



DEPARTMENT OF THE ARMY
SOUTHWESTERN DIVISION, CORPS OF ENGINEERS
1100 COMMERCE STREET, Suite 831
DALLAS, TEXAS 75242-1317

CESWD-PDO

JAN 30 2018

MEMORANDUM FOR Commander, Tulsa District

SUBJECT: Shoreline Management Plan for Toronto Lake

1. Reference memorandum CESWT-PEC-TP, 27 September 2017, Toronto Lake, Oklahoma; Fall River Lake Shoreline Management Plan Revision.
2. The Finding of No Significant Impact statement for Toronto Lake has been signed. A copy is enclosed and the Toronto Shoreline Management Plan is approved.

Enclosure

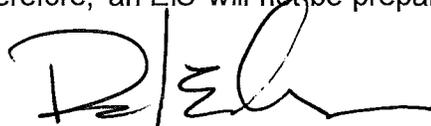
A handwritten signature in black ink, appearing to read "P. E. Owen", written over a vertical line.

PAUL E. OWEN, P.E.
Brigadier General, USA
Commanding

Based on the EA, it is my finding that implementation of the revisions in the 2017 MP and SMP for Toronto Lake will have no significant adverse impact on the environment and will not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an EIS will not be prepared.

30 JAN 2018

Date



PAUL E. OWEN, P.E.
Brigadier General, U.S. Army
Commanding

TORONTO LAKE SHORELINE MANAGEMENT PLAN



VERDIGRIS RIVER VERDIGRIS RIVER BASIN WOODSON & GREENWOOD COUNTY, KANSAS

September 2017



US Army Corps
of Engineers®
Tulsa District



THIS PAGE LEFT INTENTIONALLY BLANK

SHORELINE MANAGEMENT PLAN
SUPPLEMENT TO THE
TORONTO
OPERATIONAL MANAGEMENT PLAN

DEPARTMENT OF THE ARMY
TULSA DISTRICT CORPS OF ENGINEERS
TULSA, OKLAHOMA
SEPTEMBER 2017

THIS PAGE LEFT INTENTIONALLY BLANK

Table of Contents

1	Introduction	1-1
1.1	Purpose.....	1-1
1.2	Policy and Objectives.....	1-1
1.2.1	Commercial Concessions.....	1-1
1.2.2	Private Shoreline Use.....	1-1
1.3	Authority.....	1-1
1.4	References.....	1-1
2	History and Background.....	2-1
2.1	Toronto Lake.....	2-1
2.2	Shoreline Management.....	2-1
2.3	Shoreline Use Permits.....	2-1
2.4	Public Involvement.....	2-1
3	Description of Shoreline.....	3-1
3.1	Description.....	3-1
3.2	Present Land Use.....	3-1
3.3	Public Use.....	3-1
3.4	Private Development.....	3-1
4	Shoreline Allocation.....	4-1
4.1	General.....	4-1
4.2	Allocations.....	4-1
4.2.1	Limited Development Areas (0% of Total Shoreline).....	4-1
4.2.2	Public Recreation Areas (22% of Total Shoreline).....	4-1
4.2.3	Protected Shoreline Areas (76% of Total Shoreline).....	4-1
4.2.4	Prohibited Access Areas (2% of Total Shoreline).....	4-2
4.3	Flowage Easement Lands.....	4-2
4.4	Shoreline Use Permit.....	4-2
4.5	General Requirements.....	4-3
4.6	Private Shoreline Use.....	4-4
5	Private Dock Permits.....	5-1
5.1	Application.....	5-1
5.1.1	Change of Ownership.....	5-1

5.1.2	Reissue (permit renewals)	5-1
5.2	Applicant Access Requirements.....	5-2
5.2.1	Reissue and Change of Ownership of Existing Facilities.....	5-2
5.2.2	Access from Subdivisions.....	5-2
5.3	Location and Spacing Requirements	5-2
5.3.1	Location and Spacing	5-2
5.4	Grandfathered Facilities	5-2
5.4.1	Existing Facilities Now Under Permit.....	5-2
5.4.2	Grandfathered Rights Clause	5-3
5.4.3	Grandfathered Facilities.....	5-4
5.5	Facility Size Requirements.....	5-5
5.6	Multiple Private Docks.....	5-5
5.7	Facility Construction Requirements.....	5-5
5.7.1	Walkways	5-6
5.7.2	Storage and Attachments	5-6
5.7.3	Flotation.....	5-6
5.7.4	Anchoring	5-7
5.7.5	Permit Sign	5-7
5.7.6	Decking.....	5-7
5.7.7	Electric Service.....	5-8
5.7.8	Wood Material	5-8
5.7.9	Metal Finish	5-8
5.8	Facility Repair, Modification, or Removal	5-8
5.9	Unauthorized Activities and Violations	5-9
6	Vegetation Modification Permits.....	6-1
6.1	Application.....	6-1
6.1.1	New or Change of Ownership Permit Requests	6-1
6.1.2	Reissue (renewal).....	6-1
6.2	Applicant Access Requirements.....	6-2
6.3	Vegetation Modification	6-2
6.3.1	Grass Cutting.....	6-2
6.3.2	Tree Trimming	6-2

6.4	Tree Cutting	6-2
6.5	Pre-existing Vegetation Modification Permits	6-2
6.6	Moratorium on Vegetation Modification	6-3
6.7	Unauthorized Activities and Violations	6-3
7	Land-Based Permits.....	7-1
7.1	Application.....	7-1
7.2	Special Conditions	7-1
7.3	Erosion Control Activities	7-1
7.3.1	Shoreline Erosion	7-1
8	Unauthorized Uses.....	8-1
8.1	Off-Road Vehicle Use	8-1
8.2	Abandonment of Private Property	8-1
8.3	Mooring Vessels on the Shoreline.....	8-2
8.4	Boundary Line	8-2
8.5	Burning.....	8-2
9	Changes and Revisions	9-1
9.1	Contact Information.....	9-1
10	EXHIBIT A.....	10-1
10.1	§ 327.30 Shoreline Management of Civil Works Projects	10-1
11	EXHIBIT B	11-1
11.1	Shoreline Use Permit Conditions	11-1
12	EXHIBIT C.....	12-1
12.1	Shoreline Allocation Maps	12-1

List of Figures

Figure 5-1	Fall River (southern shore) existing docks	5-5
------------	--	-----

THIS PAGE INTENTIONALLY LEFT BLANK

1 Introduction

1.1 Purpose

The purpose of the Toronto Lake Shoreline Management Plan (hereafter SMP) is to establish policy and guidance for the protection of desirable environmental characteristics of the lake and restoration of the shoreline where degradation has occurred.

1.2 Policy and Objectives

The policy of the Chief of Engineers is to manage and protect the shoreline and the available resources in a manner that will promote the safe and healthful use of the shoreline by the public while maintaining environmental safeguards to ensure a quality resource for use by the public. A key objective is to honor past written commitments for permitted private shoreline uses.

1.2.1 Commercial Concessions

Maximum effort will be put forth to attract concessionaires and to establish suitable, well-maintained businesses that will offer desirable water-related services to the general public. Presently, demand for such facilities is low at Toronto Lake.

1.2.2 Private Shoreline Use

New private floating facilities (private boat docks) are not permitted on Toronto Lake. There are currently 2 structures that are permitted in public use areas under previous policy. These structures will be allowed to remain under the provisions of the Grandfathered Rights Clause (see Section 5.4). Limited vegetation modification permits may be issued to adjacent landowners in accordance with Section 6 of this Plan.

1.3 Authority

Authority for administering the SMP is granted under Title 36, Chapter III, Part 327, Code of Federal Regulations, "Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers." Part 327.30 of these rules and regulations specifically addresses Shoreline Management and is published as Engineer Regulation ER 1130-2-406. A copy of Part 327.30 is provided in Exhibit A of this SMP. Several public laws and additional Engineer Regulations also provide general authority for management of lands and waters administered by the Chief of Engineers as listed below under Section 1.4 References.

1.4 References

- Section 4, 1944 Flood Control Act, as amended (16 USC 460d).

- The Rivers and Harbors Act of 1894, as amended and supplemented (33 USC 1).
- Section 10, Rivers and Harbors Act of 1899 (33 USC 403).
- National Historic Preservation Act of 1966 (P.L. 89-665; 80 Stat. 915) as amended (16 USC 470 et seq.).The National Environmental Policy Act of 1969 as amended (42 USC 4321, et seq.).
- The Clean Water Act (33 USC 1344 et seq.).
- The Water Resources Development Act of 1986 (P.L. 99-662).
- Title 36, Chapter III, Part 327, Code of Federal Regulations, “Rules and Regulations Governing Public Use of Water Resources Development Projects Administered by the Chief of Engineers”. Executive Order 12088 (13 Oct 1978), Federal Compliance with Pollution Control Standards.
- 33 CFR 320-330, “Regulatory Programs of the Corps of Engineers”.
- ER 1130-2-540, “Management of Natural Resources and Outdoor Recreation at Water Resource Projects”.
- EM 385-1-1, “Safety and Health Requirements Manual”.
- The Federal Water Pollution Control Act of 1972 (FWPCA).
- ER 1130-2-540, “Historic Preservation Program”.
- Executive Order 11990, “Protection of Wetlands”.
- Endangered Species Act of 1973, as amended.
- Federal Insecticide, Fungicide, and Rodenticide Act of 1972, as amended (P.L. 92 516).
- ER 1130-2-406, Shoreline Management at Civil Works Projects (31 Oct 1990).
- Reservoir/Forest Cover Act of Sept. 6, 1960 (P.L. 86-717).
- ER 405-1-12, Real Estate Handbook, as amended.
- Executive Order 13514, “Federal Leadership in Environmental Energy and Economic Performance”

2 History and Background

2.1 Toronto Lake

Toronto Lake is a U.S. Army Corps of Engineers (USACE) project that was authorized by the Flood Control Act of 1941. Construction started in 1954 and the project was completed in 1960. The project was authorized to provide flood control and low-flow regulation to the Verdigris River Basin. In addition to flood control storage, the conservation storage totals 16,507 acre-feet of which 7,248 acre-feet is in permanent storage for sedimentation reserve, and the remaining 9,259 acre-feet is used for release water during dry periods for supplemental water supply. The private shoreline facilities (private docks) located on Toronto Lake were permitted under District policy that prevailed prior to publication of ER 1130-2-406 on December 13, 1974. Implementation of the requirements stated in ER 1130-2-406 resulted in a policy that prohibits new private docks on Toronto Lake and those that are currently on the lake are considered to be “grandfathered” in accordance with Section 5.4 of this SMP.

2.2 Shoreline Management

In the preparation of the original 1976 Lakeshore Management Plan (now Shoreline Management Plan), it was determined that there were no shoreline areas suitable for mooring private facilities on the lake. The shoreline was evaluated as set forth in Section 5 of this SMP and the determination that no shoreline areas are suitable for mooring private facilities remains valid as of the date of this SMP. There are still currently 2 structures remaining of the 2 identified in the 1976 Lakeshore Management Plan. These structures were and will be allowed to remain under the provision of the grandfather rights clause of the plan (See Section 5.4).

2.3 Shoreline Use Permits

Toronto Lake is located in a rural portion of the State of Kansas. Privately-owned residential properties adjacent to the lake are limited. In keeping with SMP requirements, no new shoreline use permits for private docks have been issued over the past 41 years. The total number of permits has been declining slowly as existing grandfathered facilities have been voluntarily removed and permits closed. Limited permits for vegetation modification by adjacent landowners may be issued in accordance with Section 6 of this SMP.

2.4 Public Involvement

In 1975, the proposed Lakeshore Management Plan was presented at a public meeting held in El Dorado, Kansas. Comments were received at that meeting and for 30 days following. Few adverse comments on the findings or the plan proposal were received. Regulations call for shoreline management plans to be reviewed periodically, but no less often than every five years by the District

Commander to determine the need for an update. The current revision also included public participation in the form of two public meetings held in Eureka, Kansas, on 15 December 2016, and in Fredonia, Kansas, on 17 December 2016. No comments related to the SMP at Toronto Lake were received.

3 Description of Shoreline

3.1 Description

The total shoreline distance at normal conservation pool is 54.9 miles. The lake is located in the scenic valley of the Verdigris River, just south of the town of Toronto. It lies in the northern end of the Cross Timbers area, which extends through eastern Oklahoma in northern Texas. In Kansas, this region is known as the Chautauqua Hills and has a diversity of habitat. The characteristic habitat of the area is upland woodlands on sandstone outcrops dominated by post and blackjack oak, surrounded by terraces of prairie and gently rolling terrain gradually sloping to the water's edge.

3.2 Present Land Use

The total fee-owned lands above normal conservation pool elevation of 901.5 National Geodetic Vertical Datum (NGVD) is 6,333 acres of which 46 acres are for Project Operations; 1,216 are used for High Density Recreation; 5,071 acres are used for Multiple Resource Management – Wildlife Management either managed directly by the USACE or by the State of Kansas through lease agreements with USACE. Land classification categories are established in the Toronto Lake Master Plan and provide the basic framework that will guide the development, management, and operation of all area resources and facilities. Shorelines adjacent to all reservoir lands have been further classified into shoreline allocations as described in the Shoreline Allocation Section 4.0.

3.3 Public Use

There are a wide variety of opportunities for the public to recreate on USACE property. There are 5 parks at Toronto Lake which are part of the Cross Timbers State Park operated and managed by the Kansas Department of Wildlife, Parks and Tourism (KDWPT). Duck Island and the upper half of the lake totaling 4,366 acres have been licensed to KDWPT as a State Wildlife Area. The area is managed primarily for public hunting of upland game, waterfowl and deer. Currently there are six public boat ramps providing access to the lake for boat launching.

3.4 Private Development

The Toronto Lake area has not been developed extensively. Private development that has occurred around the lake is primarily small rural residential communities located on the east and west sides of the lake. Located a short distance from the lake to the north is the City of Toronto, Kansas with a 2010 census population of 281.

4 Shoreline Allocation

4.1 General

In compliance with the USACE shoreline management regulation (ER 1130-2-406), the Toronto Lake shoreline has been allocated into three allocation categories. Possible allocation categories are described below and are consistent with land classifications established in the Toronto Lake Master Plan. These shoreline allocations are graphically depicted on the SMP Allocations Maps presented in Exhibit D, located at the end of this plan.

4.2 Allocations

4.2.1 Limited Development Areas (0% of Total Shoreline)

These areas are typically allocated for private activities, such as vegetation modification, and/or the mooring of privately owned docks following the issuance of a permit in accordance with this SMP and current Federal Regulations. There are 0 miles of shoreline allocated as Limited Development Areas. All private boat docks at their current location and configuration on Toronto Lake are grandfathered as described in Section 5.4, regardless of shoreline allocation. No new private docks are allowed. Accordingly, there is no need for limited development allocation at Toronto Lake.

4.2.2 Public Recreation Areas (22% of Total Shoreline)

These areas are designated as Federal, State or similar public use areas and for commercial concessionaire facilities. Privately owned docks will not be permitted in these areas with the exception of existing facilities that are subject to the Grandfathered Rights Clause (Section 5.4). Modification of land form or vegetation by private individuals may be permitted only after due consideration of the effects of such action on the environmental and physical characteristics of the area, including visitor safety and security in these areas. Approximately 12 miles of shoreline are allocated as Public Recreation Areas.

4.2.3 Protected Shoreline Areas (76% of Total Shoreline)

Protected shoreline areas are designated primarily to protect or restore aesthetic, fish and wildlife, cultural or other environmental values. Shorelines may also be designated in this category for physical protection reasons, such as heavy siltation, rapid dewatering, erosion or exposure to high wind, wave, and current action. Pedestrian land access and boating are permitted along these shorelines, provided aesthetic, environmental and natural resource values are not damaged or destroyed, but private docks may not be moored in these areas. Modification of land form or vegetation by private individuals may be permitted only after due consideration of the effects of such action on the environmental and physical characteristics of the area. Approximately 42 miles of shoreline are allocated as Protected Shoreline Areas.

4.2.4 Prohibited Access Areas (2% of Total Shoreline)

These shoreline areas are allocated for security reasons, the protection of ecosystems, and the physical safety of the recreation visitor; for example, certain hazardous locations, areas located near dams or spillways, and recreation areas. Mooring of private docks and/or the modification of land form and vegetation are not permitted. Approximately 0.9 mile of shoreline is allocated as Prohibited Access Areas.

4.3 **Flowage Easement Lands**

There are lands at Toronto Lake where USACE real estate interest is limited to the right to periodically flood privately owned property. These are commonly referred to as flowage easements. These flowage easements were purchased from private land owners in lieu of purchasing the property in fee title to minimize the amount of USACE owned property. These easements are often located at higher elevations than the shoreline lands owned in fee title. Flowage easements allow USACE to flood these lands during high water events for flood control purposes. Filling or construction on easement lands has the potential to reduce available flood storage space. Therefore, these easements restrict certain uses of the private property. Habitable structures, permanent or temporary, are not allowed to be constructed or placed on flowage easement lands. Flowage easement landowners placing other structures directly on flowage easement lands require written consent from USACE. Any work on land within a flowage easement that would involve filling, dredging, or construction requires USACE review and approval prior to such activities.

Under Title 36, Chapter III, Part 327, Code of Federal Regulations, USACE has authority over all waters of the reservoir and all facilities thereon, regardless of ownership of the underlying land. Easement lands and inundated private property are therefore classified into shoreline use allocations similar to fee-owned lands.

4.4 **Shoreline Use Permit**

The Corps of Engineers does not issue verbal approval for any private activity or facility. All private activities or facilities described in ER 1130-2-406 require written authorization from USACE. The type of written authorization issued by USACE depends on the type of activity or facility.

A Shoreline Use Permit is required for most private activities and/or facilities on public lands and waters owned by the Corps of Engineers at Toronto Lake. Shoreline Use Permits are issued for private docks, vegetation modification and certain other activities. These are governed by the regulations referenced in this Shoreline Management Plan.

Licenses are real estate instruments somewhat similar to easements and are governed by USACE real estate regulations. A license is required for any activity not covered by SMP permitting. More information can be found in the Facilities Requiring Licenses section (Section 8).

Ownership, construction, operation, use and maintenance of a permitted/licensed facility and/or activity is subject to all permit conditions and all applicable Federal, state and local laws and regulations. Failure to abide by these applicable laws and regulations may be cause for revocation of the permit. Upon request to the USACE Toronto Lake Office, permittee and/or owner information including name, address, phone number, and email on file related to any permits or licenses may be disclosed to local, county, state or federal law enforcement officials and taxing authorities requiring this information for the performance of their duties. This information will not be released to the general public except in accordance with the Freedom of Information Act (FOIA). All general public requests must be submitted to the Tulsa District Corps of Engineers FOIA Officer.

Shoreline Use Permits are non-transferrable and expire on the expiration date. The terms “transfer” or “renewal” are often used by the public to describe the issuance of a permit under the same number to either a different person or for a new period of time. Some USACE forms and documents may use these terms to make permit processes easier to understand by the public.

4.5 General Requirements

Shoreline Use Permits are normally issued for a period of five years. These documents contain general terms and conditions that are uniformly applicable to all permits issued (See Exhibit B). However, unique circumstances may require the establishment of additional terms and/or special conditions. All applications for Shoreline Use Permits on the reservoir are subject to approval by the USACE Lake Manager. Requests for activities not specifically addressed in this plan should be submitted in writing to the Lake Manager for review. Where multiple different types of activities and/or facilities are requested by a single user in the same location, a single permit will be issued.

Shoreline Use Permits are non-transferable and may be terminated when:

- Both the permittee and his/her legal spouse are deceased.
- Legal access to public property at the location of the permit is no longer available to the permittee. Loss of legal access usually occurs upon sale or transfer of adjacent private property unless the permittee retains some form of legal access rights to public lands.

Some existing facilities or activities are authorized pursuant to the Grandfather Clause set forth in Section 5.4 of this SMP. Prospective adjacent property owners should not assume that currently permitted activities will be allowed to continue.

Fees will be collected for specific permitted activities and facilities prior to the issuance of a Shoreline Use Permit. Fees for Shoreline Use Permits are to be mailed or delivered in person to the Toronto Lake Office along with the necessary applications. Fees are assessed according to a fee schedule published in the Federal Register and are subject to change. Contact the Toronto Lake/Fall River Lake project office for current fee schedule.

Individuals issued a Shoreline Use Permit must agree to give the Lake Manager or his representative access over their property for the purpose of inspecting permitted facilities or other activities.

USACE assumes no liability or responsibility for the safety of individuals engaged in any activity associated with private facilities or activities authorized by Shoreline Use Permit or license on public property. The permittee assumes full liability and responsibility for the safe conduct of the activity and must ensure the safe condition of any permitted structure.

All Shoreline Use Permits are issued and enforced in accordance with the provisions of Title 36, Chapter III, Part 327, Code of Federal Regulations. Failure to obtain the proper permits or noncompliance with any of the terms and conditions, general or special, may result in termination of the permit and/or issuance of a Notice of Violation.

Shoreline Use Permits are issued to individuals. Where multiple ownership exists, one of the individual owners must agree to be the permittee and act as a point of contact ensuring all owners receive information provided by USACE. All owners of permitted facilities must comply with the permit conditions.

4.6 Private Shoreline Use

The issuance of a Shoreline Use Permit does not convey any real estate or personal property rights or exclusive use rights to the permit holder. The public's right of access and use of the permit area must be maintained and preserved. Owners of permitted facilities may take necessary precautions to protect their property from theft, vandalism or trespass, but may in no way preclude the public right of pedestrian or vessel access to the water surface or public land adjacent to a permitted facility or areas where vegetation modification has been permitted.

5 Private Dock Permits

A thorough survey was conducted to determine the shoreline areas of the lake that are suitable for the mooring of private docks in accordance with ER 1130-2-406. The survey included examination of the slope of the shoreline, depth soundings, exposure to wave action, and presence of sensitive resources and wildlife habitat. The survey concluded that there are no areas suitable for private docks on the shoreline. A Grandfather Rights Clause (Section 5.4) was implemented to honor prior commitments and protect the docks that are now on the lake. These facilities are protected under this clause until permanent removal occurs.

Shoreline Use Permits are required for all private docks, excluding registered vessels. As addressed in this plan, private floating facilities include all privately-owned boat docks. Floating facilities are considered private structures and the owner/permittee may restrict use of the dock itself, but not the surrounding public land or water.

The requirements and restrictions for “multi-owned” and “individually-owned” dock designations in previous Lakeshore Management Plans have been incorporated into a single set of requirements covering all private docks. The requirements and restrictions are the same for all private docks.

5.1 Application

At the time of application for all change of ownership, minor facility modification, or reissuing an expiring permit, the permit applicant must provide the name and contact information for the owner(s) of each slip in the facility. Check with the USACE Toronto Lake Office for current requirements.

5.1.1 Change of Ownership

Applications for change of ownership will only be approved for existing permitted docks. If the permitted facility is no longer on the lake, not at the approved location or was never constructed, the permit cannot be changed to a new owner. An applicant requesting change of ownership of an existing private dock permit must submit a signed application, a bill of sale or other proof of ownership transfer from the current permittee, and a check or money order for the permit fee.

5.1.2 Reissue (permit renewals)

Applications for “renewal” of expiring permits require the applicant to submit a signed application form and a check or money order for the permit fee. The permit will then be reissued with a new expiration date to the existing permittee. All permit conditions of the new permit will apply at that time.

5.2 Applicant Access Requirements

5.2.1 Reissue and Change of Ownership of Existing Facilities

Permittees and applicants must maintain legal access to public land in order to gain access to their private docks. However, no documentation of this will be required at the time of application for reissue of existing permits or change in ownership of a dock.

5.2.2 Access from Subdivisions

In subdivisions where a dedicated public easement or public access corridor provides legal access to public lands and waters for all subdivision landowners, the access corridor will be considered a legal access to all existing docks owned by subdivision property owners.

5.3 Location and Spacing Requirements

5.3.1 Location and Spacing

All private docks at Toronto Lake are required to remain at their current location (see Figures 5-1 and 5-2). Relocation of docks or alteration of current spacing, regardless of reason, will not be permitted.

5.4 Grandfathered Facilities

5.4.1 Existing Facilities Now Under Permit

Per USACE Engineering Regulation (ER) 1130-2-406 regarding existing permitted facilities the following extracts from Public Law are applicable to existing docks currently under permit:

Section 6 of Public Law 97-140 provides that no lawfully installed dock or appurtenant structures shall be required to be removed prior to December 31, 1989, from any Federal water resource reservoir or lake project administered by the Secretary of the Army, acting through the Chief of Engineers, on which it was located on December 29, 1981, if such property is maintained in usable condition, and does not occasion a threat to life or property.

*In accordance with Section 1134(d) of Public Law 99-662, any houseboat, boathouse, floating cabin or lawfully installed dock or appurtenant structures in place under a valid shoreline use permit as of November 17, 1986, cannot be forced to be removed from any Federal water resources project or lake administered by the Secretary of the Army on or after December 31, 1989, if it meets the three conditions below except where necessary for immediate use for public purposes or higher public use or for a navigation or flood control project:
(1) such property is maintained in a usable and safe condition;*

(2) such property does not occasion a threat to life or property;
(3) and, the holder of the permit is in substantial compliance with the existing permit.

5.4.2 Grandfathered Rights Clause

A grandfathered rights clause applies to every privately-owned dock presently permitted on Toronto Lake. A “Grandfathered” item is defined as an activity, facility or structure that was authorized under a previous policy and/or prior permit. In accordance with the Public Laws set forth in Section 5.4.1 above, a permit for a grandfathered facility can be revoked and the facility removed from the lake if the facility is not maintained in a useable and safe condition, is a threat to life or property, or the permittee is in substantial non-compliance with the terms of the existing permit. Permits for new privately-owned docks are no longer issued at Toronto Lake.

Categories of ownership of a structure:

A. Privately owned docks will be permitted in an individual’s name, or in the names of each spouse. The permit shall be renewable in that name only, or in the name of the spouse as long as either shall live, or until transfer of ownership. If any privately-owned dock becomes damaged to the extent that major repair is necessary through neglect, accident, or an act of nature, no new permit shall be issued for it. Minor repairs such as flotation replacement and routine maintenance will not void the pre-existing dock status. Major repairs or replacement of portions of the superstructure or frame will be considered as a replacement of the dock and the dock will not be allowed to remain on the lake. If the dock represents a safety hazard, is damaged or deteriorated beyond repair, or the sub-frame or superstructure are no longer structurally sound, the dock must be removed from the lake without replacement. The lake manager must be contacted before repairs to any docks are initiated.

B Any existing multi-owner structure (multi-slip dock owned by several individuals) will be permitted in the name of a single individual (or married couple) who will serve as the point-of-contact for the dock permit. This individual/couple will be responsible for ensuring that all information from USACE regarding the permit is forwarded to all owners and that all owners are in compliance with permit conditions. Upon formal written request to the lake office, the permittee(s) on the existing permit may be changed to an alternate individual/couple with ownership interest in the dock. Upon sale of the dock, a new permit will be issued to a new individual/couple representing new owners.

New Permits

New permits for Grandfathered docks will be issued to new owners. If the holder of the existing permit is in substantial non-compliance with the terms of the permit, it will be revoked and the holder will be required to remove the dock in accordance with the terms of the permit.

Metal/Wooden Sides on Existing Docks

Existing docks that are presently enclosed with metal or wooden sides will be allowed to continue to incorporate this design. Minor repairs to or replacement of siding will be allowed as long as major structural damage or deterioration as described in Section 5.42(A) above has not occurred. Enclosure of docks currently not incorporating this design will not be permitted.

New Private Docks

New private docks will not be permitted on Toronto Lake.

5.4.3 Grandfathered Facilities

The Grandfathered Rights Clause defined in Section 5.4.2 applies to 2 existing private docks located on Toronto Lake. See Figure 5-1 for image of existing private docks.



Figure 5-1: Toronto (northern shore) existing docks (Source: Google Earth, 2014)

5.5 Facility Size Requirements

No private boat dock should exceed the minimum size required to moor the owner's vessel(s) plus a minimum space for storage of items essential to watercraft operation. No alteration of current size, design, and footprint of existing and grandfathered docks will be allowed.

5.6 Multiple Private Docks

More than one private dock may be permitted to the same individual when:

- An existing dock is purchased by a person who already has a private dock. A change of ownership of the permit must be requested by the new owner.
- The individual already owns multiple grandfathered docks.

5.7 Facility Construction Requirements

Requests for modification of existing docks must be submitted to the lake manager prior to initiation of such modifications and may require plans signed by a licensed engineer. Alterations to the original approved plan may not be made without prior approval. Additions of railings can generally be approved as long as they are securely fastened to the facility in a safe manner and meet USACE

requirements. Check with the lake office for further details regarding handrail requirements.

5.7.1 Walkways

When replaced, walkways must connect facilities to the shoreline and shall not be less than three (3) feet wide and not more than four (4) feet wide. Each floating walkway must have enough flotation to provide a stable walking platform or be one solid piece connecting the shoreline to the dock without touching water. Walkways cannot be supported by fixed piers or posts. Renovated facilities must meet these size requirements.

Special requirements for handicapped access to existing docks may be approved on a case by case basis where need has been demonstrated. Such requests must be coordinated with the lake manager prior to alterations being made.

All gates on walkways must be installed within five (5) feet of the dock. If a lock is used to secure the gate, it must be a combination lock and USACE must be provided with the combination for the purpose of inspection of the facility. Any changes in the combination must be provided to USACE.

5.7.2 Storage and Attachments

An enclosed storage area or locker not to exceed three (3) feet by six (6) feet floor dimension may be constructed for the storage of safety and equipment necessary for recreational boating. Slides, diving boards, grills and other items not necessary for the safe moorage of a vessel or used for recreational boating may not be attached to or stored on private docks.

5.7.3 Flotation

Flotation units of private docks shall be constructed of material that will not become waterlogged, are resistant to damage by animals, and will not sink or contaminate the water if punctured. Existing flotation on all docks will be allowed to remain until it is no longer serviceable to allow proper flotation for safe operation and maintenance of the dock. Docks requiring replacement of flotation must use flotation which will meet the following requirements:

- **Expanded Polystyrene** must be encased with an approved protective covering
- **Polyurethane** must be encased with an approved protective covering
- **Extruded Polystyrene** is one of two currently approved materials which will not require the approved protective coating.
- **Polyethylene** does not require encapsulation.

These criteria will apply to all docks which require replacement of their flotation material. In order to ensure that protective coverings are acceptable, a statement will be required from the foam manufacturer that the foam will be warranted for eight years against cracking, peeling, sloughing, and deterioration from ultra violet rays while retaining its resiliency against ice and bumps by watercraft. Existing flotation will be authorized until it has severely deteriorated and is no longer serviceable or capable of supporting the dock. At such time it must be replaced with materials listed above or the dock removed from the lake. Any replacement of flotation must be coordinated with the lake manager prior to work being performed.

5.7.4 Anchoring

Maintenance of anchorage systems for existing docks must be appropriate for site conditions of the location, taking into consideration the water depth, exposure to fetch, wind loads, and other factors affecting facility installation. If disturbance of USACE fee property is needed for the anchoring system, additional real estate licenses may be required. In these instances, the lake office should be contacted for further information.

5.7.5 Permit Sign

Permit holders are required to post two permit identification tags with the current permit sticker affixed on their private dock. These tags will be provided by the lake office. One permit identification tag must be conspicuously displayed on the shoreline side and the other to the lake side. New stickers will be sent to the permittee at each reissuance of the permit. These stickers are to be placed over the old expiration date on the permit identification tags.

5.7.6 Decking

When replaced, flooring or decking shall be constructed of not less than 1 inch nominal rough boards, 2 inch x 6 inch treated wood or $\frac{3}{4}$ inch marine plywood and will be spaced in such a manner to allow for expansion with no gap larger than $\frac{1}{2}$ inch between decking. Coated metal, concrete, high performance wood alternative products or similar types of flooring and decking may also be approved. All decking materials must be noted on the submitted engineered plans. All wood material in the deck must be treated with a preservative. All decking and associated structures must be maintained in a safe condition. Failure to maintain any facility in a safe condition constitutes a deficiency and may result in issuance of a Notice of Violation or the revoking of the permit and permanent removal of the private dock.

5.7.7 Electric Service

Electric service for existing docks without service must be supplied from an alternative power source (i.e. solar). This service must be installed by a licensed electrical contractor, be completely confined to the floating dock, and meet the standards set forth by the current National Electrical Code. The installation must be signed and certified as meeting current National Electrical Code by a licensed electrical contractor.

5.7.8 Wood Material

The use of wood in dock repair shall be limited to the decking of slip fingers, headers, and walkways. The use of wood will not be permitted below the waterline.

5.7.9 Metal Finish

All metal used in the repair and maintenance of docks must be galvanized or have a patented enamel and/or anodized aluminum finish.

5.8 Facility Repair, Modification, or Removal

The lake office must be notified when repair, modification, or removal of private docks are contemplated. Modification of walkways or other alterations require prior written approval by USACE. Any work beyond minor repairs will require submission of engineered plans signed by a licensed engineer for the facility, if they are not already on file. All alterations must be in accordance with approved plans. All alterations to private docks or major repairs require written authorization from USACE PRIOR to any work taking place.

Inspections of private docks are performed periodically by USACE. If deficiencies are found, the permittee will be notified and required to make repairs within 30 days. If a dock is found to be in such poor condition that total replacement is required, the permit shall be revoked and the permittee will be required to remove the dock and any related debris from USACE property or Federal waters within 60 days.

At such time that the permittee either ceases to operate or maintain the permitted facility, upon expiration of the permit, the permit is not renewable, or upon revocation of the permit, the permittee shall remove the facility within 30 days at the permittee's expense and restore the waterway and lands to their former condition (see Exhibit B).

5.9 Unauthorized Activities and Violations

The following facilities or activities are prohibited:

- Any type of fixed pier or platform either on the land or extending into the water from the lakeshore is prohibited.
- Any type of piling or post driven into the lake bottom for the purpose of mooring or tying boats is prohibited.
- Any type of sewage or outfall structure.
- Any type of channel, ditch, canal, or excavation is prohibited unless the excavation is in conjunction with an approved erosion control structure or other approved facility.
- Gardens and any type of lawn/landscape plantings.
- Burning of any materials by private individuals on Government owned lands managed by USACE.
- Any type of landform modification, construction, or other activity that changes the original or present condition of the land is prohibited. This includes, but is not limited to, beach construction, channel construction, bank terracing, cuts, and fills, or road and trail construction. Erosion control structures as described in Section 7.3 are exempt.
- Accumulation of garbage, trash, refuse, litter, or other similar material.
- All Shoreline Use Permits are issued and enforced in accordance with the provisions of Title 36, Chapter III, Part 327, Code of Federal Regulations. Failure to obtain the proper permits or noncompliance with any of the terms and conditions, general or special, may result in termination of the permit, issuance of a Notice of Violation, and/or permanent removal of the private dock from the lake.
- Storage of boats, travel trailers, wood piles, or placement of other private items on public land is strictly prohibited. These items are subject to removal and impoundment by USACE.
- Any type of land-based fence, gate, or similar structure.
- Privately owned buoys or waterway markers are prohibited; however, USACE will place navigational and safety buoys in the lake at the discretion of the lake manager.

6 Vegetation Modification Permits

Grass cutting, under-brushing, tree trimming, clearing, and all other related work performed on USACE property around the lake must have prior written approval from USACE. Verbal approval is never given for such activities. The approval is granted in the form of a vegetation modification permit. Vegetation modification permits may be issued within areas of the lake approved by the lake manager and are generally for the purpose of fire protection / firefighting to protect adjacent private property. Permits may be issued in areas allocated as Protected if the Lake Manager determines the environmental and physical characteristics will not be impacted. Vegetation modification permits are issued to allow vegetation modification within the area of USACE property between the private property side lot lines extended onto USACE property from the common private/USACE property line for a maximum distance of 30 feet.

6.1 Application

An application must be made to the Lake Manager for a permit prior to any modification of vegetation on USACE property. If the applicant already has a private dock permit and is an adjacent land owner, he/she is eligible for a vegetation modification permit without additional cost.

6.1.1 New or Change of Ownership Permit Requests

All persons applying for a vegetation modification permit in a new area or persons requesting a change of ownership of an existing vegetation modification permit must submit a completed Shoreline Use Permit application along with the required fee and proof of ownership of property adjacent to USACE property. In addition, the boundary must be marked by installing standard USACE-supplied marker posts on the common boundary every 50 feet, at each end and at each change in direction of the common boundary. These posts must be placed and maintained on the common private/USACE boundary line. It is the responsibility of the applicant to establish the location of the common boundary which may require hiring a licensed surveyor. The applicant agrees all posts remain the property of USACE and may not be removed or relocated.

6.1.2 Reissue (renewal)

Applications for “renewal” of expiring permits require the applicant to submit a signed application form and a check or money order for the permit fee. The permit will then be reissued with a new expiration date to the existing permittee. All permit conditions in place at the time of the new permit issuance will apply at that time.

6.2 Applicant Access Requirements

All persons applying for a vegetation modification permit must provide proof of ownership of land adjacent to USACE property such as a recorded deed. A plat of the adjacent private property, with the dimensions of ownership clearly delineated must be furnished for inclusion in the Shoreline Use Permit application. In situations where a minor public road and public land have a common boundary, adjacent landowners along this road/boundary may be considered as having access. State highways, major highways, interstates or other restricted access roadways cannot be used in this way for access.

6.3 Vegetation Modification

Each vegetation modification permit issued will require the permittee to install and maintain a 5-inch x 7-inch permit sign. Marker posts must also be maintained along the common private/Corps boundary. The furnished Shoreline Use Permit sign must be posted at the location designated by USACE.

6.3.1 Grass Cutting

Within specified areas of the vegetation modification permit, lawn mowers and weed-eaters may be used to cut grass. Use of tractors and “brush-hog” or PTO-powered mowers and use of chemicals is prohibited.

6.3.2 Tree Trimming

Trees and shrubs up to three (3) inches in diameter (measured at ground level) may be removed within the area covered by a vegetation modification permit. No flowering trees or shrubs such as dogwood or redbud may be removed regardless of size. Trimming of tree limbs up to 1/3 of the trees’ height and a maximum of eight (8) feet will be permitted for vegetation modification permits.

6.4 Tree Cutting

Dead trees which have fallen to the ground within the vegetation modification permit area may also be cut into sections and removed from USACE property. Standing dead trees require a separate wood-cutting permit issued by USACE. Only dead, standing trees that present a potential hazard to a permanent structure on private property will be approved for removal. Cutting of dead trees without a wood-cutting permit or cutting of live trees without a Shoreline Use Permit is prohibited (See Unauthorized Activities and Violations Section).

6.5 Pre-existing Vegetation Modification Permits

All Shoreline Use Permits issued for vegetation modification that were properly permitted before the implementation of this SMP will continue to be renewed with regard to the extent of area allowed for modification. Note that a written permit or other written correspondence will be required as proof of prior approval for

vegetation modification. Reference to prior verbal approval or other non-written agreements will not be acceptable for allowing vegetation modification by private individuals/parties on USACE lands.

6.6 Moratorium on Vegetation Modification

Wherever an unauthorized vegetation modification occurs, a moratorium on future vegetation modification in the affected area will be implemented.

Moratoriums are administrative actions by USACE to ensure USACE property returns to its pre-existing condition before the unauthorized activities occurred. During moratoriums, no vegetation modification of any kind may occur. All vegetation modification permits within the area affected by the moratorium become invalid, regardless of the person responsible for the activities, any Notices of Violation issued, or adjacent land ownership.

The minimum term for moratoriums is five (5) years which will generally be used for lesser impacts such as unpermitted grass cutting. This will allow the native grass community to reestablish itself and ensure non-native or invasive species will not be able to establish themselves in the disturbed area. More serious impacts such as unauthorized tree cutting will require much longer terms to allow trees to grow to replace the lost trees and return the site to the condition prior to the unauthorized tree cutting. Once habitat has been restored to its pre-existing condition and the ecological value returned, the moratorium will be removed. Any subsequent unauthorized vegetation modification in the area will restart the term of the moratorium period. Moratoriums are administrative actions and implemented independently of any issuance of Notices of Violation or the recovery of damages in civil court.

Owners of property adjacent to an area of USACE land with a moratorium may reapply for a vegetation modification permit five (5) years after the implementation of the moratorium and every five years thereafter if previous applications were denied. Changes in ownership of land adjacent to USACE will not change the term of any moratorium.

6.7 Unauthorized Activities and Violations

All Shoreline Use Permits are issued and enforced in accordance with the provisions of Title 36, Chapter III, Part 327, Code of Federal Regulations. Failure to obtain the proper permits or noncompliance with any of the terms and conditions, general or special, may result in termination of the permit, issuance of a Notice of Violation and/or civil litigation to recover damages.

7 Land-Based Permits

Certain land-based activities may be allowed to applicants having legal access to public property. These activities are authorized by letter of permit from the Toronto Lake Office, not a Shoreline Use Permit.

7.1 Application

Applicants requesting a land-based activity must submit a written request to the Toronto Lake Office. The request must include all required forms, a map showing where the activity will take place on public land and proof of ownership of land adjacent to USACE property. Other documents may also be required. Contact the Toronto Lake Office for current requirements.

7.2 Special Conditions

The following special conditions apply to all land-based activities:

- The USACE Toronto Lake Office will designate and/or approve the activity location to minimize the adverse effect on public property.
- The Toronto Lake Office must be notified within fifteen (15) days after completion of the activity.
- No activity shall take place on public property prior to issuance written authorization from the Toronto Lake Office.

7.3 Erosion Control Activities

7.3.1 Shoreline Erosion

Toronto Lake is subject to shoreline bank erosion. Although it is not economically feasible to implement an extensive shoreline erosion control program, USACE is interested in reducing or slowing erosion whenever possible. USACEs' first priority for its limited erosion control funds is the shoreline associated with developed USACE-managed recreation areas. However, if an adjacent landowner desires to perform erosion control work on USACE property at their own cost, a request to do work can be made to the Lake Manager, who will further advise the applicant regarding the authorization process. No work may be undertaken without written approval from USACE. Approval may be issued for any shoreline allocation area if a need can be demonstrated. A partial listing of permit requirements is as follows:

- All work must meet the specifications of Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Protection activities must not exceed one cubic yard per linear foot of fill and not exceed 500 linear feet of shoreline. Nationwide and regional permits may apply.
- Riprap, if used, must be natural stone 18 to 24 inches in diameter and must not include unnatural materials or building rubble. Riprap material

should be placed on a filter cloth material or bedding stone as approved by the Lake Manager.

- All vegetative species to be utilized for the purpose of planting and seeding must be approved by the Lake Manager. Grass planting for erosion control is not to be mowed unless located within a vegetation modification area.
- Retaining walls for the purpose of stabilizing shoreline erosion may be approved if extenuating circumstances exist which prevent the use of other approved methods. Retaining walls require design certification by a state licensed civil or structural engineer experienced in retaining wall construction. In addition, review is required by appropriate District USACE offices.

8 Unauthorized Uses

Any activities, other than public recreational activities or pedestrian access on natural surfaces, which are not covered by a Shoreline Use Permit or license will be considered an encroachment or degradation of public property. These unauthorized activities are considered violations of the rules and regulations contained in Title 36, Chapter III, Part 327, Code of Federal Regulations. Examples of such violations may include, but are not limited to unauthorized motorized vehicle operation, development of roads and hard-surface sidewalks, removal of or placement of debris-fill dirt, placement of dog pens, swings, patios, decks, steps, buildings, storage of equipment or vehicles, burning, tree and vegetation cutting, and grading of landforms. Violations of this nature will result in removal, restitution, restoration, and/or issuance of a Notice of Violation requiring the payment of a fine and/or the appearance before a Federal Magistrate and/or recovery of damages through civil litigation.

8.1 Off-Road Vehicle Use

The operation and/or parking of motorized vehicles on USACE property, including but not limited to automobiles, trucks, motorcycles, mini-bikes, all-terrain vehicles (ATV's), golf carts, utility and lawn tractors, etc., are prohibited off authorized roadways with the exception of the following authorized uses:

- Vehicle use on right-of-way easements or licenses granted by USACE for private access across USACE lands.
- Riding lawn mowers used in accordance with a valid vegetation modification permit.
- Approved maintenance and management activities, primarily associated with agricultural purposes, of adjacent landowners having the necessity to cross large blocks or fingers of USACE land to gain access to their private lands.

Taking any vehicle through, around, or beyond a restrictive sign, recognizable barricade, fence, or traffic control barrier is prohibited.

8.2 Abandonment of Private Property

Facilities will be considered abandoned after a diligent effort has been made to locate the rightful owner, his/her heirs, next-of-kin, or legal representative. Following a diligent search, unattended property shall be presumed to be abandoned and may be impounded and stored or disposed of by the Lake Manager in accordance with Section 327.15, Part 327, Chapter III, Title 36, Code of Federal Regulations. The Lake Manager may collect a reasonable impoundment fee before the impounded property is returned to its owner.

8.3 Mooring Vessels on the Shoreline

Temporary mooring is defined as the intermittent moorage of private watercraft along the shoreline during a brief period of recreational activity. All vessels shall be removed from Corps property if not in actual use. Campers registered at a designated campsite within a park may moor vessels below their campsites throughout their stay.

8.4 Boundary Line

The boundary line at Toronto Lake has been established and marked by USACE in accordance with standard survey techniques. The boundary line is marked with a standard brass cap embedded in a concrete monument. These monuments may be marked with an orange carsonite post. In open areas where the distance between corners is such that the monuments or pins are not visible, boundary line posts may be installed by USACE to witness the line. These posts should not be moved or destroyed. Witness posts are used to mark the approximate boundary location but are not registered, legal survey markers.

If a private need arises for the exact location of the common private/USACE property line, the adjacent property owner, at their expense, must use a licensed surveyor. USACE will provide information to surveyors or property owners that might assist in the location of boundary lines and property corners. This information is kept at the Toronto Lake Office. Any discrepancies identified by the survey should be resolved with the Lake Manager.

8.5 Burning

No burning of ANY kind is allowed on USACE property. Any burning MUST be performed on private property and in accordance to applicable state and local laws.

9 Changes and Revisions

USACE personnel will continually work to protect the shoreline and manage private shoreline uses at Toronto Lake in a manner to promote the safe and healthful use by the public while maintaining environmental safeguards to ensure a quality resource for use by the public. At a minimum, the SMP will be reviewed every five years or at any time that public use trend changes necessitate. When changes to the SMP are needed, the plan will be formally updated through the public participation process. Cumulative environmental impacts of permit actions and the possibility of preparing or revising project NEPA documentation will be considered. Minor changes in the Toronto Lake SMP may be approved by the District Engineer. Major revisions to this plan will be preceded by an additional public comment period and/or public meetings in accordance with ER 1130-2-406.

9.1 Contact Information

USACE personnel at Toronto Lake are available to address requests or questions concerning the Shoreline Management Plan. The Toronto Lake Office is located 2 miles north of US 400 at 2453 Lake Road, about four (4) miles northeast of Toronto, KS. Further information concerning the Shoreline Management Program is available at the Toronto Lake Office or by calling (620) 658-4445.

10 EXHIBIT A

Title 36: Parks, Forests, and Public Property

PART 327—RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCE DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

10.1 § 327.30 Shoreline Management of Civil Works Projects

(a) Purpose. The purpose of this regulation is to provide policy and guidance on management of shorelines of Civil Works projects where 36 CFR part 327 is applicable.

(b) Applicability. This regulation is applicable to all field operating agencies with Civil Works responsibilities except when such application would result in an impingement upon existing Indian rights.

(c) References.

- (1) Section 4, 1944 Flood Control Act, as amended (16 U.S.C. 460d).
- (2) The Rivers and Harbors Act of 1894, as amended and supplemented (33 U.S.C. 1)
- (3) Section 10, River and Harbor Act of 1899 (33 U.S.C. 403).
- (4) National Historic Preservation Act of 1966 (Pub. L. 89-665; 80 Stat. 915) as amended (16 U.S.C. 470 et seq.).
- (5) The National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.).
- (6) The Clean Water Act (33 U.S.C. 1344, et seq.).
- (7) The Water Resources Development Act of 1986 (Pub. L. 99-662).
- (8) Title 36, chapter III, part 327, Code of Federal Regulations, "Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers."
- (9) Executive Order 12088 (13 Oct. 78).
- (10) 33 CFR parts 320-330, "Regulatory Programs of the Corps of Engineers."
- (11) ER 1130-2-400, "Management of Natural Resources and Outdoor Recreation at Civil Works Water Resource Projects."
- (12) EM 385-1-1, "Safety and Health Requirements Manual."

(d) Policy.

(1) It is the policy of the Chief of Engineers to protect and manage shorelines of all Civil Works water resource development projects under Corps jurisdiction in a manner which will promote the safe and healthful use of these shorelines by the public while maintaining environmental safeguards to ensure a quality resource for use by the public. The objectives of all management actions will be to achieve a balance between permitted private uses and resource protection for general public use. Public pedestrian access to and exit from these shorelines shall be preserved. For projects or portions of projects where Federal real estate interest is limited to easement title only, management actions will be appropriate within the limits of the estate acquired.

(2) Private shoreline uses may be authorized in designated areas consistent with approved use allocations specified in Shoreline Management Plans. Except to honor written commitments made prior to publication of this regulation, private shoreline uses are not allowed on water resource projects where construction was initiated after December 13, 1974, or on water resource projects where no private shoreline uses existed as of that date. Any existing permitted facilities on these projects will be grandfathered until the facilities fail to meet the criteria set forth in § 327.30(h).

(3) A Shoreline Management Plan, as described in § 327.30(e), will be prepared for each Corps project where private shoreline use is allowed. This plan will honor past written commitments. The plan will be reviewed at least once every five years and revised as necessary. Shoreline uses that do not interfere with authorized project purposes, public safety concerns, violate local norms or result in significant environmental effects should be allowed unless the public participation process identifies problems in these areas. If sufficient demand exists, consideration should be given to revising the shoreline allocations (e.g. increases/decreases). Maximum public

participation will be encouraged as set forth in § 327.30(e)(6). Except to honor written commitments made prior to the publication of this regulation, shoreline management plans are not required for those projects where construction was initiated after December 13, 1974, or on projects not having private shoreline use as of that date. In that case, a statement of policy will be developed by the district commander to present the shoreline management policy. This policy statement will be subject to the approval of the division commander. For projects where two or more agencies have jurisdiction, the plan will be cooperatively prepared with the Corps as coordinator.

(4) Where commercial or other public launching and/or moorage facilities are not available within a reasonable distance, group owned mooring facilities may be allowed in Limited Development Areas to limit the proliferation of individual facilities. Generally only one permit will be necessary for a group owned mooring facility with that entity, if incorporated, or with one person from the organization designated as the permittee and responsible for all moorage spaces within the facility. No charge may be made for use of any permitted facility by others nor shall any commercial activity be engaged in thereon.

(5) The issuance of a private shoreline use permit does not convey any real estate or personal property rights or exclusive use rights to the permit holder. The public's right of access and use of the permit area must be maintained and preserved. Owners of permitted facilities may take necessary precautions to protect their property from theft, vandalism or trespass, but may in no way preclude the public right of pedestrian or vessel access to the water surface or public land adjacent to the facility.

(6) Shoreline Use Permits will only be issued to individuals or groups with legal right of access to public lands.

(e) Shoreline Management Plan

(1) General. The policies outlined in § 327.30(d) will be implemented through preparation of Shoreline Management Plans, where private shoreline use is allowed.

(2) Preparation. A Shoreline Management Plan is prepared as part of the Operational Management Plan. A moratorium on accepting applications for new permits may be placed in effect from the time an announcement of creation of a plan or formal revision of a plan is made until the action is completed.

(3) Approval. Approval of Shoreline Management Plans rests with division commanders. After approval, one copy of each project Shoreline Management Plan will be forwarded to HQUSACE (CECW-ON) WASH DC 20314-1000. Copies of the approved plan will also be made available to the public.

(4) Scope and Format. The Shoreline Management Plan will consist of a map showing the shoreline allocated to the uses listed in § 327.30(e)(6), related rules and regulations, a discussion of what areas are open or closed to specific activities and facilities, how to apply for permits and other information pertinent to the Corps management of the shoreline. The plan will be prepared in sufficient detail to ensure that it is clear to the public what uses are and are not allowed on the shoreline of the project and why. A process will be developed and presented in the Shoreline Management Plan that prescribes a procedure for review of activities requested but not specifically addressed by the Shoreline Management Plan.

(5) Shoreline Allocation. The entire shoreline will be allocated within the classifications below and delineated on a map. Any action, within the context of this rule, which gives a special privilege to an individual or group of individuals on land or water at a Corps project, that precludes use of those lands and waters by the general public, is considered to be private shoreline use. Shoreline allocations cover that land and/or water extending from the edge of the water and waterward with the exception of allocations for the purpose of vegetation modification which extends landward to the project boundary. These allocations should complement, but certainly not contradict, the land classifications in the project master plan. A map of sufficient size and scale to clearly display the shoreline allocations will be conspicuously displayed or readily available for viewing in the project administration office and will serve as the authoritative

reference. Reduced or smaller scale maps may be developed for public dissemination but the information contained on these must be identical to that contained on the display map in the project administration office. No changes will be made to these maps except through the formal update process. District commanders may add specific constraints and identify areas having unique characteristics during the plan preparation, review, or updating process in addition to the allocation classifications described below.

(i) Limited Development Areas. Limited Development Areas are those areas in which private facilities and/or activities may be allowed consistent with § 327.30(h) and appendix A. Modification of vegetation by individuals may be allowed only following the issuance of a permit in accordance with appendix A. Potential low and high water conditions and underwater topography should be carefully evaluated before shoreline is allocated as Limited Development Area.

(ii) Public Recreation Areas. Public Recreation Areas are those areas designated for commercial concessionaire facilities, Federal, state or other similar public use. No private shoreline use facilities and/or activities will be permitted within or near designated or developed public recreation areas. The term "near" depends on the terrain, road system, and other local conditions, so actual distances must be established on a case by case basis in each project Shoreline Management Plan. No modification of land forms or vegetation by private individuals or groups of individuals is permitted in public recreation areas.

(iii) Protected Shoreline Areas. Protected Shoreline Areas are those areas designated to maintain or restore aesthetic, fish and wildlife, cultural, or other environmental values. Shoreline may also be so designated to prevent development in areas that are subject to excessive siltation, erosion, rapid dewatering, or exposure to high wind, wave, or current action and/or in areas in which development would interfere with navigation. No Shoreline Use Permits for floating or fixed recreation facilities will be allowed in protected areas. Some modification of vegetation by private individuals, such as clearing a narrow meandering path to the water, or limited mowing, may be allowed only following the issuance of a permit if the resource manager determines that the activity will not adversely impact the environment or physical characteristics for which the area was designated as protected. In making this determination the effect on water quality will also be considered.

(iv) Prohibited Access Areas. Prohibited Access Areas are those in which public access is not allowed or is restricted for health, safety or security reasons. These could include hazardous areas near dams, spillways, hydro-electric power stations, work areas, water intake structures, etc. No shoreline use permits will be issued in Prohibited Access Areas.

(6) Public Participation. District commanders will ensure public participation to the maximum practicable extent in Shoreline Management Plan formulation, preparation and subsequent revisions. This may be accomplished by public meetings, group workshops, open houses or other public involvement techniques. When master plan updates and preparation of the Shoreline Management Plans are concurrent, public participation may be combined and should consider all aspects of both plans, including shoreline allocation classifications. Public participation will begin during the initial formulation stage and must be broad-based to cover all aspects of public interest. The key to successful implementation is an early and continual public relations program. Projects with significant numbers of permits should consider developing computerized programs to facilitate exchange of information with permittees and to improve program efficiency. Special care will be taken to advise citizen and conservation organizations; Federal, state and local natural resource management agencies; Indian Tribes; the media; commercial concessionaires; congressional liaisons; adjacent landowners and other concerned entities during the formulation of Shoreline Management Plans and subsequent revisions. Notices shall be published prior to public meetings to assure maximum public awareness. Public notices shall be issued by the district commander allowing for a minimum of 30 days for receipt of written public comment in regard to the proposed Shoreline Management Plan or any major revision thereto.

(7) Periodic Review. Shoreline Management Plans will be reviewed periodically, but no less often than every five years, by the district commander to determine the need for update. If sufficient controversy or demand exists, consideration should be given, consistent with other factors, to a process of reevaluation of the shoreline allocations and the plan. When changes to the Shoreline Management Plan are needed, the plan will be formally updated through the public participation process. Cumulative environmental impacts of permit actions and the possibility of preparing or revising project NEPA documentation will be considered. District commanders may make minor revisions to the Shoreline Management Plan when the revisions are consistent with policy and funds for a complete plan update are not available. The amount and type of public involvement needed for such revision is at the discretion of the district commander.

(f) Instruments for Shoreline Use. Instruments used to authorize private shoreline use facilities, activities or development are as follows:

(1) Shoreline Use Permits.

(i) Shoreline Use Permits are issued and enforced in accordance with provisions of 36 CFR 327.19.

(ii) Shoreline Use Permits are required for private structures/activities of any kind (except boats) in waters of Civil Works projects whether or not such waters are deemed navigable and where such waters are under the primary jurisdiction of the Secretary of the Army and under the management of the Corps of Engineers.

(iii) Shoreline Use Permits are required for non-floating structures on waters deemed commercially non-navigable, when such waters are under management of the Corps of Engineers.

(iv) Shoreline Use Permits are also required for land vegetation modification activities which do not involve disruption to land form.

(v) Permits should be issued for a term of five years. To reduce administration costs, one year permits should be issued only when the location or nature of the activity requires annual reissuance.

(vi) Shoreline Use Permits for erosion control may be issued for the life or period of continual ownership of the structure by the permittee and his/her legal spouse.

(2) Department of the Army Permits. Dredging, construction of fixed structures, including fills and combination fixed-floating structures and the discharge of dredged or fill material in waters of the United States will be evaluated under authority of section 10, River and Harbor Act of 1899 (33 U.S.C. 403) and section 404 of the Clean Water Act (33 U.S.C. 1344). Permits will be issued where appropriate.

(3) Real Estate Instruments. Commercial development activities and activities which involve grading, cuts, fills, or other changes in land form, or establishment of appropriate land-based support facilities required for private floating facilities, will continue to be covered by a lease, license or other legal grant issued through the appropriate real estate element. Shoreline Management Plans should identify the types of activities that require real estate instruments and indicate the general process for obtaining same. Shoreline Use Permits are not required for facilities or activities covered by a real estate instrument.

(g) Transfer of Permits. Shoreline Use Permits are non-transferable. They become null and void upon sale or transfer of the permitted facility or the death of the permittee and his/her legal spouse.

(h) Existing Facilities Now Under Permit. Implementation of a Shoreline Management Plan shall consider existing permitted facilities and prior written Corps commitments implicit in their issuance. Facilities or activities permitted under special provisions should be identified in a way that will set them apart from other facilities or activities.

(1) Section 6 of Pub. L. 97-140 provides that no lawfully installed dock or appurtenant structures shall be required to be removed prior to December 31, 1989, from any Federal water resources reservoir or lake project administered by the Secretary of the Army, acting through the Chief of Engineers, on which it was located on December 29, 1981, if such property is maintained in usable condition, and does not occasion a threat to life or property.

(2) In accordance with section 1134(d) of Pub. L. 99-662, any houseboat, boathouse, floating cabin or lawfully installed dock or appurtenant structures in place under a valid shoreline use permit as of November 17, 1986, cannot be forced to be removed from any Federal water resources project or lake administered by the Secretary of the Army on or after December 31, 1989, if it meets the three conditions below except where necessary for immediate use for public purposes or higher public use or for a navigation or flood control project.

(i) Such property is maintained in a usable and safe condition,

(ii) Such property does not occasion a threat to life or property, and

(iii) The holder of the permit is in substantial compliance with the existing permit.

(3) All such floating facilities and appurtenances will be formally recognized in an appropriate Shoreline Management Plan. New permits for these permitted facilities will be issued to new owners. If the holder of the permit fails to comply with the terms of the permit, it may be revoked and the holder required to remove the structure, in accordance with the terms of the permit as to notice, time, and appeal.

(i) Facility Maintenance. Permitted facilities must be operated, used and maintained by the permittee in a safe, healthful condition at all times. If determined to be unsafe, the resource manager will establish together with the permittee a schedule, based on the seriousness of the safety deficiency, for correcting the deficiency or having it removed, at the permittee's expense. The applicable safety and health prescriptions in EM 385-1-1 should be used as a guide.

(j) Density of Development. The density of private floating and fixed recreation facilities will be established in the Shoreline Management Plan for all portions of Limited Development areas consistent with ecological and aesthetic characteristics and prior written commitments. The facility density in Limited Development Areas should, if feasible, be determined prior to the development of adjacent private property. The density of facilities will not be more than 50 per cent of the Limited Development Area in which they are located. Density will be measured by determining the linear feet of shoreline as compared to the width of the facilities in the water plus associated moorage arrangements which restrict the full unobstructed use of that portion of the shoreline. When a Limited Development Area or a portion of a Limited Development area reaches maximum density, notice should be given to the public and facility owners in that area that no additional facilities will be allowed. In all cases, sufficient open area will be maintained for safe maneuvering of watercraft. Docks should not extend out from the shore more than one-third of the width of a cove at normal recreation or multipurpose pool. In those cases where current density of development exceeds the density level established in the Shoreline Management Plan, the density will be reduced to the prescribed level through attrition.

(k) Permit Fees. Fees associated with the Shoreline Use Permits shall be paid prior to issuing the permit in accordance with the provisions of § 327.30(c)(1). The fee schedule will be published separately.

11 EXHIBIT B

11.1 Shoreline Use Permit Conditions

(Source: ER 1130-2-406, Appendix C)

1. This permit is granted solely to the applicant for the purpose described on the attached permit.
2. The permittee agrees to and does hereby release and agree to save and hold the Government harmless from any and all causes of action, suits at law or equity, or claims or demands or from any liability of any nature whatsoever for, or on account of, any damages to persons or property, including a permitted facility, growing out of the ownership, construction, operation or maintenance by the permittee of the permitted facilities and/or activities.
3. Ownership, construction, operation, use and maintenance of a permitted facility are subject to the Government's navigation servitude.
4. No attempt shall be made by the permittee to forbid the full and free use by the public of all public waters and/or lands at or adjacent to the permitted facility or to unreasonably interfere with any authorized Area purposes, including navigation in connection with the ownership, construction, operation or maintenance of a permitted facility and/or activity.
5. The permittee agrees that if subsequent operations by the Government require an alteration in the location of a permitted facility and/or activity or if in the opinion of the District Commander a permitted facility and/or activity shall cause unreasonable obstruction to navigation or that the public interest so requires, the permittee shall be required, upon written notice from the District Commander to remove, alter, or relocate the permitted facility, without expense to the Government.
6. The Government shall in no case be liable for any damage or injury to a permitted facility which may be caused by or result from subsequent operations undertaken by the Government for the improvement of navigation or for other lawful purposes, and no claims or right to compensation shall accrue from any such damage. This includes any damage that may occur to private property if a facility is removed for non-compliance with the conditions of the permit.
7. Ownership, construction, operation, use and maintenance of a permitted facility and/or activity are subject to all applicable Federal, state and local laws, and regulations. Failure to abide by these applicable laws and regulations may be cause for revocation of the permit.
8. This permit does not convey any property rights either in real estate or material; and does not authorize any injury to private property or invasion of private rights or any infringement of Federal, state, or local laws or regulations, nor does it obviate the necessity of obtaining state or local assent required by law for the construction, operation, use or maintenance of a permitted facility and/or activity.
9. The permittee agrees to construct the facility within the time limit agreed to on the permit issuance date. The permit shall become null and void if construction is not completed within that period. Further, the permittee agrees to operate and maintain any permitted facility and/or activity in a manner so as to provide safety, minimize any adverse impact on fish and wildlife habitat, natural, environmental, or cultural resources values and in a manner so as to minimize the degradation of water quality.
10. The permittee shall remove a permitted facility within 30 days, at his/her expense, and restore the waterway and lands to a condition accepted by the resource manager upon termination or revocation of this permit or if the permittee ceases to use, operate or maintain a permitted facility and/or activity. If the

permittee fails to comply to the satisfaction of the Lake Manger, the District Commander may remove the facility by contract or otherwise and the permittee agrees to pay all costs incurred thereof.

11. The use of a permitted private dock shall be limited to the mooring of the permittee's vessel or watercraft and the storage, in enclosed locker facilities, of his/her gear essential to the operation of such vessel or watercraft.

12. Neither a permitted facility nor any houseboat, cabin cruiser, or other vessel moored thereto shall be used as a place of habitation or as a full or part-time residence or in any manner which gives the appearance of converting the public property, on which the facility is located, to private use.

13. Facilities granted under this permit will not be leased, rented, sub-let or provided to others by any means of engaging in commercial activity(s) by the permittee or his/her agent for monetary gain. This does not preclude the permittee from selling total ownership of the facility.

14. Floats and the flotation material for all docks and boat mooring buoys shall be fabricated of materials manufactured for marine use. The float and its flotation material shall be 100% warranted for a minimum of 8 years against sinking, becoming waterlogged, cracking, peeling, fragmenting, or losing beads. All floats shall resist puncture and penetration and shall not be subject to damage by animals under normal conditions for the area. All floats and the flotation material used in them shall be fire resistant. Any float which is within 40 feet of a line carrying fuel shall be 100% impervious to water and fuel. The use of new or recycled plastic or metal drums or non-compartmentalized air containers for encasement or floats is prohibited. Existing floats are authorized until it or its flotation material is no longer serviceable, at which time it shall be replaced with a float that meets the conditions listed above. For any floats installed after the effective date of this specification, repair or replacement shall be required when it or its flotation material no longer performs its designated function or it fails to meet the specifications for which it was originally warranted.

15. Permitted facilities and activities are subject to periodic inspection by authorized Corps representatives. The Lake Manager will notify the permittee of any deficiencies and establish a schedule for their correction. No deviation or changes from approved plans will be allowed without prior written approval of the Lake Manager.

16. Floating facilities shall be securely attached to the shore in accordance with the approved plans by means of moorings which do not obstruct general public use of the shoreline or adversely affect the natural terrain or vegetation. Anchoring to vegetation is prohibited.

17. The permit display tag shall be posted on the permitted facility and/or the land areas covered by the permit so that it can be visually checked with ease in accordance with instructions provided by the Lake Manager.

18. No vegetation other than that prescribed in the permit will be damaged, destroyed or removed. No vegetation of any kind will be planted, other than that specifically prescribed in the permit.

19. No change in land form such as grading, excavation or filling is authorized by this permit.

20. This permit is non-transferable. Upon the sale or other transfer of the permitted facility or the death of the permittee and his/her legal spouse, this permit is null and void.

21. By 30 days written notice, mailed to the permittee by certified letter, the District Commander may revoke this permit whenever the public interest necessitates such revocation or when the permittee fails to comply with any permit condition or term. The revocation notice shall specify the reasons for such

action. If the permittee requests a hearing in writing to the District Commander through the Lake Manager within the 30 day period, the District Commander shall grant such hearing at the earliest opportunity. In no event shall the hearing date be more than 60 days from the date of the hearing request. Following the hearing, a written decision will be rendered and a copy mailed to the permittee by certified letter.

22. Notwithstanding the condition cited in condition 21 above, if in the opinion of the District Commander, emergency circumstances dictate otherwise, the District Commander may summarily revoke the permit.

23. When vegetation modification on these lands is accomplished by chemical means, the program will be in accordance with appropriate Federal, state and local laws, rules and regulations.

24. The Lake Manager or his/her authorized representative shall be allowed to cross the permittee's property, as necessary, to inspect any facilities and/or activities under permit or to investigate any potential violations.

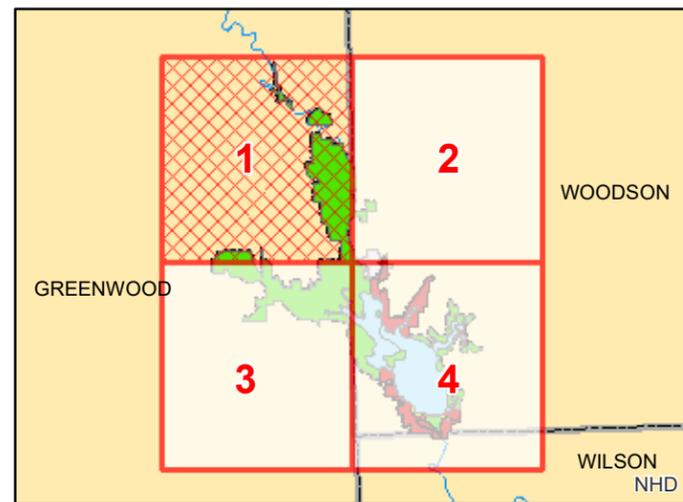
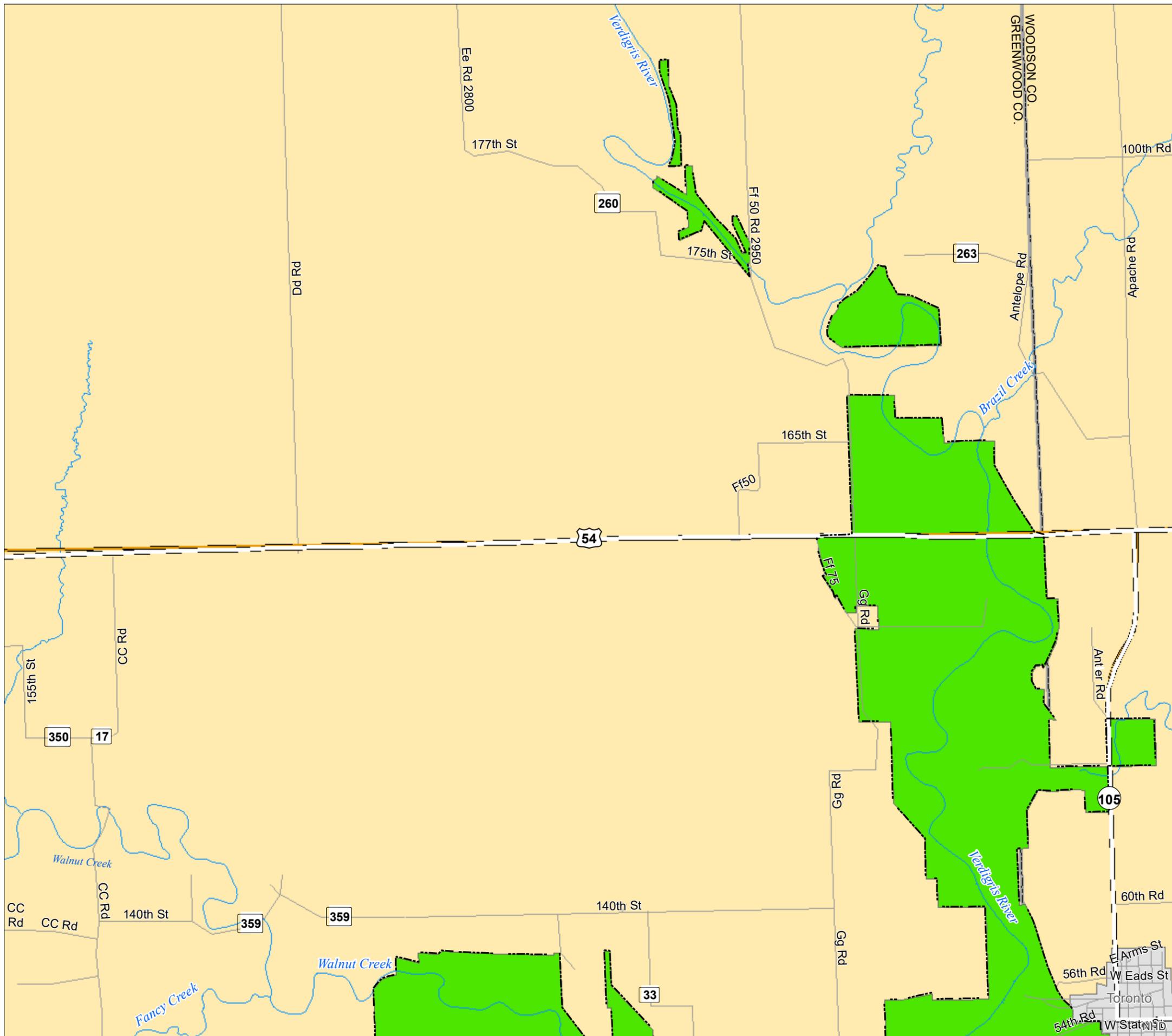
25. When vegetation modification is allowed, the permittee will delineate the common private/Corps property line in a clear, but unobtrusive manner approved by the Lake Manager in accordance with the Toronto Lake Shoreline Management Plan.

26. If the ownership of a permitted facility is sold or transferred, the permittee or new owner will notify the Lake Manger of the action prior to finalization. The new owner must apply for a Shoreline Use Permit within 14 days or remove the facility and restore the use area within 30 days from the date of ownership transfer.

27. If permitted facilities are removed for storage or extensive maintenance, the Lake Manager may require all portions of the facility be removed from public property.

12 EXHIBIT C

12.1 Shoreline Allocation Maps



-  INDEX GRID
-  FEE BOUNDARY
-  PROHIBITED ACCESS AREA
-  PROTECTED LAKESHORE AREA
-  PUBLIC RECREATION AREA



**U.S. ARMY CORPS
OF ENGINEERS
TULSA DISTRICT**

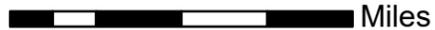
TORONTO DAM
VERDIGRIS RIVER, KANSAS

**TORONTO DAM - TORONTO LAKE
SHORELINE MANAGEMENT PLAN**

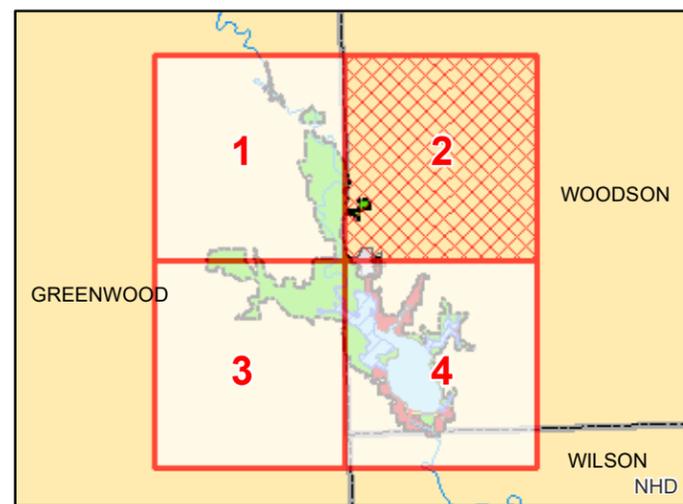
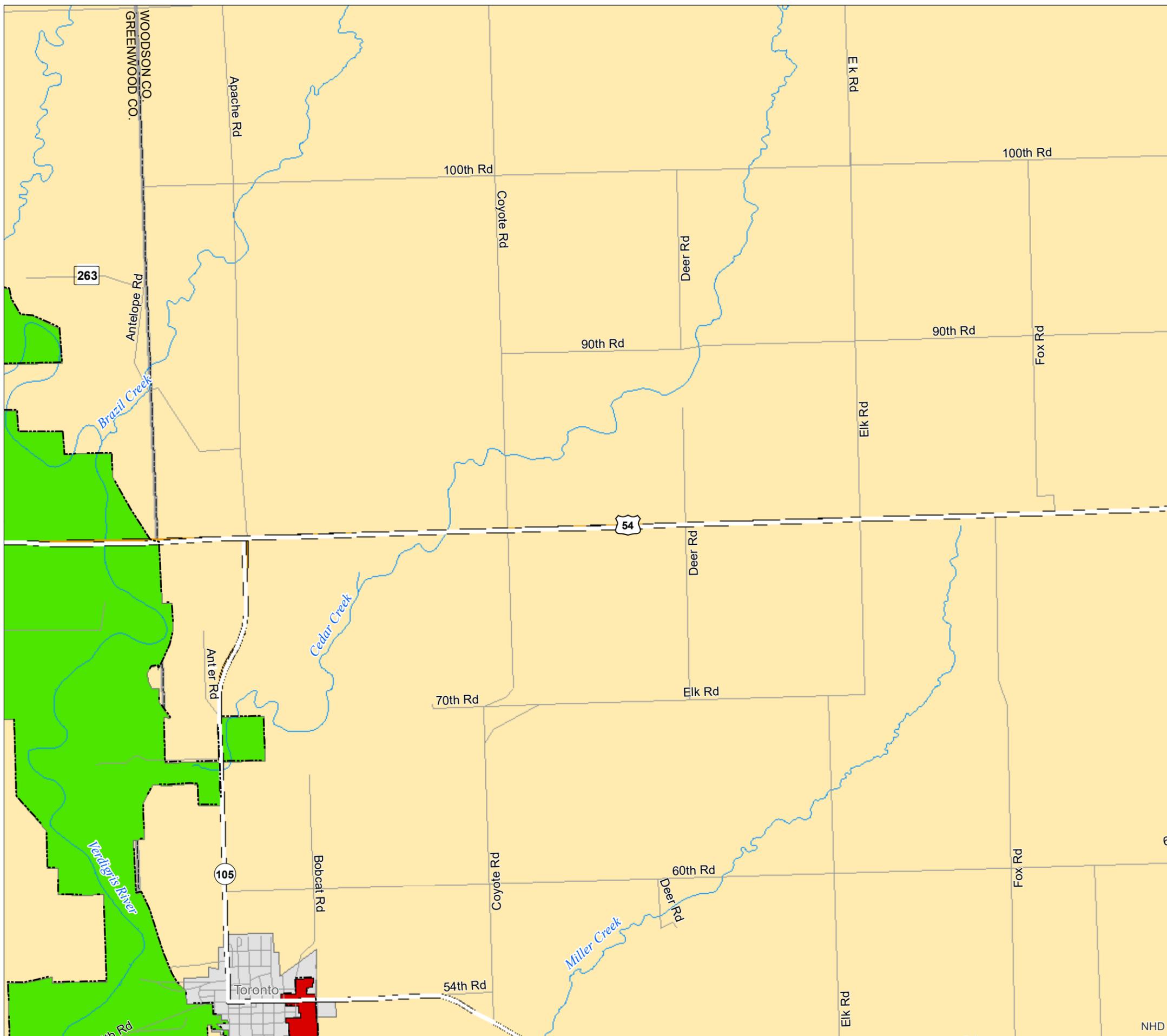
INDEX SHEET 01



0 0.25 0.5 0.75 1 Miles



DATE: SEPTEMBER 2017	MAP NO. TL17-SM-01
-------------------------	-----------------------



-  INDEX GRID
-  FEE BOUNDARY
-  PROHIBITED ACCESS AREA
-  PROTECTED LAKESHORE AREA
-  PUBLIC RECREATION AREA

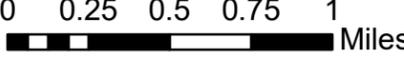


**U.S. ARMY CORPS
OF ENGINEERS
TULSA DISTRICT**

TORONTO DAM
VERDIGRIS RIVER, KANSAS

**TORONTO DAM - TORONTO LAKE
SHORELINE MANAGEMENT PLAN**

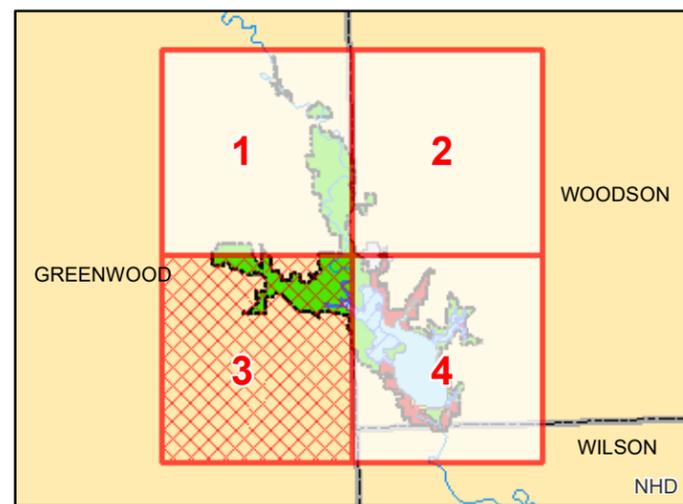
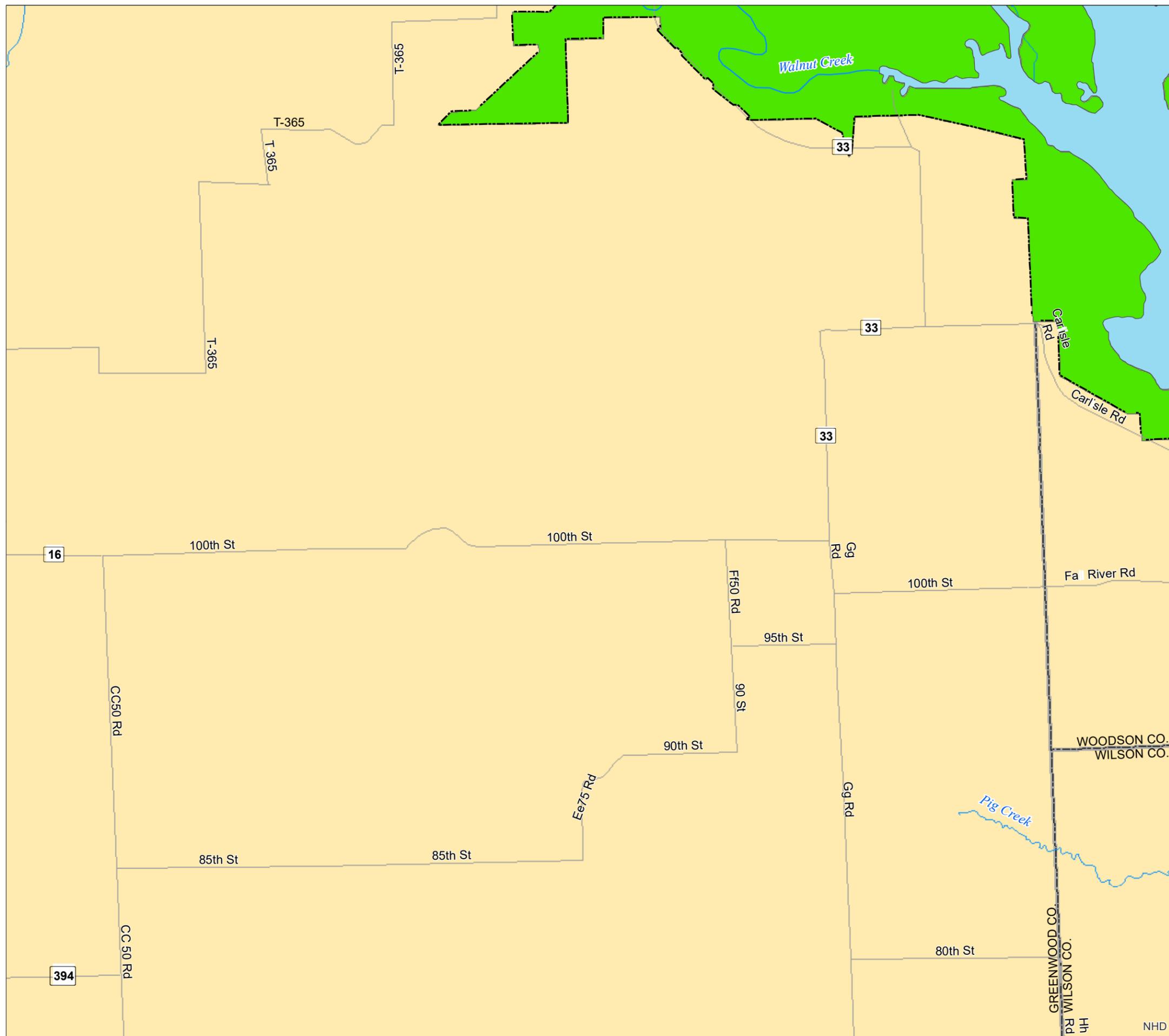
INDEX SHEET 02



0 0.25 0.5 0.75 1 Miles

DATE:
SEPTEMBER 2017

MAP NO.
TL17-SM-02



-  INDEX GRID
-  FEE BOUNDARY
-  PROHIBITED ACCESS AREA
-  PROTECTED LAKESHORE AREA
-  PUBLIC RECREATION AREA

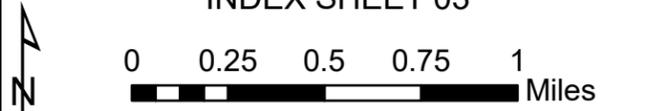


**U.S. ARMY CORPS
OF ENGINEERS
TULSA DISTRICT**

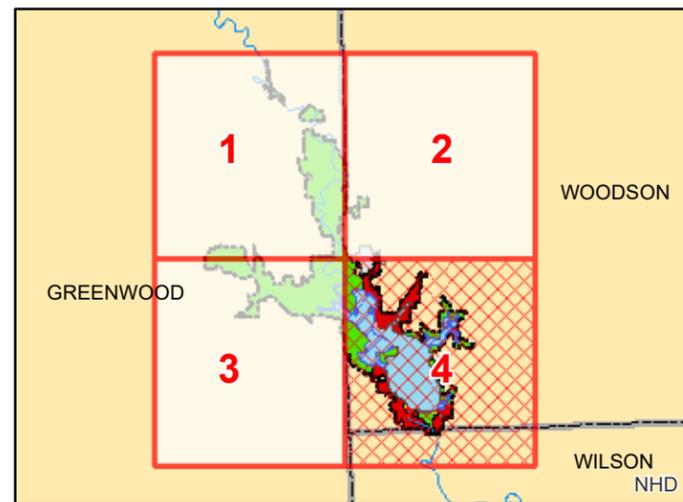
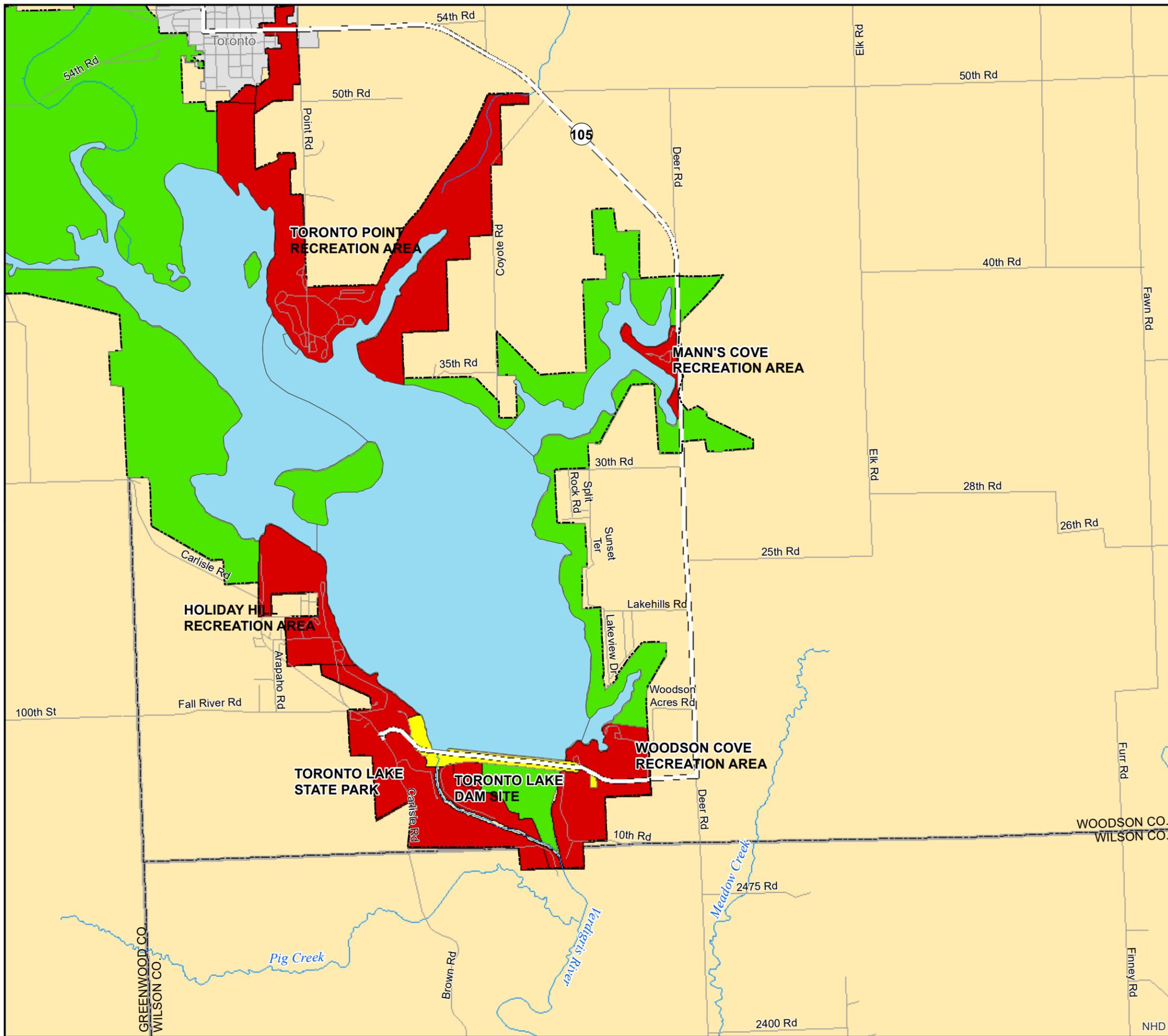
TORONTO DAM
VERDIGRIS RIVER, KANSAS

**TORONTO DAM - TORONTO LAKE
SHORELINE MANAGEMENT PLAN**

INDEX SHEET 03



DATE: SEPTEMBER 2017	MAP NO. TL17-SM-03
-------------------------	-----------------------



-  INDEX GRID
-  FEE BOUNDARY
-  PROHIBITED ACCESS AREA
-  PROTECTED LAKESHORE AREA
-  PUBLIC RECREATION AREA

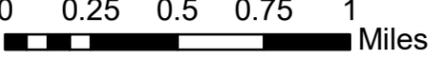


**U.S. ARMY CORPS
OF ENGINEERS
TULSA DISTRICT**

TORONTO DAM
VERDIGRIS RIVER, KANSAS

**TORONTO DAM - TORONTO LAKE
SHORELINE MANAGEMENT PLAN**

INDEX SHEET 04



DATE:
SEPTEMBER 2017

MAP NO.
TL17-SM-04