

ANALYSIS  
OF  
LAKESHORE MANAGEMENT FEE STUDY

INTRODUCTION

Lakeshore use permits for land-based and water-based activities are currently being issued at 100 Corps projects. The annual revenue produced from the Corps Lakeshore Management Program is approximately \$244,500 and the readily identifiable annual cost of administering the program is approximately \$3,600,000. The lakeshore management program has about 38,500 permits and is currently serving a cross section of the general public.

BACKGROUND

In 1969, nationwide policy was issued which addressed the authority for certain private floating recreation facilities on Civil Works projects. This policy stressed securing maximum storage of boats and related equipment at commercial concessions and provided for issuance of lakeshore use permits without a fee.

In 1974, Corps policy was expanded to include minor land and vegetation modification activities. This policy required Lakeshore Management Plans for projects with existing private lakeshore use, continued to encourage moorage at commercial marinas and encouraged the use of community docks. In addition to re-establishing guidelines for issuing permits, the regulation also required a fee of \$10 for initial issuance of a permit and an annual \$5 inspection fee, all payable prior to issuance of the permit.

Public involvement was an integral part of the process during the development of the lakeshore management guidance in the early 1970's. Nearly 6,000 letters on the lakeshore management issue were received. Comments of individuals were about evenly distributed between support and opposition, with the exception of the 188 petitions - 186 petitions containing over 4,000 signatures from residents of the Tenkiller Ferry Lake area in Oklahoma who were totally opposed to the regulation; and 2 petitions containing nearly 200 signatures of residents of the Bull Shoals Lake area in Arkansas and Missouri supported the regulation, but opposed the fee for permits.

On September 10 and 11, 1976, the House Subcommittee on Investigations and Review of the Committee on Public Works and Transportation held public hearings at Anderson, South Carolina, to review the Corps lakeshore management regulation. The outcome of the hearings was confirmation that the Corps was procedurally and administratively correct in establishing the regulation, and that the regulation should remain in force as is.

On May 1, 1986, ASA(CW) requested a study to estimate the annual administrative costs, including an appropriate share of overhead, for private lakeshore use permits under the Lakeshore Management Program and to consider the value of the permitted activities to the private user. To help accomplish this task, South Atlantic Division was asked to chair a committee which was

established in June 1986. It consisted of representatives from divisions where significant lakeshore management activities and facilities are permitted. Committee members included persons from HQUSACE, division, district and project levels.

#### ANALYSIS OF THE REPORT

The committee reviewed existing data to determine which projects issue lakeshore use permits and how many floating and land-based permits were managed at each project. This data was found to be inadequate and inaccurate.

Therefore, a questionnaire was sent to resource managers at the 100 projects identified in the Natural Resources Management System where lakeshore use permits are issued. The questionnaire was designed so that responses could be used to estimate current administrative costs and to inventory existing lakeshore permits. It also helped to establish a consistent basis for determining a value to the permittee for the various permitted activities and facilities. One hundred percent of the questionnaires were returned.

Three on-site reviews and interview sessions were conducted during the study. The committee met in Atlanta, Georgia; Beaver Lake, Arkansas; and Lake Sakakawea, North Dakota. Project and district office personnel from the South Atlantic and Southwestern Divisions were interviewed concerning the study.

Public agencies and private entities were surveyed to determine the basis each used in establishing fees for similar facilities and activities. The only information available concerned fees charged for floating facilities. No other agencies or private entities charge fees for the other types of facilities and activities allowed at Corps projects.

The committee's varied backgrounds and broad range of experiences with the Lakeshore Management Program were capitalized on by brainstorming to identify the alternative basis for assessing the fair market value of a permit.

The following alternatives were examined in the committee's report.

1. Recover costs associated with the administration of the Lakeshore Management Program. The administrative costs include labor costs (\$1,952,000), effective rate of 35.85% (\$699,722), overhead rate of 10% (\$195,200), equipment costs (\$456,100), and materials and supplies (\$302,738) for a total of \$3,605,760 per year or \$480 per permit per five years.

Committee conclusion: Technically feasible.

2. Recover part of the administrative costs of the Lakeshore Management Program. Under this alternative, 91% of the administrative costs would be recovered. The cost of floating facility permits would remain \$480 and the cost of permits for vegetation modification would be reduced to \$240 for five years. There would be no charge for erosion control permits.

Committee conclusion: Technically feasible.

3. Cost of permits based on fees charged by other public agencies and private

entities. A survey of other public agencies and private entities was conducted and it was determined that no commonly accepted method for establishing a fee basis for various activities and facilities exists.

Committee conclusion: No viable policies identified.

4. Cost of permits based on increased private property value. Here the cost of the permit would be based on the increase in private property value as a result of the issuance of a lakeshore use permit.

Committee conclusion: Would require prohibitively costly appraisal process. Would involve substantial legal considerations.

5. Cost of permits based on intangible values. Permit costs would be based on the social and privilege value attained by permit holders.

Committee conclusion: Subjective values - not defensible.

6. Permit costs based on personal property tax assessments. In this case, permit costs would be based upon personal property tax assessments.

Committee conclusion: No consistency.

7. Permit costs based on public values foregone. Here permit costs would be based on the loss to the public when continuing private exclusive use facilities and activities are allowed to be placed on public lands.

Committee conclusion: Not quantifiable.

8. Permit costs based on willingness to pay. Permit costs would be based on the willingness of the user to pay for the privilege.

Committee conclusion: Questionable defendability - data collection prohibitively expensive.

9. Permit costs based on the value of similar floating facilities. Under this alternative, there are three sub-alternatives.

- a. Permit costs would be based on the average fee charged by commercial marinas.
- b. Permit costs based on comparable sizes of commercial marina provided facilities.
- c. Permit costs based on administrative costs by assigning fees for each size of floating facilities.

Committee conclusion: Questionable defendability - no rational link between fee schedules and administrative costs that are being recovered and would result in an unbalanced fee schedule.

After identifying the alternatives listed above, the committee identified pros and cons for each. In addition, they applied the following criteria to each alternative.

1. Measureability - Can the value be measured in monetary terms?
2. Cost - Does the cost of measuring the value have a relatively low administrative cost?
3. Social acceptability - Will the public be willing to pay for the measured value?
4. Defendability - Was the charge for the value based on a logical and consistent methodology rather than on an arbitrary determination?
5. Equity - Did the value apply equally to all situations?

The alternatives were further discussed by the committee with South Atlantic Division's Office of Counsel, Real Estate and an economist. Alternatives were not pursued if they failed to meet the criteria or would significantly increase the administrative costs.

Upon application of these criteria, the committee dropped the majority of these alternatives because they were not viable for one or more reasons. Further analysis of these factors was not pursued due to time constraints and the advice from ASA(CW) staff. While the committee's analysis was limited by time and resources, it did provide an indication of the merits of the various factors which might be considered as a basis for permit fees. In each case, HQUSACE staff review indicates that further pursuit would be academic.

After reviewing the study results, the committee developed several recommendations. Their overall recommendations were as follows:

1. No fees should be assessed based on fair market value.
2. Fees for all floating facilities should be \$480 for a five year permit. Fees for vegetation modification should be \$240 for a five year permit. Sixty percent of the cost would be first year costs for permit issuance and forty percent for subsequent inspections.
3. Fees for permit modifications that provide for any horizontal expansion to facilities/activities or increase the number of facilities/activities, should be assessed an additional 50% of the total permit fee.
4. Discounts for up front payments on multi-year permits should be provided.
5. Late fees should be assessed for late payment of permit fees.

#### ADDITIONAL CONSIDERATIONS

The committee did not have the resources, expertise, nor time to properly pursue the "willingness to pay" issue. We think further studies could define "willingness to pay". However, political resistance would probably render the results academic. If further information is desired, a formal study could be

commissioned to obtain the data.

A lakeshore management permit is one of the many variables that may affect the value of private property located adjacent to Federally owned, Corps managed lakes. The committee members talked to the owner of a construction firm, located near Lake Lanier, Georgia, that specializes in the construction of private docks. They asked him how a private dock affects the value of the adjacent private property. He responded saying that he could not tell how much the dock affects the value. In addition to the presence or absence of a private dock, property value depends on many other variables as well. Some of them are distance from the water, access to the water, access to the private property, slope of land, type of soil, availability of gas and water, size of lot, distance to adjacent properties, proximity to a metropolitan area, size of the lake, The number of other docks on the lake, and geographical region in the United States, among many other variables.

Information obtained from an informal and unscientific survey revealed that the value of private adjacent property may be affected by one or more of the variables mentioned above. The value of a piece of private property having a permitted private dock is estimated to increase from \$10,000 to \$50,000 at Lake Lanier, Georgia, and from \$5,000 to \$10,000 at Pamona Lake, Kansas. The development and maintenance of a more exact estimate of increased property value, due to the presence of a lakeshore permit, would likely be a costly and time-consuming exercise.

This program has a history of high political sensitivity and involves a relatively low total revenue potential (\$3.6 million). It is highly visible and has a high potential for controversy. A significant percentage of permittees are prone to escalate their concerns to Congress.

HQUSACE reviewed the study and its recommendations with this sensitivity in mind. In light of these factors and the potential loss of significant political capital versus the modest costs recovered, we considered the following alternatives:

1. Issue permits at no cost. Permits would be issued based only upon their merit and at no cost to the permittees.

PROS:

- o Cost of a permit would not exclude any member of the public.
- o No public review required.
- o Would be acceptable to permittees.
- o Would not increase the current level of bureaucracy.

CONS:

- o Would recover no administrative costs.
- o Contrary to user pays philosophy.

- o Some controversy possible.
- o Potential adverse effect on existing commercial concessions.

2. Status Quo. Continue current system of a \$30 fee for a five year permit. (The cost of processing a check, received in payment for a permit, through Finance and Accounting to the Federal treasury is approximately \$15.)

PROS:

- o Permit costs would not exclude many members of the public.
- o Non-controversial.
- o Would not increase the current level of bureaucracy.
- o No public review required.

CONS:

- o Recovers only 7% of administrative costs to issue the permits.
- o Contrary to user pays philosophy.
- o Continued adverse effect on existing commercial concessions.

3. Issue permits for current fees indexed to 1986 price levels. Under this alternative, the fees established in 1974 would be indexed to reflect their 1986 value. This would raise the current fee of \$30 for five years to approximately \$60 for five years.

PROS:

- o Would not increase the current level of bureaucracy.
- o Recovers an additional 7% of the administrative costs.
- o There is a rational basis for the increase based on a previous publicly forged position.
- o Public may accept as reasonable.
- o Sets stage for additional increases based on indexing.
- o More in accord with the user pays philosophy.

CONS:

- o Recovers only 14% of the administrative costs.
- o Public review of the proposal would be required.
- o Potential controversy due to doubling of permit costs.

4. Issue permits with a nominal fee. Permit fees would be raised to \$25 per year per permit.

PROS:

- o Would recover 28% of administrative costs.
- o More in accord with the user pays philosophy.

CONS:

- o Public review of the proposal would be required.
- o Lacks clear rationale for fee increase.
- o Potential controversy due to the increase in fees.

5. Substantially recover the costs associated with the administration of the Lakeshore Management Program. The estimated annual cost of \$3,605,000 would be recovered by charging \$480 per permit per five years.

PROS:

- o Recovers essentially all of the administrative costs.
- o Would not increase the current level of bureaucracy.
- o There is a rational basis for the increase.
- o In accord with the user pays philosophy.

CONS:

- o Public review of proposal would be required.
- o Potential controversy due to increase in fees.

OMB CIRCULAR A-25

OMB Circular A-25, dated September 23, 1959, must be considered when determining the fee schedule. Paragraph 3.a.(1) of the circular states "Where a service (or privilege) provides special benefits to an identifiable recipient above and beyond those which accrue to the public at large, a charge should be imposed to recover the full cost to the Federal Government of rendering that service". Although the Circular was published in 1959, Department of Defense did not implement it until 1979.

RECOMMENDATIONS

The most defensible options are to index the current fee to 1986 prices and a

fee schedule that recovers the cost of administering the program. Although the current fee of \$30 was originally arbitrarily selected, one can argue that continuing the current fee of \$30 for a five-year permit also has a defensible basis if only because of the fact that the public has come to accept the fee over the 12 years it has been in effect. From that, it follows that indexing the \$30 fee to 1986 prices is a rational step and would be acceptable and defensible.

Any fee selected, between indexing to 1986 price levels and fully recovering the administrative costs, would be strictly an arbitrary selection and extremely difficult to defend.

Therefore, we recommend increasing the lakeshore management permit fees by indexing the fees established in 1974 to 1986 price levels.

We also recommend phasing-in this fee schedule over a five year period as recommended on page 17 of the report. Implementation would consist of charging the new fee for all new permits and for existing permits as they are renewed. It would take five years for the fee schedule to be fully implemented.