

Exhibit B

Progress Energy Carolinas, Inc.

Guidelines for the Use of Leased Properties at Lake Tillery

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Guidelines for the Use of Leased Properties at Lake Tillery

1.0 Purpose

These guidelines are intended to help lessees and potential lessees understand Progress Energy Carolinas' (PEC) policies for permitting activities within areas leased from PEC around Lake Tillery. PEC owns and operates the Tillery Hydroelectric Project to generate electricity under a license granted by the Federal Energy Regulatory Commission (FERC License #2206). FERC allows PEC to permit limited development activities around the shoreline of Lake Tillery. PEC has established a leasing program to ensure the protection of public recreation opportunities, aesthetic beauty, environmental features, regulatory compliance and power production capability at the project. There are three types of leases at Lake Tillery: recreational, group and commercial. The leasing process for commercial facilities requires agency review and approval by FERC, while only select residential facilities require agency review (examples: seawalls, dredging and riprap). All three types of activities require PEC approval, and PEC reserves the right to determine the type of facilities used in any new development or commercial entity. In deciding whether to grant permission, PEC will attempt to balance the requests of the lessees and applicants with the environmental and aesthetic values, recreational use, public good and other project purposes while meeting regulatory requirements. Each proposed activity will be evaluated according to these guidelines.

It should be noted that some areas around Lake Tillery are not available for leasing. **Private ownership of a lot adjacent to Lake Tillery does not guarantee that a lease will be granted for use of PEC's shoreline property.** Permitted activities are a privilege, not a right. Contact the PEC lake manager at 877.893.0001 with questions or concerns regarding these matters.

2.0 Goal

PEC's goal with these guidelines is to provide a mechanism to assist in the protection and enhancement of the environmental, scenic and recreational values provided by Lake Tillery and the project lands, while ensuring the continued safe and reliable production of hydroelectric power at the project and compliance with regulatory requirements.

3.0 General Guidelines:

- 3.1 These guidelines are not intended to be all-inclusive.
- 3.2 These guidelines are subject to revision at PEC's discretion.
- 3.3 Use of leased PEC property will be evaluated on a case-by-case basis.
- 3.4 Any property owner who wishes to construct facilities or engage in any land-disturbing activity (including altering or impacting any vegetation) on PEC property must apply to PEC for a permit.
- 3.5 Any improvements on PEC property, including the cutting of vegetation, dredging and filling, alteration of shoreline features, or construction of any structure without specific written authorization from PEC's lake manager is prohibited.
- 3.6 All activities must comply with applicable building codes and other regulatory requirements.
- 3.7 Lessees within identified Impact Minimization Zones (IMZ) must comply with the lease guidelines, including the IMZ Guidelines located in Attachment B, which contain additional requirements.
- 3.8 For private facilities, a current, paid-in-full, compliant residential lease must cover the leased property.
- 3.9 Construction of private facilities over the water or in the leased area will be permitted only if the associated area owned by the lessee has been improved by the construction of a single family or multi-unit dwelling and at least a portion of the lot is within 200 feet of the water's edge at lake elevation 278.2 feet MSL. No permits will be issued for vacant lots or undeveloped sites, with the exception of pre-existing situations where leases were granted prior to the "lot improvement" requirement.
- 3.10 For private facilities, the allowable combined square footage of all water-dependent structures is dependent upon the classification of the impacted shoreline and may be limited by the length of leased shoreline but shall not exceed 1,200 square feet. For shoreline within an IMZ, the maximum allowed square footage over water is 800 square feet. (Attachment B identifies other restrictions in IMZs.)
- 3.11 All construction activities and the placement of water-dependent facilities should be done in such a manner to minimize impact to aquatic habitat, especially water willow beds greater than or equal to 100 square feet and submerged woody debris.
- 3.12 On some subdivision maps on Lake Tillery, the PEC property associated with a lot is indicated by dotted or solid lines that extend from the lot across company property to or into the water of Lake Tillery. On other subdivision maps that do not allocate the company property, the lot sidelines should be extended to make the allocation. All facilities located on company property should be within the confines of

these lines (either on land or over water) whether they are indicated or must be extended. The company reserves the right to determine the location of facilities between the allocation lines. Any deviation from these guidelines should only occur when a recorded encroachment agreement between the affected parties permits such an occurrence. If two or more parties are unable to agree on the company land associated with their lot, PEC has the sole right to take those actions necessary to resolve the disagreement.

- 3.13 When a new lease is granted or a lease is transferred, a lease application fee of \$100 is required. There is also a yearly rental fee based on lot frontage on the waterward side of land along PEC's property boundary. The minimum lease fee is \$100 per year for frontage of 100 feet or less along the company's project boundary. If the frontage is greater than 100 feet, the additional fee is \$5 per 10 feet or portion thereof.
- 3.14 All activities within the project boundary are subject to the license and other regulations and orders as dictated by FERC.
- 3.15 PEC reserves the right for its representatives to enter any and all leased areas without notice or constraint.

Property owners must receive written approval from PEC before beginning any improvements within the leased area. This requirement applies to all facilities on the land or over the water. Written approval must also be obtained from PEC prior to beginning activities such as, but not limited to, dredging and filling or vegetation removal and/or treatment in the water or on PEC land. Failure to get such written approval from PEC's lake manager prior to conducting unauthorized activities on PEC property could result in a fine, legal action by PEC or affected regulatory agencies and cancellation of the lease.

4.0 The Application Process for Private Recreational Facilities

The permitting process begins with a call to the PEC representative at 877.893.0001 to request an application form. After the application form is completed and returned along with the following items to the address listed below, a PEC representative will meet with you on your property to review your relevant drawings and discuss PEC requirements and guidelines.

- Drawings on 8.5" x 11" paper of proposed construction and site plan sufficient to show construction parameters and distances from property projection lines.
- Existing and proposed square footage of water-dependent structures.
- Specifications of all construction materials.
- Plan for erosion and sedimentation control during construction.
- Applicable local, state and federal permits. (The PEC representative can provide a list of possible contacts.)
- Nonrefundable processing fee of \$100.

Please send requested information to the following address:

Progress Energy
Lake Management
c/o Business Services
P.O. Box 1551 – PEB 3A
Raleigh, NC 27602

Once the applicant has satisfactorily provided the above items to the PEC representative, the applicant must obtain from PEC a completed facility approval form. The form is required to obtain a building permit from the county.

Note: PEC reserves the right to disapprove, reject or modify any proposed construction plans if the proposed construction is deemed to be unsafe for the general public, doesn't exhibit sound construction methods or is determined to adversely impact environmental aquatic or terrestrial habitats. In addition, PEC could reject or modify the proposed construction plans if it is determined that the appearance of the completed structure would not be compatible with PEC's stated goal of protecting scenic values of the Tillery project or if the structure could adversely impact the surrounding property value or if the structure does not comply with applicable regulations.

PEC reserves the right to make periodic inspections of permitted activities or facilities during and after construction to ensure compliance with permit conditions. After construction is completed, notify PEC, and a company representative will make the final inspection to verify compliance with PEC facilities approval form terms and conditions.

Note: For construction, additions or modifications of commercial facilities, the applicant will be required to consult with the appropriate state and federal resource agencies. The PEC representative can provide a list of possible contacts with these agencies. When agency consultation is completed and all issues are addressed to PEC's satisfaction, PEC will consider filing a request for approval with FERC. Reference Attachment A for the application process for commercial facilities.

5.0 Guidelines Regarding Soil Disturbance

No heavy equipment or soil disturbance is allowed on PEC property without written permission by PEC's lake manager. Proper installation of silt fences for erosion control is required to prevent runoff and sedimentation impacts to waterways. Dredging may occur only when the necessary local, state, federal and PEC approvals are secured. Dredging is prohibited in the months of March through June because of fish spawning and peak recreational activity. Call the PEC lake manager at 877.893.0001 for more information on the permitting process.

6.0 Guidelines Regarding Vegetation

Vegetation is important to the aesthetic qualities and environmental health of Lake Tillery. In addition to enhancing the natural beauty of the lake, terrestrial and aquatic vegetation helps prevent water pollution and provide habitat for birds, mammals and fish. These guidelines are intended to provide lessees the opportunity to use PEC property appropriately, while protecting the environmental characteristics.

6.1 Vegetative Buffer

In addition to the primary purpose of electric power generation, Lake Tillery is also used as a source of public water for many residents in the adjacent counties. North Carolina water quality regulations applicable to Lake Tillery require that a vegetative buffer zone be maintained adjacent to the shoreline to provide protection from erosion and runoff pollution. State and federal resource agencies support the buffer zone concept for the purpose of protecting wildlife habitat. These regulations require a buffer zone, which extends a minimum of 30 feet from the shoreline as measured from the water's edge at normal full lake elevation.

The following guidelines regarding vegetation and land disturbance apply to property leased from PEC within the Tillery Hydroelectric Project:

- 6.1-1 PEC requires that no ground-disturbing activities of the project land within 30 feet of the shoreline is permitted, except for the placement of a walkway not exceeding 5 feet in width. Unless written permission is secured from a PEC representative, do not remove leaf litter, disturb root mats or use any equipment other than hand tools in this area.
- 6.1-2 PEC requires that at least 75 percent of the leased area remain completely undisturbed. This means the cutting or removal of vegetation (except under special permit for safety reasons) will not be allowed on 75 percent of the leased area, except for pruning up to a height of 10 feet per accepted arboricultural standards.
- 6.1-3 Within the 25 percent of the leased area where disturbance is allowed and consistent with state regulations, limited clearing for visual and physical access to the water is permitted, but large trees and shrubs must be retained. No tree larger than 3 inches in diameter as measured at a height of 4.5 feet above the ground shall be removed unless the tree is dead, dying or poses a safety hazard. PEC's written approval is required prior to the removal of any trees.
- 6.1-4 PEC reserves the right to plant or require the planting of vegetative materials within the leased area. PEC may require, at the leaseholder's expense, the removal of any unauthorized improvements and restoration of PEC land to a natural state.
- 6.1-5 PEC prohibits the removal of existing submerged woody debris with a diameter of 10 inches or greater at the base of the trunk from the lake, unless such debris constitutes a navigational or public safety hazard. The PEC lake manager must approve removal of such woody debris from the lake. Woody debris that falls into the lake as a result of storms or natural occurrence should be left in place unless such debris constitutes a navigational or public safety hazard. Woody debris that has broken loose from submerged trunks and is floating in such a manner that constitutes a navigational or safety hazard may be removed from the lake. In the placement and construction of new docks, these facilities should be placed to minimize removal of woody debris. Lessees may be required by PEC to mitigate at a 2:1 ratio for removal of woody debris from the lake in nearby areas, depending upon the type and age of submerged woody debris. Such mitigation may include, but is not limited to, the design and construction of a fish-friendly pier.
- 6.1-6 PEC encourages landscaping with native plants. For more information, see Appendix D of the Lake Tillery Shoreline Management Plan or call the PEC lake manager at 877.893.0001.
- 6.1-7 The use of non-native, invasive species for planting is prohibited.

6.2 Pesticides, Herbicides and Fertilizers

The use of pesticides, herbicides and fertilizers by anyone other than PEC personnel or PEC-authorized applicators is prohibited on PEC property.

6.3 Aquatic Vegetation

Aquatic vegetation is beneficial for a healthy lake ecosystem and will be protected. It is important for fish cover, spawning, feeding, rest and rearing areas and provides food for other animals, such as waterfowl and wading birds. However, some noxious and non-native aquatic weeds in PEC lakes, reservoirs and impoundments have the potential to negatively impact company operations, authorized public recreation, water quality and/or the aquatic populations of these water bodies. Also, they may threaten the water resources used by the public.

Water willow beds are of high aquatic habitat value in Lake Tillery and any type of vegetation control method on this vegetation by the general public is expressly prohibited. PEC may authorize removal of water willow in areas where there is an expansion or encroachment of a bed into an existing navigational channel or for shoreline stabilization.

PEC will require mitigation by the lessee if construction activities significantly impact water willow beds. Such mitigation may include, but is not limited to, construction of a fish-friendly pier or funding the establishment of a water willow bed in another area of the lake, preferably an adjacent or nearby area. Significant impact is defined as disturbance within the lot allocation area that impacts more than 25 percent of the surface area of an existing water willow bed that is equal to or greater than 100 square feet. The measure of the impacted area will be determined by the amount of water willow covered by any structure, except walkways constructed under IMZ guidelines.

In order to reduce or eliminate the impact and threat of noxious aquatic weeds in PEC lakes, reservoirs and impoundments, it is the policy of PEC to implement or recommend, when appropriate, the best available technology for weed control when any of the above-mentioned impacts can be demonstrated. These measures may include, but are not limited to, accepted chemical, biological, and physical control techniques. Any control measures implemented will be done so only after consideration of all known factors and after consultation with appropriate state agencies having jurisdiction. In warranted cases, PEC may provide written permission for noxious and non-noxious aquatic weed control to a lessee, provided the lessee uses an approved, licensed aquatic pesticide applicator and obtains written approval from the appropriate state (i.e., N.C. Wildlife Resource Commission) and federal resource agencies. The lessee and applicator will be responsible for any impacts to the aquatic environment that occurs as a result of negligence, improper application or unexpected consequences.

Lessees may not use aquatic herbicides, stock grass carp or use other biological or mechanical control. Only licensed herbicide applicators will be allowed to apply herbicides to public waters and, under circumstances of written permission from PEC, the lessee and applicator must consult with appropriate resource agencies prior to application. Additional restrictions regarding the use of any herbicides by licensed applicators may be applicable to drinking water supply reservoirs, such as Lake Tillery.

6.4 Bald Eagle Nesting and Perch Sites

Management of the project lands for bald eagles will be consistent with the requirements of the Endangered Species Act, the Bald Eagle Protection Act and the Migratory Bird Treaty Act. To accomplish this, PEC follows the recommendations of the U.S. Fish & Wildlife Service's "Habitat Management Guidelines for the Bald Eagle in the Southeast Region" (3rd Revision, January 1987).

Eagles nest and roost in large trees, primarily pine trees. Leaving these larger trees will benefit the bald eagle population and ensure sufficient locations for this federally listed bird to nest, roost and perch around the edge of the lake. Therefore, no trees greater than 3 inches in diameter as measured at the height of 4.5 feet above the ground shall be removed from leased land unless the tree poses a public safety hazard. PEC's written approval is required prior to the removal of any trees.

7.0 Guidelines Regarding Shoreline Stabilization

Seawalls, bulkheads and similar structures are sometimes used to prevent shoreline erosion. PEC prefers the use of native shoreline vegetation to control erosion. For appropriate indigenous species, contact your local county extension agent. Riprap is preferred to stabilize eroding shoreline, as compared to bulkheads or seawalls, because the placement of riprap along a severely eroded shoreline can enhance protective habitat for fish. Bulkheads and seawalls offer very little in terms of aquatic habitat value. The following guidelines will apply for the construction of seawalls:

- 7.1 Any land-disturbing activity on PEC land, including the shoreline, requires prior written approval. Appropriate measures are required to prevent erosion.
- 7.2 Facilities approval forms are required for the construction of seawalls.
- 7.3 Riprap material on the waterward side of seawalls (3 feet at base extending back to seawall on a 2:1 slope) is required for the enhancement of fish habitat, except where the slope of the lake bed is greater than 2:1. The U.S. Army Corps of Engineers and the N.C. Division of Water Quality regulate the placement of stone or other materials into water. Compliance with these agencies' requirements is a prerequisite to receiving approval from PEC.

- 7.4 The use of riprap for shoreline erosion control without a seawall may be permitted with prior written approval from PEC. Riprap without a seawall will be permitted only with a filter cloth barrier. Application of riprap without a seawall may qualify for exemption from the approval form fee.
- 7.5 Seawalls must be constructed of pressure-treated lumber, interlocking stone or other approved materials. Railroad ties, metal, rubber or other non-approved materials will not be permitted. The use of creosote-treated wood is expressly prohibited.
- 7.6 The height of seawalls shall conform to the natural contour of land, but in no case shall seawalls be higher than 5 feet. Fill material behind seawalls shall be gravel, quarry stone or soil. Brick or block is not allowed.
- 7.7 Seawalls cannot be used to extend the shoreline into the lake.
- 7.8 No walkways are allowed on the landward side of seawalls.
- 7.9 Hardwood mulch in previously disturbed areas in combination with the planting of species native to the area is acceptable for the stabilization of the shoreline.

8.0 Guidelines Regarding Dredging and Filling

Do not deposit or remove any soil from PEC property, including the lake, prior to obtaining PEC's written approval. Permission from the State Historic Preservation Office (SHPO), U.S. Army Corps of Engineers and the N.C. Division of Water Quality (Department of Environment and Natural Resources) is required for dredging or excavation within the lake. In addition, the N.C. Wildlife Resources Commission must review all dredging applications. General dredging guidelines include, but are not limited to:

- 8.1 Dredging is not permitted during the months of March through June when fish spawning activity is the greatest and there is peak recreational activity.
- 8.2 It is PEC's intent that only materials which have silted into the lake be removed from the lake.
- 8.3 Written approval must be obtained from PEC prior to alteration of the shape of the shoreline and said alteration must comply with U.S. Army Corps of Engineers guidelines.
- 8.4 Dredging is not permitted in aquatic emergent/submerged vegetation beds equal to or greater than 100 square feet in surface area, except as required to maintain boating access.
- 8.5 Dredging is not permitted in Impact Minimization Zones or Environmental/Natural Areas.
- 8.6 All dredged material must be properly disposed and completely removed from PEC property. No material (including: trash, yard waste, leaves, grass, garbage, food waste, fish parts or animal waste) shall be left on PEC property or disposed into lake waters.

9.0 Guidelines Regarding Septic Systems

PEC does not desire to have any septic system components on its property. In no case may any component of the septic system be located within 50 feet of the shoreline. However, if the adjoining property configuration or the soil quality is such that all or a portion of the drain field must be located on PEC property, the adjoining property owner must:

- 9.1 Have the county health/sanitation department certify in writing the necessity to locate the drain field on PEC property.
- 9.2 Propose a design and location of the drain field in accordance with all applicable federal, state and local laws and regulations. The drain field must be depicted on a map prepared by a registered licensed surveyor.
- 9.3 Submit an application to PEC, including a nonrefundable application fee (currently \$250), for an easement.

If these requirements are met, PEC may agree to grant an easement, for a fee, to the adjoining property owner for the purpose of locating a septic drain field on PEC property. The fee will be 1/2 the per-square-foot value of comparable lot sales in the area.

10.0 Guidelines for Private Facilities

10.1 Boathouses, Boatslips, Piers and Decks

Private piers, boathouses and other water-dependent structures are permitted for the convenience of the landowner and are a privilege, not a right. To enhance public safety and visibility of the shoreline and water, only single-story, open-sided boathouses will be permitted for use by private property owners. PEC will examine the plans for each structure before permitting. The following guidelines apply:

- 10.1-1 The allowable combined square footage of all water-dependent structures is dependent on the length of leased shoreline and shall not exceed 1,200 square feet, except in Impact Minimization Zones (IMZ) where the upper limit is 800 square feet. (This does not include seawall square footage.) The 1,200 square feet is the footprint of the facilities over the water. An uncovered slip is counted as square footage.
- 10.1-2 Piers or other docking structures may not extend more than 100 feet from the shore. In cove areas, the dock must not present a hazard to navigation, with the maximum length of the dock to be established in writing by PEC. As a general guide, a structure should not obstruct more than 1/3 the width of the cove to protect public access and safety and protect aesthetic values of the lake shoreline. PEC reserves the right to disallow the location of structures in coves whose width is 45 feet or less.
- 10.1-3 All fixed structures over water must be at least 1 foot above full pool (full pool = 278.2 feet MSL) in areas designated as residential or potential development. See IMZ Guidelines (Attachment B) for requirements for structures permitted in areas designated as IMZs. New construction must be 3 feet above normal full pool elevation if constructed over water willow beds greater than 100 square feet in area.
- 10.1-4 All structures built over the water must have adequate reflectors at corners and every 10 feet in between for safety purposes. The state of North Carolina recommends white reflectors.
- 10.1-5 Docks and piers may be stationary or floating, but floatation devices must be of encapsulated styrofoam or polystyrene, as approved by the U.S. Army Corps of Engineers.
- 10.1-6 Benches, guardrails and other attachments on docks, piers or decks over water must not significantly obstruct views.
- 10.1-7 Boathouses may not be shared or co-owned by adjoining lot owners without prior written approval of PEC and recording of appropriate legal documentation of the terms and conditions of said joint ownership.
- 10.1-8 Boathouses must be constructed of wood. Tin or shingles may be used on the roof of a boathouse while metal siding, vinyl and wood may be used on the sides of storage rooms. The color of materials used should be natural, neutral or earth tone.
- 10.1-9 No living, sleeping, cooking, heating, cooling or plumbing facilities or refrigerators are permitted within, adjacent to or above boathouses or otherwise on PEC property, except for existing commercial leases.
- 10.1-10 The external dimensions of enclosed storage areas associated with boathouses must not exceed 80 square feet and must be located on the landward side of piers, deck areas and boathouses. Use of boathouse storage areas for items other than those associated with swimming, boating, skiing and fishing is prohibited. The storage of fuel or any other petroleum supply and yard treatment chemicals and fertilizers is prohibited.
- 10.1-11 Decks shall be constructed of wood or other environmentally acceptable materials as approved by PEC's lake manager.
- 10.1-12 Every effort should be made to minimize incidental disturbance of aquatic vegetation due to approved activities. Placement of boathouses should avoid impacting water willow beds or other significant aquatic vegetation beds that are equal to or greater than 100 square feet by siting the facility outside of such beds or by traversing the water willow bed at the end points rather than the middle of a bed. Walkways must be 3 feet above normal full pool elevation and no more than 5 feet wide to permit sunlight penetration to the water willow bed. Placement of boathouses or docks should also take into account the shading effect of such structures relative to sun exposure. PEC may require mitigation by the lessee if construction activities significantly impact water willow beds. Such mitigation may include, but is not limited to, construction of a fish-friendly pier or funding the establishment of a water willow bed at an adjacent area. Significant impact is defined as disturbance within the lot allocation area that impacts more than 25 percent of the surface area of an existing water willow bed that is equal to or greater than 100 square feet. The measure of the impacted area will be determined by the amount of water willow covered by any structure, except walkways constructed under IMZ Guidelines. Other restrictions will apply for water willow beds located in IMZs.
- 10.1-13 PEC may authorize removal of water willow in areas where there is an expansion or encroachment of a bed into an existing navigational channel.

10.2 Walkways

PEC will permit the limited construction of walkways within the leased area. Walkways must either have natural ground cover or be constructed of open-slatted, pressure-treated wooden or composite materials, follow the contour of the land and must lead to a pier or boathouse. Access to the shoreline shall be by pathway no wider than 5 feet.

An elevated walkway to the roof of a flat-roofed boathouse is permitted where need for handicap accessibility is certified in writing by a medical doctor. Steps down from an elevated walkway or roof of a boathouse will be located over water. Steps on land to roof of boathouse are not allowed.

10.3 Fences

Fences within the leased area can be constructed with PEC's prior written permission, but in no case are fences permitted on PEC property within 30 feet of the shoreline. New fence installation must take into account aesthetic values in terms of placement and selection of construction materials.

10.4 Items Prohibited on Leased Property (not intended to be all-inclusive)

1. Swimming pools
2. Storage buildings or other structures except as permitted in boathouses
3. Houses, including residential roof overhangs
4. Asphalt or concrete driveways or walkways
5. Porches or other attachments to residential structures
6. Decks or patios on land
7. Garages or carports
8. Wells, pumps or other methods of water withdrawal without prior written permission from a PEC representative
9. Animal lots and houses
10. Television or radio satellite dishes or towers
12. Encroachments on adjoining leased areas unless a specific recorded encroachment agreement exists between the affected parties
13. Electrical service that does not meet National Electric Safety Code requirements
14. Facilities that represent health and safety hazards
15. Commercial activities without PEC's written permission
16. Assignment or subletting of PEC leases without prior written approval
17. Storage of vehicles or other material
18. Underwater or partially submerged structures or facilities which could present a safety hazard
19. Burning
20. Storage or disposal of any regulated materials
21. Water gardens, fountains or underground lawn sprinkler systems
22. Private boat ramps
23. The discharge of any concentrated runoff; that is, concentrating storm water runoff into a pipe or improperly constructed ditch, that discharges onto PEC property and accelerates erosion
24. The discharge or disposal of any material
25. The use of tin or other metal materials to repair sides of existing boathouses or other structures
26. Structures that do not meet N.C. Building Code requirements
27. Fuel or other storage tanks or fuel pumps
28. Livestock within 30 feet of the lake unless crossing the stream channel per specifications of Natural Resources Conservation Service
29. Buoys with ropes from existing boathouses/docks to such buoys in the water
30. In-ground boathouses

NOTE: FAILURE TO ABIDE BY THESE CONDITIONS MAY RESULT IN THE CANCELLATION OF EXISTING LEASE AND THE RESTORATION OF ANY DAMAGE AT THE COST OF THE LESSEE.

11.0 Guidelines for Commercial Facilities

Commercial facilities must be licensed by PEC. Detailed plans for construction, additions or modifications of commercial facilities must be submitted to PEC for review and approval prior to beginning work. The merits of these plans will be considered on a case-by-case basis and will consider the value of such facilities with regard to environmental impact and potential navigational and safety issues. As mentioned above, consultation with state and federal agencies is required and will be the responsibility of the applicant. (See "Attachment A" for step-by-step approval process). In most instances, PEC cannot consent without prior FERC approval. PEC may permit the following:

- Signs for commercial operations
- Fuel tanks for marina operations require PEC's prior written permission and must meet all applicable legal requirements.

Certain activities and items are expressly prohibited at these facilities, including, but not limited to, the following:

- 11.1 Encroachments on adjoining leased areas
- 11.2 Electrical service that does not meet National Electric Safety Code requirements
- 11.3 Facilities that represent health and safety hazards
- 11.4 Assignment or subletting of PEC leases without prior written approval
- 11.5 Improper storage or disposal of any regulated materials
- 11.6 Structures that do not meet N.C. Building Code requirements

12.0 Exceptions for Existing Facilities

At PEC's discretion and subject to license and other regulatory directives, existing water-dependent and other facilities that do not comply with the general guidelines may remain in the leased area or over the water for their useful lives, as long as they are in compliance with federal, state and local laws and regulations (termed "grandfather" provisions). When major repairs involving more than 50 percent of the value of the structure as determined by a certified licensed appraiser approved by PEC are made, the structure must be repaired so as to be in compliance with the guidelines included herein. Metal siding is not permitted for repair of any structures. If an existing structure is destroyed by fire or by other means, the replacement structure must be built in compliance with the general guidelines and is not subject to the "grandfather" provisions.

All modifications to existing facilities are subject to these guidelines so that any pre-existing noncompliance is not increased. For the purpose of measuring the area covered by existing facilities, all structures on PEC leased property, whether over water or on land, are to be counted. Structures include, but are not limited to, boathouses, decks, docks, boat slips, piers, storage buildings and all noncomplying structures. PEC does not include approved walkways over land or seawalls in the calculation of area covered by structures. No expansion of an existing facility or addition of a new facility is allowed on leased property where the expansion or addition would cause the area covered by all facilities to exceed 1,200 square feet, whether grandfathered or not. No expansion or addition will be permitted to any structure, nor will additional facilities be permitted if the area covered by all facilities in the leased area exceeds 1,200 square feet.

All facilities on PEC property must be well maintained. Failure to properly maintain facilities on PEC property may result in the cancellation of any existing lease and the removal of the facility and restoration of the property at the expense of the lessee.

13.0 Guidelines Regarding Miscellaneous Items (not intended to be all-inclusive)

- 13.1 Waterfowl blinds are allowed by permit only and must be removed after each hunting season. A permitting fee will be assessed. Blinds may not be constructed prior to 4 weeks before the hunting season. Failure to remove the waterfowl blind within 4 weeks of the close of the hunting season will result in a charge of a removal fee and may result in loss of similar future privileges. PEC reserves the right to remove any waterfowl blind, including but not limited to those that pose a safety, environmental, navigational or aesthetic problem. Construction of a waterfowl blind on public water constitutes the use of such facilities by any hunter on a "first-come" basis. Permitting and construction of such blinds does not constitute ownership of such facilities, nor does it constitute authority over hunting rights in the vicinity of such blind.
- 13.2 Signs are only permitted at marinas and access areas upon approval by PEC.
- 13.3 Fish attractors are allowed per PEC specifications. Fish attractors under piers are encouraged.
- 13.4 Navigational aids are handled by N.C. Wildlife Resources Commission.
- 13.5 Parasails, hang gliders, ultralight aircraft and seaplanes are not allowed.

13.6 Heat exchange coils for heat pumps may be approved provided all local, state and federal permits are secured and design meets PEC specifications. These items must not cause any obstruction to navigation or negatively impact environmentally sensitive areas.

13.7 Vending operations over water are controlled by the county health department. If allowed, they must be in an area approved by PEC.

14.0 Guidelines Regarding Special Uses

PEC reserves the right to grant special uses that deviate from the Guidelines for the Use of Leased Properties at Lake Tillery when in its judgment the action is advantageous for the benefit of the public welfare and does not jeopardize the environmental quality of the lake.

15.0 Guidelines Regarding Penalties and Mitigation

Failure to abide by these guidelines could result in cancellation of the lease. Failure to build, maintain and renovate facilities according to facilities approval form and the Guidelines for the Use of Leased Properties at Lake Tillery will result in lease cancellation. If PEC decides to re-let the property at a later date, a lease re-instatement fee of \$500 will be levied. In the event the lease is not re-instated, PEC reserves the right to remove all remaining personal property and remaining facilities from PEC property. Regular lake patrols will take place. Any violations will be investigated and handled by PEC and appropriate regulatory agencies.

PEC will require mitigation by the lessee if construction activities significantly impact water willow beds. Such mitigation may include, but is not limited to, construction of a fish-friendly pier or funding the establishment of a water willow bed in another area of the lake, preferably an adjacent or nearby area. Significant impact is defined as disturbance within the lot allocation area that impacts more than 25 percent of the surface area of an existing water willow bed that is equal to or greater than 100 square feet. The measure of the impacted area will be determined by the amount of water willow covered by any structure, except walkways constructed under IMZ Guidelines.

Penalty Fees

Persons who own property adjacent to, or lease property on Lake Tillery could incur a penalty of \$250 from PEC for:

- Failing to obtain a lease and/or Facilities Approval Form prior to construction.
- Construction deviates from the original permit and drawing approved by a Progress Energy representative.
- Construction not complying with Progress Energy's Guidelines for the Use of Leased Properties at Lake Tillery.

If it is found that a lease tag has been removed by parties other than PEC, the lessee will be charged \$25 for the cost of the tag and reinstallation.

Individuals found to be in violation of PEC's procedures, approved permit or guidelines will be expected to take corrective action by:

- Acquiring the necessary forms (e.g., lake lease and/or Facilities Application Form) and submitting payment for all fees and penalties incurred.
- Bringing their facilities into compliance with the PEC-approved drawing submitted in their Facilities Application Form.
- Possible additional mitigation to enhance the shoreline.

PEC reserves the right to cancel or deny a lease to those individuals who do not submit payment of fees and penalties or refuse to comply with the procedures, policies and guidelines.

16.0 Glossary

Aesthetic – Characteristics that are visually pleasing and usually conform to certain identified background features.

Allocation Line – A line on a subdivision map or the projected lot side lines that determines the location of facilities on PEC land or over the water of Lake Tillery.

Application Process – Involves calling a PEC representative, meeting on the site, discussing proposed construction of facilities, preparing detailed sketch of facilities and their location, securing necessary agency approvals if necessary, obtaining facilities approval form, payment of fee and obtaining building permit from appropriate county.

Aquatic Emergent/Submerged Vegetation Beds – Rooted aquatic plants found totally submersed below or emerging from the lake's surface and usually located in water less than 6 feet deep.

Assignment – A transfer of a claim, property right, etc.

Best Management Practice (BMP) – A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Boatslip – An unroofed structure confined by three sides used for temporary or permanent storage and/or mooring of a watercraft.

Buffer Zone – A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer shall be measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Building Permit – A written authorization secured from the county where structure(s) will be built, allowing construction according to certain specifications.

Cancellation – Termination of a lease between PEC and the lessee.

Commercial Facilities – Facilities related to the operation of a marina or restaurant such as boat storage, fuel dispensing, and provisions for food services and any facility with more than 10 boat slips.

Commercial Lease – PEC land leased in association with a business such as a marina or a restaurant or other multiple-use public or private facility that accommodates more than 10 watercraft.

Development – Any activity within the area leased from PEC involving, requiring or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading or driving of pilings; clearing or alteration of land; alteration of the shore, bank, or bottom of Lake Tillery, or any tributary or wetland; or placement of a floating or attached structure within the leased area.

Docking Structure – A structure over or adjacent to water used for mooring watercraft.

Dredging – The term "dredged material" means material that is excavated or dredged from waters of the United States as defined by the Code of Federal Regulations [33 CFR 323.2(c)] and as permitted by appropriate federal and state agencies.

Earth Tone – Related to color. Colors that are usually neutral in shade and that blend in with the surroundings and do not conflict with aesthetics of the environment.

Easement – A nonpossessing interest held by one party in the land of a second party whereby the first party is accorded partial use of the land for a specific purpose with certain specified restrictions.

Encroachment Agreement – A document recorded at the pertinent county register of deeds office that allows one party to place facilities in the allotted area of a second party.

Environmental – The aggregate of all conditions affecting the existence, growth and general welfare of living organisms and includes complex interactions with chemical and physical variables.

Environmentally Sensitive Habitat – Habitat that is identified to be of high quality for a healthy ecosystem, including both plants and animals, which provide important areas for living, feeding, reproduction, rearing and resting. These habitats also include habitat for rare, threatened or endangered plants and animals. Such habitats have the highest priority for protection from degradation and impact due to human activities to sustain the ecosystem in general or specific identified organisms.

Excavation – Removal of soil and rock associated with construction or placement of shoreline bulkheads.

FAA – Abbreviation for the Federal Aviation Administration.

Facilities – Structures such as walkways, seawalls, piers, boathouses, boatslips, deck areas or other structures located on PEC property.

Facilities Approval Form – A PEC form that describes the proposed facilities to be located on PEC property. Form is used to secure a building permit from the appropriate county.

Facilities Approval Form Fee – A fee to cover PEC expenses associated with the permitting of facilities on PEC property. Synonymous with processing fee.

FERC – Abbreviation for the Federal Energy Regulatory Commission. The federal agency by which PEC is licensed to operate the Tillery Hydroelectric Plant, Lake Tillery and the surrounding project lands.

Filling – The placement of material in the lake for purposes of land reclamation. This practice is prohibited.

Filter Cloth Barriers – A cloth placed on the bank prior to placement of riprap to prohibit soil from washing away from riprap.

Floatation Devices – Normally made of encapsulated styrofoam.

Full Pond/Full Lake/Full Pool Elevation – A measurement of elevation, in feet (278.2 feet) above mean sea level, to the top of the floodgates at the Tillery dam.

Grandfather Provisions – Temporary provisions that allow an existing structure to continue to exist in noncompliance with existing guidelines. When maintenance repairs exceed 50 percent of the value of the structure, the grandfather provisions are void and the structure must come in compliance with existing guidelines.

Guidelines – A manual of procedures governing the use of leased properties at Lake Tillery.

Habitat – The region where plants or animals naturally grow or live and include chemical and physical features that comprise the environment and allow plants and animals to thrive.

Herbicides – Chemicals designed to retard or prohibit plant growth.

In-Ground Boathouse – A boathouse placed in an excavated area in the shoreline bank of a lake.

Indigenous Species – Species native to the area.

Land-Disturbing Activity – Any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation.

Landward – On the side toward the land.

Lease – A written document by which the rights of use and occupancy of land and / or structures are transferred by the owner to another person or entity for a specified period of time in return for a specified rental.

Leased Properties/Leased Area – The location where rights of use or occupancy have been transferred from lessor to lessee.

Lessee – The party who possesses the right to use or occupy a property under lease agreement (tenant).

Lessor – The party who holds title to and conveys the right to use and occupy a property under lease agreement (landlord).

License – A formal, legally binding agreement that allows a certain activity to be performed.

MSL – Abbreviation for mean sea level.

Multi-Unit Dwelling – A structure that can legally accommodate more than one family unit, such as an apartment or townhouse.

Natural Condition/Natural State/Natural – The forest floor as found in an undisturbed mature or maturing forest. (See definition of Natural Forested Vegetation as given below.)

Natural Forested Vegetation – The plants of an area which grow together in disturbed or undisturbed conditions in various wooded plant communities in any combination of trees, saplings, shrubs, vines and herbaceous plants.

Natural Ground Cover – Low-growing terrestrial vegetation existing on forest or shoreline lands that is naturally occurring without disturbance from human activity.

NCDENR – Abbreviation for the North Carolina Department of Environment & Natural Resources.

NCWRC – Abbreviation for the North Carolina Wildlife Resources Commission.

Neutral – Pertaining to color, usually earth tone colors that do not sharply contrast to the existing background colors.

Noncompliant Structure – Any structure that does not conform to the entitled Guidelines for the Use of Leased Properties at Lake Tillery.

NCDWQ – Abbreviation for the North Carolina Division of Water Quality, a division within the North Carolina Department of Environment and Natural Resources.

Open-Sided Boathouse – A boathouse whose sides are open from the decking upward to the ceiling joist.

Open-Slatted – Refers to boards on walkway, each board having a space between it and the next board.

Permit – Authorization by one party of a certain activity by another party.

Private Recreation Lease – PEC land leased in association with the residence of a family.

Project Boundary – The perimeter of PEC’s property at Lake Tillery as shown in its license with the Federal Energy Regulatory Commission (FERC).

Projection Lines – Synonymous with allocation lines.

Recapture – Placing soil into an eroded area or the formation of a new land area is prohibited unless permitted by U.S. Army Corps of Engineers’ guidelines.

Re-let – To lease again.

Riprap – Large crushed stone (8-10 inches or greater in diameter) used for bank stabilization. This method of shoreline stabilization provides better fish habitat structure.

Runoff – Water that is not absorbed into the ground and enters into a body of water.

Silt Fence – An upright cloth or synthetic barrier anchored in the ground to prevent erosion.

Sublet – The process by which the existing lessee leases rights to another party.

USACOE – Abbreviation for the United States Army Corps of Engineers.

USF&W – Abbreviation for the United States Fish & Wildlife Service.

USGS – Abbreviation for the United States Geological Survey.

Vegetated Condition – Plant life, such as natural vegetation consisting of grasses, shrubs and trees in a sufficient amount to minimize or prevent soil erosion and bank slumping.

Vegetative Buffer – Plant life, such as natural vegetation, in a sufficient amount to prohibit erosion in the designated buffer zone.

Water-Dependent Structure – Those structures for which use requires access or proximity to or siting within surface waters to fulfill its basic purpose, such as boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

Water Quality Regulations – Rules established by the NCDENR to promote and protect water quality.

Waterward – On the side toward the water.

Wetlands – Areas that are inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands classified as waters of the state are restricted to waters of the United States as defined by the Code of Federal Regulations (33 CFR 328.3 and 40 CFR 230.3).

Attachment B

Impact Minimization Zone Guidelines

Impact Minimization Zones (IMZs) are areas of special concern to PEC. Certain areas are worthy of an additional level of protection that is not afforded to all of the lands covered by the Guidelines for the Use of Leased Properties at Lake Tillery. IMZs offer an increased level of protection to these areas. Within the individual IMZs, there may be certain aquatic or terrestrial resources or habitat characteristics that need complete protection to avoid environmental degradation of the area. PEC's lake manager will carefully review development within the IMZs, and, in some instances, permits may be denied or modified so as not to severely impact environmental resources.

Disturbance, including shoreline clearing and modification, impacts to aquatic vegetation beds including the removal of submerged woody debris, construction of piers, etc., in areas within IMZs requires the approval of the PEC staff. Any proposed disturbance must include an impact minimization plan that contains measures to avoid, minimize or mitigate impacts to important environmental features within the IMZ. There may be special considerations in an area that is contained in an IMZ that would preclude disturbance of any type. Approval of disturbance activities and the plan to minimize the impact of the proposed disturbance will be decided on a case-by-case basis.

Activities in the IMZ are subject to the following restrictions:

- Disturbance of an area within an IMZ may be prohibited.
- Construction of boathouses and docks will not be allowed in the shallow upper ends of coves or lake arms where water depths are considered to be not navigable in normal operating ranges of the reservoir.
- Removal of woody debris will not be allowed without the express written permission of the lake manager. Submerged trunks 10 inches or greater in diameter are considered high-quality fish habitat. Removal of woody debris may require mitigation by lessees, unless the debris constitutes a navigational or safety hazard.
- Construction of new docks will require the design considerations for a fish-friendly pier.
- Construction activities are not allowed except with the express written permission of PEC and must be completed by a specified date.
- Land-disturbing activities are not allowed except with the express written permission of PEC and must be completed by a specified date.
- No types of dredging are allowed in IMZs.
- Facilities built are restricted to no more than 800 square feet of surface area.
- Only shoreline stabilization through the use of native plant species is allowed in IMZs.
- Piers may not exceed 75 feet in total length or one-third of the total width of a cove at full pond elevation, whichever is less, and should not extend waterward any further than necessary to access a water depth of 6 feet. PEC may disallow all facilities if the cove is less than 45 feet wide.

All leased properties are subject to the Guidelines for the Use of Leased Properties at Lake Tillery.

The following practices are encouraged in the IMZs and will be given special consideration by PEC staff:

- If structures are permitted, they should incorporate additional structure complexity under piers to create additional fish habitat and use fish-friendly pier design considerations.
- Walkways must be 3 feet above the normal full pool elevation and no more than 5 feet wide to minimize disturbance to existing vegetation. Placement of such structures should also consider orientation of the sun and the potential shading of an existing aquatic vegetation bed.
- The design of all structures should be developed such that they avoid sensitive areas within the IMZ. Sensitive areas include the shallow end of coves or lake arms, known spawning areas for bedding fish, areas where tributaries enter the lake, and habitat that has been documented to be utilized by any rare, threatened or endangered species.

