



## **OCCUPANCY & USE PERMIT APPLICATION**

Dear Claytor Lake Property Owners:

As licensee for the Claytor Lake Project (Project), Appalachian Power Company ("Appalachian" or "APCO") has the responsibility and authority to regulate, permit, and monitor uses with the Project boundary (Reference elevation generally representing the 1850-foot contour NGVD for Claytor Lake, except in those areas defined by survey beyond the referenced contour elevation.)

Attached please find an **Occupancy and Use Permit Application** for a boat dock or pier intended to serve a single-family residential use boat dock or pier on Claytor Lake. To streamline the permitting process, a copy of the Application for Permit, the permit's Terms and Conditions, and a blank permit form for signatures are being provided to you at the beginning of the process.

Instructions for completing this application and obtaining an Occupancy and Use Permit include the following:

1. Read the entire application packet carefully.
2. Please submit **all** requested information. **Incomplete applications will be returned.**
3. The Shoreline Management Plan (SMP) for the Claytor Lake Project, dated November 14, 2022, as approved by Order Approving Revised Shoreline Management Plan Pursuant to Article 414 issued June 28, 2023 can be found at [www.claytorhydro.com](http://www.claytorhydro.com) under Shoreline Management Plan. The proposed dock and any other related improvements within the Project Boundary (e.g., shoreline stabilization, vegetation removal, *et al.*) must meet the requirements of the SMP before they can be approved.
4. The deeded property owner(s) of the upland parcel of land which is adjacent to the 1850- foot elevation contour, or the Appalachian lessee, not an agent or contractor, is required to sign the Occupancy and Use Permit Application and the Occupancy and Use Permit. (The name(s) on the application needs to match the name(s) on the deed of record for the upland parcel.) The signature(s) on the Occupancy and Use permit must be notarized. Applications with incorrect signatures will be returned to the applicant.
5. Information pertaining to the parcel number and deed book can be obtained by contacting Pulaski County. Online information is available at <http://www.pulaskicounty.org/GIS.html>.
6. A **current survey**, depicting existing and proposed conditions within the Project boundary, is required. **The survey must be prepared by a licensed surveyor** and must include all the information detailed in the Application for Permit. **The surveyor must mark the Project Boundary at the site.** There may be situations where an as-built survey will be required after construction of a permitted facility to confirm limits of construction have not been exceeded and to confirm the as-built structure meets the permit issued.
7. There may be additional requirements depending on the Shoreline Classification within the Project Boundary at your proposed dock site. Shoreline Classification maps can be found at [www.claytorhydro.com](http://www.claytorhydro.com) under Shoreline Management Plan. Any additional requirements can be found in the SMP.

8. Mail the completed application and the signed and notarized permit to the following address:

**Appalachian Power Company  
Shoreline Management for the Claytor Lake Project  
996 Old Franklin Turnpike  
Rocky Mount, Virginia 24151**

9. If the structure complies with the SMP, an occupancy and use permit signed and notarized by Appalachian will be issued. A copy of the permit will be mailed or emailed to the applicant.
10. After issuance, the original permit will be recorded at the Clerk of Court's office. **Please enclose a check in the amount of \$43.00 made payable to Pulaski County Clerk of the Circuit Court**, for the recording fee.
11. To obtain a building permit, the applicant must take copies of the Occupancy and Use permit and approved drawings to Pulaski County.
12. Copies of the approved Pulaski County permits must be forwarded to APCO for the APCO permit to be valid.
13. By submitting this application, the deeded property owner(s) of the upland parcel of land which is adjacent to the 1850- foot elevation contour acknowledges and consents that Appalachian personnel may cross the upland property from time to time in order to reach the property located below the 1850-foot elevation contour for the purposes of inspection or monitoring of the land and structures located below the 1850-foot elevation contour.
14. If vegetation must be removed from within the Project boundary to **provide access to the dock**, then a Permit for Vegetation Removal must be obtained and the vegetation to be removed must be marked on site before an inspection is completed. Applications can be found at [www.claytorhydro.com](http://www.claytorhydro.com) under Shoreline Management Plans / Forms.
15. If shoreline stabilization is part of the project, then a Shoreline Stabilization Permit must be obtained. Applications can be found at [www.claytorhydro.com](http://www.claytorhydro.com) under Shoreline Management Plans / Forms.

Should you have any questions, you may contact Lisa Hammock at [lhhammock@aep.com](mailto:lhhammock@aep.com) or 540-489-2556 and Brian Ellinwood at [bpellinwood@aep.com](mailto:bpellinwood@aep.com) or at 540-562-7325.

Sincerely,



**APPLICATION FOR PERMIT  
LOW DENSITY SINGLE FAMILY RESIDENTIAL USE  
BOAT DOCK/PIER  
Claytor Hydroelectric Project**

\_\_\_\_\_ and \_\_\_\_\_, whose address is  
(Property Owner(s) of Record) (Property Owner(s) of Record)  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,  
(Street) (City) (State) (Zip)

hereinafter referred to as **PERMITTEE OR GRANTEE (though there may be more than one)**, makes this **Application for a Use and Occupancy Permit ("Permit")** to **APPALACHIAN POWER COMPANY (APCO)**, a Virginia corporation, hereinafter referred to as **Appalachian**.

**WITNESSETH**

**THAT, WHEREAS**, APCO either owns in fee, or holds easement rights over all land located within the 1850 foot contour elevation; and

**WHEREAS**, APCO has property rights over the land within the 1850 foot contour elevation that allow it to approve or deny the construction of structures and improvements and related activities on that land; and

**WHEREAS**, APCO has the authority and responsibility under its Federal Energy Regulatory Commission (FERC) license ("License") to grant permission for certain activities with the Claytor Project Boundary (all land within the 1850 foot contour elevation) (the "Project"); and

**WHEREAS**, Permittee submits herewith its application for a Permit for a structure ("Permitted Facility") in accordance with the following described request:

**PERMITTEE CONTACT INFORMATION**

Permittee's Name(s): \_\_\_\_\_ and \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
(Street) (City) (State) (Zip)

Telephone/Email: \_\_\_\_\_  
(Mobile/Home) (e-mail)

**PROPERTY INFORMATION**

Lake Address: \_\_\_\_\_  
(Street) (City) (State) (Zip)

\_\_\_\_\_  
(Tax Map/ Parcel ID) (Deed Book and Page/Instrument No.)

\_\_\_\_\_  
(Legal Description)

**CONTRACTOR/CONSULTANT CONTACT INFORMATION**

Contractor/Consultant Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
(Street) (City) (State) (Zip)

Telephone: \_\_\_\_\_  
(Mobile/Office) (e-mail)

**BEFORE PROCEEDING: Does the Permittee's name(s) match the name on the deed of record for the referenced property? If not, please correct before submitting.**

**Read the following carefully and fill in appropriate information.**

**Check appropriate box:**

- ☐ New Low Density Single Family Residential boat dock, pier, or similar structure
- ☐ Expansion or modification to an existing Low Density Single Family Residential boat dock, pier, or similar structure
- ☐ Existing Low Density Single Family Residential boat dock, pier or similar structure
- ☐ New Low Density Multi Use boat dock, pier or similar structure with no more than two slips per 100 feet of shoreline
- ☐ Expansion or modification to existing Low Density Multi Use boat dock, pier or similar structure with no more than two slips per 100 feet of shoreline
- ☐ Public Use

**Continue to next page for survey requirements.**

## **SURVEY REQUIREMENTS**

**NOTE 1:** A current survey, prepared by a licensed surveyor, is required. The survey must include the following information (see Sample Exhibit A):

- ☐ Location and dimensions (length, width, height and roof overhangs) of the proposed structure
- ☐ Total Square Footage: \_\_\_\_\_ (including any roof overhang)
- ☐ Location of the Project boundary (1850' elevation contour) **Mark project boundary on site during survey.**
- ☐ Location of the base elevation (1846' elevation contour)
- ☐ Total length of the structure (measured from the base elevation at the center of the walkway to the furthest point, including roof overhangs)
- ☐ Total length of shoreline as measured at the base elevation. (If the lot is less than 100' then documentation must be provided documenting that the lot was created prior to August 14, 2003.)
- ☐ All property lines (side lot lines and along shoreline)
- ☐ Extended Property Lines or Dock Limitation Lines (lines on a recorded plat delineating the dock construction limits between adjacent parcels)
- ☐ Distances from the proposed structure to extended property lines/dock limitation lines
- ☐ Size and location of enclosed area (include interior dimensions)
- ☐ Number of slips: \_\_\_\_\_ (If any slip is greater than 26 feet in length, an oversized boat slip acknowledgement form is required.)
- ☐ Total square footage
- ☐ Location and dimensions of any existing structures to be retained within the Project boundary
- ☐ Location of and distance to adjacent structures from the closest point of the structure
- ☐ Elevation drawings of the structure which show the height from the base elevation to the highest point of the structure (roof peak or top of railings)
- ☐ Distance across the cove, as measured to the closest point on the shoreline
- ☐ If existing dock is proposed to be expanded or modified, show existing and proposed.
- ☐ If modifying a structure, please include photos of the existing structure
- ☐ **BEFORE PROCEEDING: Verify all required information is shown on your current survey? If not please revise survey before submitting application.**
- ☐ Subdivision plat on record with County Circuit Court showing location of the lot/proposed structure. Online GIS maps printed from county tax maps do not meet this requirement. (Please note that this information can be inserted into Exhibit A or can be submitted as a separate sheet.)
- ☐ Brief description of proposed work:  

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**BEFORE PROCEEDING: Have you enclosed a copy of the plat on record with Pulaski County Circuit Court for the upland parcel? If not, please enclose before submitting application.**

- ☐ **Has the Project boundary been marked on site by the surveyor? If not, please have it marked before submitting your application.**

**NOTE 2:** Routine maintenance of an existing structure does not require an Appalachian Permit unless a county permit is required. The following items are considered modifications and require permitting: new slips, pilings, roof, expansion of existing docks/decking, enclosing an area of the dock, adding a floating dock, Personal Watercraft (PWC) lift or ramp. Please note these are only a few examples of modifications that require a permit. Contact Appalachian before completing any work within the Project boundary at [claytorhydro@aep.com](mailto:claytorhydro@aep.com)

**NOTE 3:** This Appalachian permit is contingent upon approved county permits. Copies of approved county permits (zoning and building) (the "County Permit"), once received, must be submitted to APCO by the Permittee for a Permit to be valid.

**NOTE 4:** The Permitted Facility must meet the requirements of the Shoreline Management Plan (SMP) for the Claytor Project, dated November 14, 2022, as approved by Order Approving Revised Shoreline Management Plan Pursuant to Article 414 issued June 28, 2023. For docks serving low-density single-family use structures and for docks serving low density multi-use structures, please refer to Section 2.5.4 of the SMP.

**The Permittee acknowledges and accepts the Terms and Conditions of Permit for Occupancy and Use as set forth in Exhibit “B” and further acknowledges the following:**

APCO, as either the fee owner or easement rights owner, has property rights over the land on which the Permitted Facility is to be constructed. APCO also has the continuing responsibility under its License to supervise and control the uses and occupancies for which it has granted permission and to monitor the use of and ensure compliance with the conditions under which a Permit has been granted. As a result, any use and occupancy which may hereby be permitted is deemed to be made under a revocable license from APCO. As such, if the use and occupancy violates any condition of the License or any other condition imposed for the protection and enhancement of the Project’s scenic, recreational or other environmental values, or upon the petition of any other permitting agency, or at APCO’s discretion as landowner or easement rights holder, APCO shall take such lawful action necessary to address the situation. Such action may include, if necessary, the cancellation of this Permit and the removal of the non-complying structures and facilities. Furthermore, any structure or other use associated with this Use and Occupancy Permit must be maintained in good repair and comply with applicable federal, state and local requirements.

By submitting this Application for an Occupancy and Use Permit, the Permittee grants to APCO the right of ingress and egress on, over and across the upland parcel of land which is adjacent to the 1850- foot elevation contour to reach the land below the 1850-foot elevation contour as more fully stated in the Terms and Conditions of Permit for Occupancy and Use as set forth in Exhibit “B.”

In addition, the water levels at Claytor can fluctuate two feet during peaking operations and the reservoir may be lowered in anticipation of high inflow events, for maintenance, drawdown for dock/shoreline stabilization maintenance (if approved) or due to drought.

The Grantee acknowledges that any Permit granted shall be limited to APCO’s authority under its License and to its land rights to the property within the Project.

**Please see the next page for application signatures, this page does not need to be notarized.**

**I/We certify that the above information is true and correct, and that I/we have read and agree to the Terms and Conditions of the Permit as set forth on Exhibit "B."**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature of Permittee

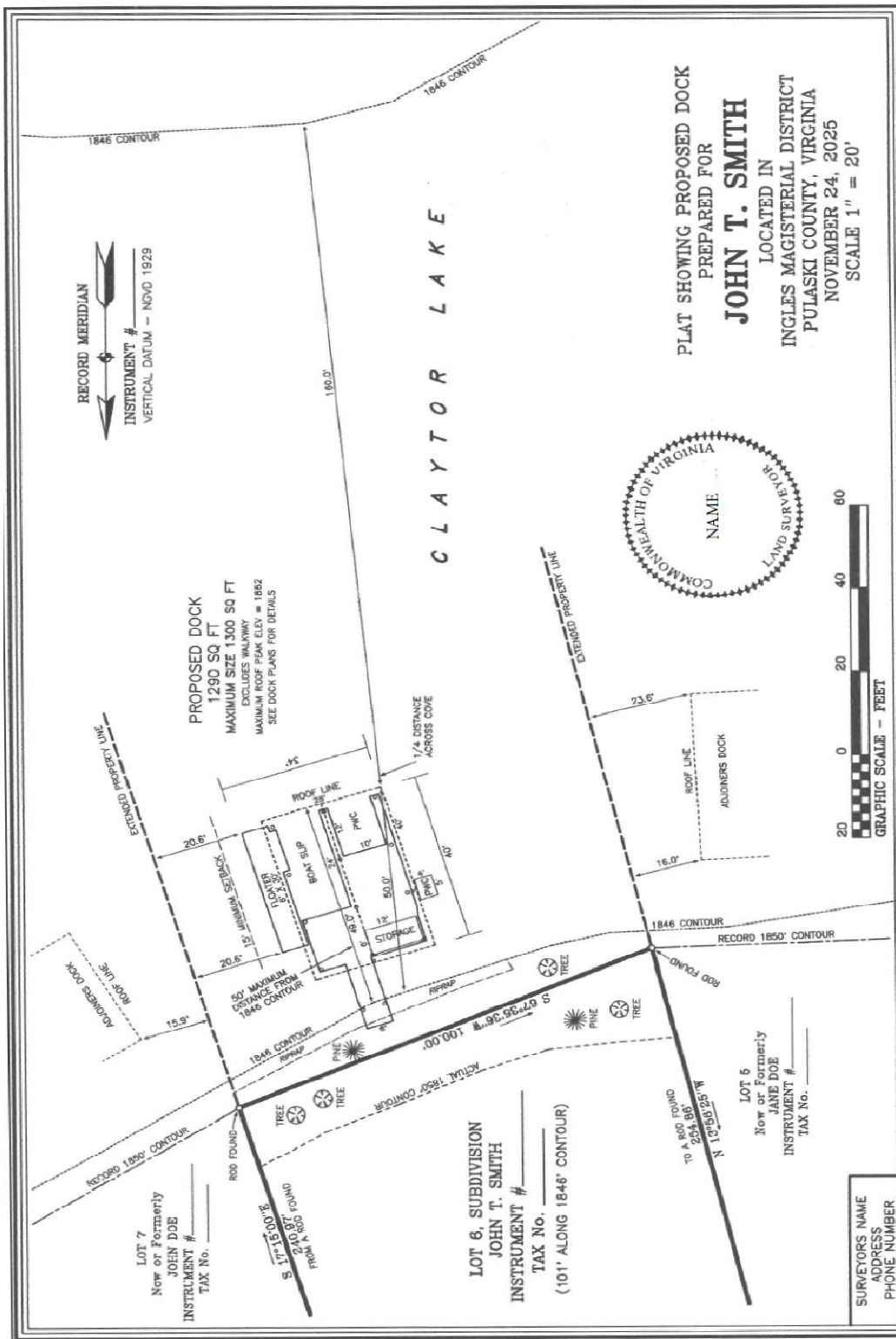
\_\_\_\_\_  
Print Name

**BEFORE PROCEEDING TO THE PERMIT:**

- **Has the application been signed by all property owners?**
- **Verify all required information is included. Incomplete applications will be returned.**

**Mail this completed Application with Exhibits "A" & "B", and the permit signed by you to the following address:**

**Appalachian Power Company  
Shoreline Management for the Claytor Project  
996 Old Franklin Turnpike  
Rocky Mount, VA 24151**

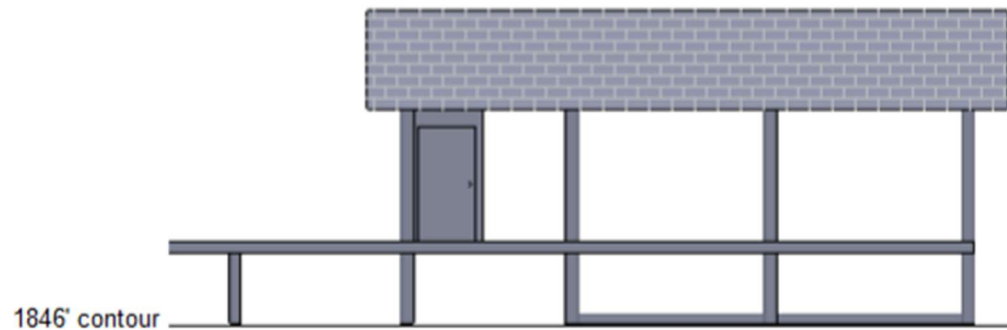


**SAMPLE SURVEY EXHIBIT "A"**

## SAMPLE EXHIBIT "A" FRONT ELEVATION



## SAMPLE EXHIBIT "A" SIDE ELEVATION



## OCCUPANCY AND USE PERMIT

### Prepared by Appalachian Power Company

This Permit by and between **APPALACHIAN POWER COMPANY** ("Appalachian" as "APCO"), a Virginia corporation, whose address is 40 Franklin Road, S.W., Roanoke, Virginia 24011, hereinafter referred to as the **GRANTOR**; and \_\_\_\_\_, hereinafter referred to as the **GRANTEE**, whose address is \_\_\_\_\_.

### WITNESSETH

**THAT, WHEREAS**, Grantor has the authority and responsibility under its Federal Energy Regulatory Commission (FERC) license ("License") and its land rights to review and authorize certain activities within the Claytor Project boundary (all land within the 1850 foot contour) (the "Project"); and

**WHEREAS**, Grantee has received all necessary approvals from the responsible state and local authorities to install the following improvements (the "Permitted Facility") along the shoreline adjacent to their property located at \_\_\_\_\_ and referred to as Tax Map and Parcel Number \_\_\_\_\_ according to the Pulaski County Real Estate Records (the "Site"), as submitted in an application to Grantor signed and dated \_\_\_\_\_ with cover letter from APCO signed and dated \_\_\_\_\_:

- ☐ New Low Density Single Family Residential boat dock, pier, or similar structure
- ☐ Expansion or modification to existing low density single family residential boat dock, pier or similar structure
- ☐ Existing Structure(s)
- ☐ New Low Density Multi-Use boat dock, pier, or similar structure with no more than two slips per 100 feet of shoreline.
- ☐ Expansion or modification to existing low density multi-use dock facility with no more than two slips per 100 feet of shoreline.
- ☐ Low Density Public Use

**WHEREAS**, no money has exchanged hands for this permit; and

**WHEREAS**, the Permitted Facility is a type of a use and occupancy of the Project's lands and waters for which a Permit may be granted under the License; and

**WHEREAS**, Grantor has the continuing responsibility to supervise and control the uses and occupancies for which it has granted a Permit and to monitor the use of and ensure compliance with the conditions under which the Permit has been granted; and

**WHEREAS**, Grantor is willing to issue this Permit to Grantee for the aforesaid use and occupancy of the Project's lands and waters upon the terms and conditions hereinafter set forth.

**NOW THEREFORE**, for and in consideration of the Premises and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor grants to Grantee this Permit, being the right and license to enter upon the Project lands lying adjacent to and abutting Grantee's property for the purpose of installing, operating and maintaining the Permitted Facility, including the right of ingress and egress, with all materials and equipment necessary or convenient to effectively carry out the above stated activity in a good and workmanlike manner.

By acceptance of this Permit, Grantee agrees to the Terms and Conditions set forth on Exhibit "B" attached hereto and the following:

Grantor, pursuant to its License, has the continuing responsibility to supervise and control the uses and occupancies for which it has granted permission and to monitor the use of and ensure compliance with the conditions under which this Permit has been granted. As a result, the use and occupancy hereby permitted is deemed to be made under a revocable license from Grantor. As such, if the use and occupancy violates any condition of the License or any other condition imposed for the protection and enhancement of the Project's scenic, recreational or other environmental values, or upon the petition of any other permitting agency, Grantor shall take such lawful action necessary to address the situation. Such action may include, if necessary, the cancellation of this Permit and the removal of the non-complying structures and facilities. Furthermore, any structures or other use associated with this Use and Occupancy Permit must be maintained in good repair and comply with applicable federal, state and local requirements.

The dock owner shall sign an acknowledgement when obtaining his or her dock permit stating that water depths may not be adequate for accessing the lake during times of low inflow or drought or for natural conditions, siltation, or dense invasive species, or for any other reason the reservoir is drawn down.

The Grantee acknowledges that the any Permit granted shall be limited to Grantor's authority under its License and to its land rights to the property within the Project.

GRANTEE:

\_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) To-wit:  
\_\_\_\_\_ OF \_\_\_\_\_ )  
City or County

This foregoing Permit was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20 \_\_\_\_, by \_\_\_\_\_  
\_\_\_\_\_, **GRANTEE.**

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

GRANTOR:

APPALACHIAN POWER COMPANY

By: \_\_\_\_\_  
Appalachian Power Company  
Authorized Signer

STATE OF \_\_\_\_\_ )  
 ) To-wit:  
\_\_\_\_\_ OF \_\_\_\_\_ )

The foregoing Permit was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_, Authorized Signer for Appalachian Power Company,  
on behalf of the Company.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Exhibit B

## **Low Density Occupancy and Use - Boat Dock / Pier**

### **Claytor Lake**

#### **TERMS AND CONDITIONS OF PERMIT FOR PERMITTED FACILITY**

This permit is granted by APCO and accepted by Grantee, subject to the following terms and conditions:

1. Grantee is the owner or lessee of the property adjacent to the 1850 foot contour elevation surrounding Claytor Lake.
2. This Permit is granted solely for the purpose described in this Permit. No addition or design change shall be made to this Permitted Facility without prior approval from APCO.
3. Copies of the approved Pulaski County permits must be forwarded to APCO for the APCO permit to be valid.
4. Construction shall be completed within one (1) year of the Permit issuance date.
5. All shoreline distances are measured from the 1846 foot contour National Geodetic Vertical Datum (NGVD). Verifying the location of these elevations and all appropriate distances is the responsibility of the Grantee.
6. The Permitted Facility shall not be used for human or animal habitation.
7. The Permitted Facility shall not contain permanent or temporary sanitation facilities.
8. Floating facilities shall be securely anchored.
9. No attempt shall be made by the Grantee to forbid the full and free use by the public of all waters within the Project boundary, at or adjacent to the Permitted Facility, or to unreasonably interfere with that full and free use in connection with the ownership, construction, operation or maintenance of the Permitted Facility.
10. a) APCO may revoke this Permit whenever it determines at its discretion that the public interest or other considerations necessitate such revocation. The revocation notice shall be by thirty (30) days' notice, mailed to the Grantee by registered or certified letter, and shall specify the reason for such action.  
  
b) APCO may revoke this Permit whenever it determines that the Grantee has failed to comply with the conditions of this Permit. The revocation notice shall be by thirty (30) days' notice, mailed to Grantee by registered or certified letter, and shall specify the reason for such action. The permit will not be terminated if Grantee is diligently working to cure such violations within a reasonable period after such notice.

11. The Grantee is responsible for proper design, engineering, construction, maintenance and placement of the Permitted Facility. APCO's review and approval of the plans are not guarantee or assurance the Grantee's plans are proper or adequate for the purpose intended.
12. It is understood and agreed by and between APCO and Grantee that part of the consideration for the granting of this Permit for shoreline uses is the Grantee's agreement to keep Project lands and waters occupied by and surrounding the Permitted Facility free of all waste, garbage, and other unsightly debris and materials and is to comply with local health rules and regulations.
13. This Permit is granted to Grantee as a personal right and the parties agree that nothing herein shall be construed to create any easement or other property interest in Grantee. This Permit may be assigned to (i) a successor who shall purchase, inherit or otherwise acquire the land that is benefited by this Permit or (ii) to a property or unit owners association which shall be responsible for the maintenance of the boat slips permitted hereby and the land which is benefited by this Permit or (iii) to a bank or other licensed lending institution which shall provide a loan on the land that is benefited by this Permit or for the construction of the boat slips which are permitted hereby. In order to be effective, any assignment shall provide for the assignee's agreement in writing to comply with the terms of this Permit and APCO must give its written consent to such assignment, which consent shall not be unreasonably withheld. Any other attempted assignment or transfer shall render this Permit null and void.
14. In the event that any previously known or unknown cultural resource materials are discovered, all work associated with this permit must be stopped. APCO must be notified and consultation with the State Historic Preservation Office (SHPO) must be completed before any further work within the work area will be allowed to continue. In addition:
  - a. The Grantee shall notify APCO and SHPO immediately and follow-up with a written account of the discovery. The Grantee may be required to employ an archaeologist who meets or exceeds the qualifications described in the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9) to assess the eligibility of the resource for inclusion in the National Register.
  - b. If the resource is determined to be eligible for inclusion in the National Register, and the Grantee wishes to continue with the activity, the Grantee shall ensure that an archaeologist who meets or exceeds the qualifications described in the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9) shall prepare a plan for its avoidance, protection, or recovery of information. The SHPO shall approve such plan, prior to implementation.
  - c. Work in the affected area shall not proceed until either:
    - i. Appropriate data recovery or other approved mitigation procedures are developed and implemented, or
    - ii. The determination is made that the located resources are not eligible for inclusion on the National Register.

15. Any other associated work within the project boundary shall be done in accordance with the Shoreline Management Plan (SMP) for the Claytor Project, dated November 14, 2022, as approved by Order Approving Revised Shoreline Management Plan Pursuant to Article 414 issued June 28, 2023, and all associated amendment, addendum and revision thereto in effect as of the date of this Permit.
16. The Permitted Facility shall be constructed, maintained, and operated in accordance with plans heretofore submitted to and approved by APCO. No modifications to the Permitted Facility, or additions thereto, or use thereof, shall be made without first securing the written approval of APCO.
17. Grantee shall guarantee APCO the legal right of pedestrian and vehicular ingress and egress on, over and across Grantee's real property upland to, and if applicable, below the 1850-foot contour elevation surrounding Claytor Lake for the purpose of inspecting the Permitted Facility and ensuring compliance with the conditions under which this Permit has been granted. The use of vehicles for this purpose shall be restricted to established roads and driveways, unless otherwise agreed by Grantee. The right of ingress and egress hereby granted may be used by APCO and its agents, employees, contractors, invitees, successors and assigns.
18. This Permit is granted at the sole risk of Grantee, their employees, agents, contractors, subcontractors and designees and Grantee agrees to indemnify, hold harmless, and defend APCO, and its agents, employees, officers, directors and contractors to the extent permitted by law, against all costs, expenses, suits, actions, and claims arising out of injuries to persons (including death) or damages to property, caused by Grantee, their employees, agents, contractors, subcontractors or designees attributable to the performance of work on the above described Site, the presence or use of the Permitted Facility by Grantee, their employees, agents, contractors, subcontractors, or designees, excepting any liability arising from APCO's sole negligence, or that portion of any liability attributable to APCO's contributing or concurrent negligence.
19. This Permit is granted subject to all of the terms and conditions of APCO's License for the Claytor Project No. 739, and any amendments or renewals thereof, and any orders granted by FERC pursuant to the provisions of the License; to all prior easements, rights-of-way, covenants, conditions, and servitudes whether or not of record affecting title to the Site, and to such state of facts as an accurate survey or examination of the Site may reveal.
20. Grantee shall at their expense keep and maintain the Site and the Permitted Facility thereon and appurtenances, thereof in good repair and in safe and sanitary condition, ordinary wear and tear excepted. Grantee shall conform with and do all things necessary to comply with every applicable state, federal, or local governmental statute, law, regulation, order, or requirement relating to the Permitted Facility. Grantee shall take appropriate action to guard and warn against dangerous conditions, uses, structures, or activities on the Site. At the expiration or earlier termination of this Permit, Grantee shall return the Site to APCO in substantially the same condition as when the Grantee's occupancy commenced, ordinary wear and tear excepted unless otherwise directed.

Throughout the term of this Permit, APCO shall have the right to all reasonable times to enter the Site for the purpose of inspecting same.

21. Grantee shall keep and maintain the Site and the Permitted Facility thereon and appurtenances thereof free of any unapproved regulatory markers and any non-regulatory markers or buoys.
22. Grantee agrees that they will assert no interest contrary to that held by APCO with respect to the Site, and that their status hereunder shall be deemed to be that of a licensee.
23. Grantee shall make any person using the Permitted Facility aware of these conditions and ensure their compliance therewith.
24. Grantee agrees to all conditions set forth in Shoreline Management Plan (SMP) for the Claytor Project, dated November 14, 2022, as approved by Order Approving Revised Shoreline Management Plan Pursuant to Article 414 issued June 28, 2023, and all associated amendment, addendum and revision thereto in effect as of the date of this Permit.
25. Where applicable, the terms of the **FLOWAGE RIGHT AND EASEMENT DEED CLAYTOR HYDROELECTRIC PROJECT** (the “Easement”) that apply to the Permitted Facility are incorporated herein by reference. The terms and provisions of the Easement shall control wherever the same may be in conflict with this Permit.

#### **ADDITIONAL TERMS AND CONDITIONS FOR EXISTING NONCONFORMING STRUCTURES**

Any structures other than docks, piers or walls which are located within the 1850-foot contour prior to the implementation of the SMP (December 27, 2011) shall not be replaced. Docks, piers or walls located within the Project boundary may only be replaced under certain circumstances (see Section 3.5.1 of the SMP).