courthouses) where they are available for public inspection; copies of AGFC surveys also can be obtained by contacting the AGFC Real Estate Officer at the Little Rock Headquarters. These land surveys, along with AGFC deeds, are the primary source for identification of property boundary lines and points of reference. AGFC field staff in the Education, Enforcement, Fisheries, Operations, and Wildlife Management Divisions should regularly monitor the Commission's boundaries at their assigned locations to check for possible encroachments, as well as any missing or damaged boundarymarkers.

Upon discovery of a potential encroachment, AGFC staff should document it in writing with photographs and immediately report it through the appropriate management chain of command. Additionally, the same information should be reported for all Level 2 and Level 3 encroachments to the Legal Division and the AGFC Real Estate Officer in the Construction, Engineering and Real Estate Division. Where necessary, AGFC surveyors should assist in establishing the Commission's boundary line to confirm that the suspected encroachment is, in fact, on Commission property. Once an encroachment has been identified, AGFC field staff should arrange, whenever possible, to have personal communication (e.g., in-person site visit) with the landowner to try to amicably resolve the encroachment, as well as provide a written letter to confirm the circumstances.

STEP 2: CLASSIFICATION OF ENCROACHMENTS

In consultation with the Legal Division and AGFC Real Estate Officer, the Commission division responsible for the particular real estate (i.e., Fisheries for lakes and boat accesses, Wildlife Management for wildlife management areas, Education for nature and education centers, Operations for regional and field offices, and Enforcement for the training center) should preliminarily classify a confirmed encroachment as Level 1, Level 2, or Level 3.

Level 1 (Moveable Encroachment). In the sole discretion of the Commission, this classification may include, without limitation, the following situations or circumstances:

- An encroachment that consists of a non-permanent, readily moveable structure, improvement, or other physical object (regardless of whether placed or caused by a current or previous landowner).

- Any encroachment that is not essential to the primary function of a residence.

- Examples include, but are not limited to: fences, storage buildings, sheds, barns, free-standing carports, prefabricated buildings, mobile homes, unpaved (e.g. dirt or graveled) driveways, above- ground swimming pools, satellite dishes, gazebos, stand-alone decks, elevated walkways, animal pens, deer stands, duck blinds, private boat ramps, sea walls, moored boats, trailers, RVs, vehicles, livestock, gardens, flower beds, fire pits/burn barrels, light poles, utility poles for outdoor sources, propane tanks, flag poles, bird houses, water pumps/fountains, picnic tables, chairs, swing sets, tents, stacked fire wood, dirt/rock piles, yard art items, signs, trash, or personalproperty.

- Any structure that is required by the Commission to have a permit (e.g., boat house, pier, boat slide, etc.) and (1) has never been permitted or is no longer permitted by the Commission, or (2) has been determined by AGFC field staff from outward appearance of its condition to be neglected and/or abandoned. (See e.g., current Policies on Land Use Around Arkansas Game and Fish Commission Lakes.)

Level 2 (Minor Non-Moveable Encroachment). In the sole discretion of the Commission, this classification may include, without limitation, the following situations or circumstances:

- An encroachment that consists of a structure, improvement, or other physical object that (a) basically is non-moveable and designed to be permanent or long duration (e.g., more than twenty-five years); (b) is essential to the primary function of a residence; and (c) originated as a result of the adjacent landowner purchasing the property and obtaining a survey which, through no fault of the landowner, failed to correctly identify the AGFC property boundary.

- Examples of situations include, but are not limited to: the purchase of a subdivision lot where the subdivision developer originally laid out the lot partially on Commission property such that subsequent lot purchasers were unaware of the problem; the reasonable reliance of a landowner upon a legitimate, but incorrect, land survey and awareness of the problem did not result until after a new survey revealed the Commission's actual boundary.

- Examples of structures/improvements/physical objects include, but are not limited to: residences, porches/decks or garages directly attached to a residence, detached garages or guest houses architecturally similar to a residence, septic systems, and paved (concrete or asphalt) driveways. In some instances, these may also include air conditioning units, propane tanks, utility poles, concrete slabs, and driveways, but only if they are essential to service a residence and no other location is reasonably available to the landowner.

Level 3 (Major Non-Moveable Encroachment). In the sole discretion of the Commission, this classification may include, without limitation, the following situations or circumstances:

- An encroachment that consists of a structure, improvement, or other physical object that basically is non-moveable and designed to be permanent or long duration (e.g., more than twenty-five years) that (a) was constructed, remodeled, or expanded by an adjacent landowner (or his or her predecessor) contrary to an existing land survey of record, or without first obtaining a land survey, contacting the Commission in writing, or otherwise taking customary precautions before undertaking the construction, remodeling, or expansion; (b) crossed a Commission boundary that was visibly marked at the time; or (c) resulted from intentional, flagrant, or grossly negligent action by the landowner or the landowner's predecessor.

- Any non-moveable encroachment not classified as Level 2.

STEP 3: RESOLUTION OF ENCROACHMENTS

As a general rule, for all encroachments — whether classified as Level 1, Level 2, or Level 3 — that are new (i.e., originate after the effective date of the official adoption of these guidelines by the Commissioners and Director) and that take place despite the existence of a duly recorded land survey correctly identifying the AGFC boundary line for the real estate, the proposed resolution should be strict "no-tolerance," and the landowner should be notified in writing that the encroaching structure, improvement, or other physical object must be removed from Commission property to the landowner's property promptly (e.g., within 30 days, or longer if justifiable under the circumstances). This rule is based upon the fundamental principal that every landowner is expected to exercise due diligence to ascertain the boundary lines he or she shares with adjoining neighbors prior to constructing or placing on the land a structure, improvement, or other physical object that could encroach onto a neighbor's property. Such due diligence necessarily includes making a physical inspection to visually identify marked boundaries, plus consulting with a professional land surveyor and/or referencing existing land surveys that are recorded in the county land records. Therefore, in any new instance after adoption of these guidelines where a current or previous landowner causes an encroachment across an AGFC boundary due to lack of due diligence on the part of such landowner, the Commission's normal resolution will be full and prompt removal of the encroachment.

Where an encroachment has been identified by AGFC staff and involves an uncooperative landowner, the Commission will pursue its available legal remedies to the maximum extent permitted under the law.

In the more typical situation where a landowner has approached the Commission requesting resolution of an encroachment that originated before the official adoption of these guidelines, the following steps normally should be followed.

1. The landowner wishing to resolve an encroachment should put the request in writing to the AGFC Real Estate Officer, who should work with the responsible division (Education, Enforcement, Fisheries, Operations, or Wildlife Management) to confirm the encroachment and preliminarily classify it as detailed above. The landowner's correspondence should include copies of: the landowner's deed to the adjacent property; any land survey of the landowner's property; proof of payment of real estate taxes for the property; and photographic evidence and a general written description of the encroachment.

2. If the encroachment is classified as a **Level 1 encroachment**, then the landowner should be notified in writing that the encroaching structure, improvement, or other physical object must be removed from Commission property to the landowner's property promptly (e.g., within 30 days, or longer if justifiable under the circumstances). Failure by the landowner to do so may result in its removal by the Commission using appropriate legal measures. AGFC staff with the division responsible for the particular real estate should prepare and hand-deliver (or, alternatively, send by certified mail) a letter to the landowner and confirm final removal of the encroachment. A Level 1 encroachment generally does not require any written request for approval by the Director or Commissioners, and typically can be resolved by AGFC staff at the division level.

3. If the encroachment is classified as a **Level 2 encroachment** or a **Level 3 encroachment**, the landowner must provide, at his or her expense, a boundary survey completed by a registered land surveyor in good standing with the State of Arkansas and approved by the Commission, along with a legal description for the minimum amount of real estate needed to resolve the encroachment plus a 5-foot buffer around the encroaching structure, improvement, or other physical object. AGFC staff with the division responsible for the particular real estate should work cooperatively with the AGFC Real Estate Officer to request and receive the boundary survey from the landowner. The AGFC Real

Estate Officer should take the lead, in consultation with the responsible division and the Legal Division, to submit the boundary survey, preliminary classification, and proposed resolution for all Level 2 and Level 3 encroachments to the Director and the Commissioners for approval.

4. The proposed resolution for a **Level 2 encroachment** or a **Level 3 encroachment** normally should proceed as follows: Whenever reasonably possible the encroaching structure, improvement, or other physical object should be promptly removed from Commission property to the landowner's property. Alternatively, the Commission may convey by Quitclaim Deed the minimum amount of real estate needed to resolve the encroachment plus a 5-foot buffer around the encroaching structure, improvement, or other physical object. However, before any such conveyance occurs, AGFC staff must coordinate to determine whether the particular property is subject to any federal or state restrictions (e.g., property acquired, in part, with federal grant assistance pursuant to the Wildlife or Sportfish Restoration Programs) and, if so, must obtain prior written approval from the appropriate federal or state agencies. The Commission will engage a title company of its choosing to handle the transaction. For all **Level 2 encroachments**, the landowner will be required to pay the Fair Market Value of the property so conveyed plus Survey Costs and Closing Costs. (The FMV typically will be determined by a USPAP appraisal, the cost of which will be paid by the landowner). For all **Level 3 encroachments**, the landowner will be required to pay three times (3x) the Fair Market Value of the property so conveyed plus Survey Costs and Closing Costs. Also, for both Level 2 and Level 3 encroachments, the Commission should retain a flowage easement over the conveyed property if it is near an AGFC lake or other water body, and should retain other easements or rights that may be necessary to maintain the intended use of the adjacent AGFC property. Additionally, the Commission may issue a Land Use Permit Agreement for a specified time period to allow a landowner to continue using certain limited non-moveable structures, such as a septic system, upon condition that the particular structure must be physically removed after expiration of the time period or once the landowner ceases to own the adjacent property, whichever occurs first. The final resolution must be approved in writing by the Director and through adoption of a Minute Order by the Commissioners.

CONCLUSION

These guidelines are to be consistently followed by AGFC staff whenever possible; however, the Commission also recognizes that there may be instances in which unique circumstances could necessitate deviation from them. Any such deviation should occur only after consultation with the Director and the Commissioners.

After final adoption of these guidelines, AGFC staff will develop Standard Operating Procedures (SOP) consistent with these guidelines for the purpose of providing standard practices and procedures for implementation (see draft SOP in Appendix C). Additionally, the AGFC Real Estate Officer periodically (approximately every 3 to 5 years) will review the guidelines and SOP provisions, in consult with the Administrative, Education, Enforcement, Fisheries, Legal, Operations, and Wildlife Management Divisions, and propose any revisions that may be needed. Any revisions to these guidelines ultimately must be presented to the Director and Commissioners for final approval before taking effect (the SOP, however, may be revised by AGFC staff subject to approval by the Director).

APPENDIX A

COMMISSION-OWNED LAKES – BOUNDARIES

Lake	Elevation	Distance (Feet)
Atkins	319.0' msl	metes and bounds survey
Barnett	350.5' msl (379.5' msl flowage easement)	100 feet
Bentonville	1276.0' msl	metes & bounds survey (easement only)
Bob Kidd	1169.5' msl	metes & bounds survey
Cane Creek	175.0' msl	metes & bounds survey
Charles	280.0' msl	50 feet
Conway	263.0' msl	20 feet
Cox Creek	260.0' msl	50 feet
Crystal	997.0' msl	metes & bounds survey
Dr. Lester Sitzes III, Bois d'Arc	_____	_____
Elmdale	1238.2' msl	metes & bounds survey
Frierson	367.0' msl	metes & bounds survey
Gurdon	222.0' msl	metes & bounds survey
Harris Brake	280.0' msl	metes & bounds survey
Hindsville	Shoreline	highest level plus 50 feet
Hinkle	790.0' msl	metes & bounds survey
Horsehead	670.0' msl	contour plus 50 feet (no elevation)
Jack Nolan	520.0' msl	metes & bounds survey
Overcup*	307.0' msl	50 feet
Saracen	207.0' msl	100 feet
Poinsett	306.8' msl	100 feet
Sugar Loaf	650.0' msl	metes & bounds survey
Tri-County	194.3' msl	50 feet
Lower White Oak*	202.0' msl	50 feet
Upper White Oak*	212.0' msl	50 feet
Wilhelmina	1006.0' msl	50 feet

***** Normal pool elevation for Lake Overcup is 3.5 feet below the stated boundary line elevation. Normal pool elevation for Upper and Lower White Oak Lakes is 4 feet below the stated boundary line elevations.

Note: Landowners should consult a licensed land surveyor to determine the extent of ownership and precise boundary locations. The above is provided for reference purposes only.

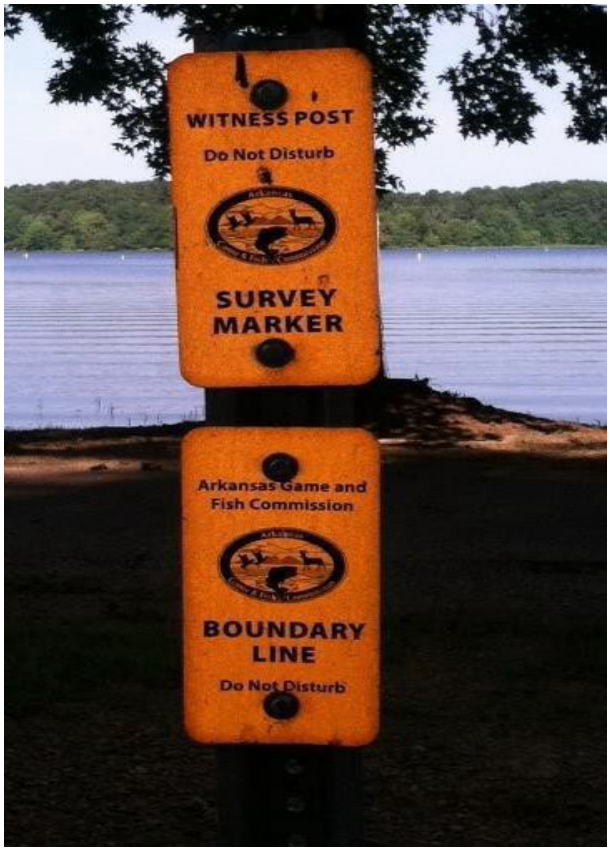
Definitions:

MSL (Mean Sea Level): A measurement of the average height of the ocean's surface that is used as a standard in referencing land elevation.

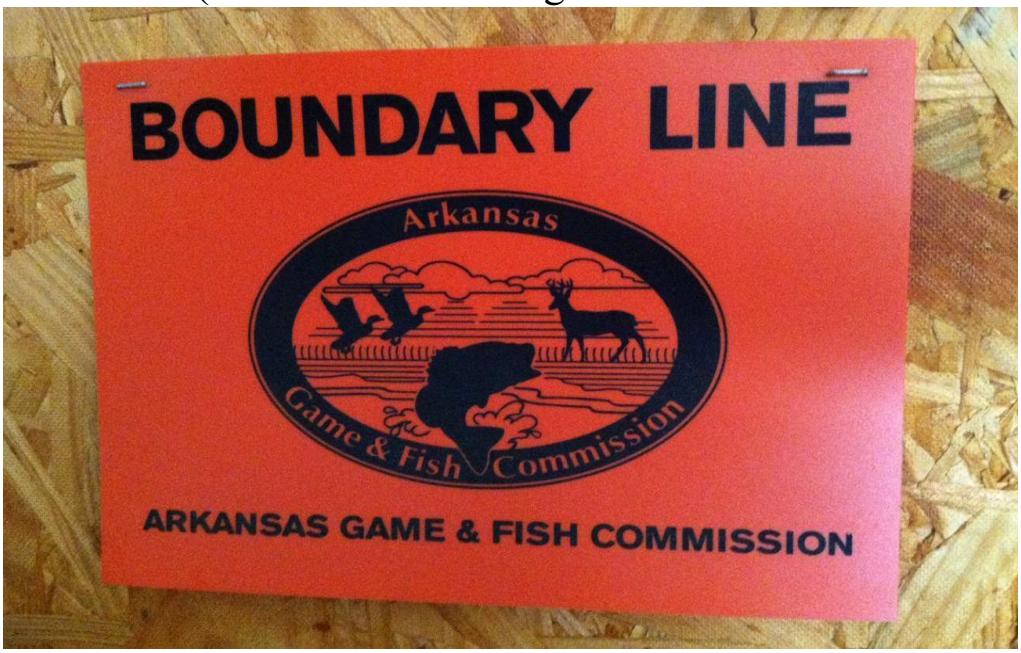
Metes and Bounds Survey: A metes and bounds survey is a survey of land by references to courses and distances around the tract (e.g. "Thence North 40 degrees West 1320 feet to a 1" pipe"), as opposed to a description of a tract of land within a subdivision (e.g. "Lot 6, Wooded Hills Subdivision"). A metes and bounds survey is typically seen in rural or non-urban areas, such as around AGFC lakes and WMAs.

APPENDIX B

AGFC BOUNDARY MARKERS



(Above – for marking boundaries at AGFC lakes)



Left – for marking boundaries at AGFC WMAs and other Properties

APPENDIX C

STANDARD OPERATING PROCEDURES (SOP) FOR RESOLVING AGFC REAL ESTATE ENCROACHMENTS

September 18, 2014

GUIDELINES

1) Commission Division staff from Fisheries, Wildlife Management, Enforcement, Education and Operations are responsible for inspecting, identifying, and reporting encroachments found on Commission real estate, under their management, within their respective duty stations.

2) It is a goal that all Commission properties have a completed land survey. For Wildlife Management and Fisheries real estate pertaining to AGFC-owned lakes and WMAs, these properties should have a completed land survey with the property boundaries being visibly marked using a Commission approved boundary marker. The AGFC Land Surveyors should submit annual budget requests to have these properties surveyed and visibly marked if one or the other has not already been completed for the property.

3) For Fisheries and Wildlife Management Divisions: In most circumstances all survey pin locations should be visibly marked. However, there could be a situation where not all survey pins should be visibly marked. Example: *An AGFC-owned lake has a survey based on a specific elevation that follows a contour line. The property boundary curves sharply out on a peninsula of the lake. An adjacent landowner lives within close proximity to the Commission property boundary in that location. Numerous visible markers, within close proximity to each other, are required to identify all survey pins.* In this instance, Division staff should use professional judgment to determine the minimum number of visible boundary markers that could be used to identify the property boundary in that location. (Adjacent landowner's and AGFC staff should always reference the AGFC land survey as a primary source when locating the property boundary) Property boundaries that have been surveyed and visibly marked must be comprehensively inspected, approximately every 5 years, to replace any markers that may be missing or damaged.

4) Division staff are responsible for maintaining detailed records and photographs of all encroachments documented on their respective properties. Formatting of these records are to be consistent across all Divisions, by using a standardized data base titled "Encroachment Violation Data Base," which can be found under "Forms and Templates" on the Commission's Intranet. These data bases should be backed up annually into a folder in the Commission's Share Dive by December 31st, and include photographs of all encroachment.

5) Comprehensive WMA or AGFC-owned lake real estate encroachment inspections may only beconducted if the property has a completed land survey and the property boundary has been visibly marked. If numerous encroachments are evident, the respective Division staff should make a concerted effort to first notify and educate adjacent landowners of the Commission's plans to resolve encroachments on the specific Commission property. This can include public meetings, radio announcements, newspaper articles, AGFC AO Newsletter articles, posting fliers at access areas and project signs, personal contact, etc. The respective Division Chief should first be notified of the intent to conduct comprehensive inspections. Timing of

comprehensive inspections should be coordinated across Divisions to ensure Commission Real Estate and Legal staff are not over obligated and can efficiently handle the predicted number of encroachment issues at one time.

RESOLVING ENCROACHMENTS ON PROPERTY WITH A LAND SURVEY AND VISIBLE BOUNDARY MARKERS

Upon suspecting a potential encroachment, the following procedures should be followed:

1. A site visit to identify an encroachment should be made by the Division staff responsible for managing the specific Commission property, and in most cases, a Wildlife Officer should accompany staff making the inspection.
2. A photograph of the encroachment along with a detailed description of the encroachments should be documented and logged into the Encroachment Violation Data Base.
3. The respective Division staff should then classify the encroachment as a Level 1, 2, or 3 based on "AGFC Guidelines for Resolving Real Estate Encroachments."

Level 1 Encroachments:

1. Level 1 encroachments can be resolved at the Division level. If identified as a Level 1 encroachment, a site visit should be made with the adjacent property owner to discuss the removal of the encroachment. This site visit should be made with the company of a Wildlife Officer. A violation letter along with a copy of the AGFC Guidelines for Resolving Real Estate Encroachments should be handed to the landowner during the inspection. The respective Division staff are responsible for writing the letter, which should be generic in form and message, and should include: name of landowner, address adjacent to encroachment, date, notice to remove encroachment, a detailed description of each encroachment, grace period landowner has to remove encroachment, etc.
2. If a landowner cannot be contacted in person, then the violation letter should be mailed via certified mail by the respective Division staff (certified letters should include a mail delivery receipt, which should be signed by the landowner upon receipt and mailed back to the sender).
3. A follow up inspection should be made by appropriate Division staff at the expiration date of the grace period. If a certified letter was mailed to the landowner, then the grace period will start on the date the landowner signed for the certified letter. At that time, if the encroachment still exists, a Wildlife Officer should be notified and appropriate legal measures should be taken with the landowner to remove the encroachment.
4. If in the event, either a landowner cannot be identified or contacted, or the landowner is determined to not be physically and financially capable of removing the encroachment, it will be up to the respective Division Chief to decide if further legal action should be taken or if the Commission should pay to remove the encroachment.
5. All records including photographs of each encroachment, dates of attempted contact, date violation letter was delivered to landowner, notes regarding contact with private landowners and legalactions taken should be noted in the Encroachment Violation Data Base.

Level 2 and 3 Encroachments:

1. Division staff should identify and document the encroachment if an adjacent landowner does not first approach the Commission with the issue. If classified as a Level 2 or 3 encroachment, the appropriate Division staff should at a minimum get a name and mailing address associated with the adjacent property and submit that information to the Legal Division's Chief Counsel and the AGFC Real Estate Officer for perusal.
2. The AGFC Real Estate Officer is responsible for coordinating with the responsible Division staff, Legal Division, and private landowner to submit the prior written approval from the appropriate federal or state agency regarding federal grant assistance pursuant to the Wildlife or Sportfish Restoration Programs used to purchase the AGFC property, boundary survey, preliminary classification, and proposed resolution for all Level 2 and 3 encroachments to the Director and the Commissioners for approval.
3. Level 2 and 3 encroachments must be handled at the Director and Commissioners level.

RESOLVING ENCROACHMENTS ON PROPERTY WITHOUT A LAND SURVEY OR VISIBLE BOUNDARY MARKERS

Upon suspecting a potential encroachment, the following procedures should be followed:

1. The appropriate Division staff should contact an AGFC Land Surveyor and set a time to identify and permanently mark the Commission property boundary in that location if only a legal description of Commission property is available. (EXCEPTION: Unpermitted or noncompliant boathouses, fishing piers, boat ramps, irrigation pumps and lines, shoreline modifications and similar violations of the Commission's Policies on Land Use Around Arkansas Game and Fish Commission Lakes that are clearly on Commission property without dispute will not require a property survey).
2. Once the Commission property boundary has been identified and visibly marked, follow thesame procedures as previously outlined in this Appendix regarding identification, classification, and resolving all Level 1, 2, and 3 encroachments.

LEGAL NOTICE

The regular monthly meeting of the Arkansas Game and Fish Commission will be held beginning at 9:00 a.m. Thursday, August 17, 2023, at the Arkansas Game and Fish Commission Headquarters located at 2 Natural Resources Drive, Little Rock, AR 72205. At that time, regulations and business pertaining to the operation of the Game and Fish Commission and other fiscal and administrative matters will be considered and acted upon. Additionally, Committee meetings attended by Commissioners and agency staff members will be held throughout the day on Wednesday, August 16, 2023, beginning at 9:00 a.m. at the Arkansas Game and Fish Commission Headquarters located at 2 Natural Resources Drive, Little Rock, AR 72205. At approximately 11:30 a.m., Commissioners and agency staff members will travel to the Enforcement Training Center at 213-B Highway 89 South, Mayflower, AR 72106, where there will be a tour of the center beginning at approximately 12:30 p.m., followed immediately by tours of the Fiocchi Shooting Sports Complex at 574 Clinton Road, Conway, AR 72032, Lake Conway, including the Lake Conway Dam at the end of Dam Road, Mayflower, Arkansas 72106, and adjoining Bell Slough WMA. All interested persons are invited to attend the meetings.

The Commission meeting on August 17th will be live-streamed and a link for easy viewing access will be available on the agency website. Please visit the Arkansas Game and Fish Commission website at https://www.agfc.com for additional up-to-date details as the August meeting dates draw closer.

Items on the agenda for the August 17, 2023 meeting will include discussion and/or adoption of proposed regulations that previously were considered at the July 19-20, 2023 Commission Meetings, plus consideration of various Hunting and Fishing Regulations and regulations pertaining to the Enforcement Division of the Arkansas Game and Fish Commission, including but not limited to:

- **Lake Conway** – Amend fishing and hunting regulations due to the upcoming drainage of the lake for maintenance, including amending Policies on Land Use Around AGFC Lakes to suspend the fee associated with permitting piers, boathouses, or boat slides during the period when Lake Conway is undergoing maintenance (all other policy requirements remain in effect).

All persons wishing to be heard on these subjects should submit comments in writing to this office before the start of the August 17, 2023 meeting (preferably by 4:30 p.m. on the day before). Any request to make an oral presentation at the meeting should be submitted in writing to this office on or before August 7, 2023. Copies of any proposed rules or regulations may be obtained at the Arkansas Game and Fish Commission main office and at www.agfc.com, or through a written request mailed to the address below.

AUSTIN BOOTH, DIRECTOR
Arkansas Game & Fish Commission
Game & Fish Commission Building
2 Natural Resources Drive
Little Rock, Arkansas 72205