



## **Yadkin Project Shoreline Management Plan (FERC No. 2197)**

### **Appendix F: Subdivision Access Approval, Multi-use Facility Permitting, and Industrial Approval Procedures**

#### **I. Overview**

##### **A. General**

The Yadkin Project (Project) includes four reservoirs: High Rock, Tuckertown, Narrows (Badin Lake), and Falls. The Project is owned by Cube Yadkin Generation LLC (Cube Yadkin) and licensed by the Federal Energy Regulatory Commission (FERC) as Project No. 2197. Cube Yadkin operates and manages the Project reservoirs in accordance with the terms of the Project license and the applicable rules and regulations of FERC. This responsibility includes providing adequate public access and public recreation facilities and protecting important natural, environmental, cultural, and scenic resources. Cube Yadkin takes this responsibility very seriously and is committed to the protection and enhancement of these resources within the FERC-licensed Project boundary (Project boundary).

These Procedures apply to subdivisions adjoining the FERC-licensed Project boundary (Project boundary) and multi-use facilities and industrial uses and/or facilities within the Project boundary. Generally, the Project boundary follows the normal full-pool elevation of the four Project reservoirs. Any land or waters lying within the Project boundary are regulated by FERC through the terms of the Project license and are covered under these Procedures. Project property managed by Cube Yadkin includes the land below the waters of the reservoirs and the generating facilities.

Cube Yadkin allows public access to Project lands and waters, so far as consistent with the proper operation of the Project, for purposes of navigation and recreation, including fishing and hunting. All other uses of the Project lands and waters including the development of private access, subdivision access, multi-use recreation facilities (marinas, boat docks, fishing piers, boat launches, water ski courses, inflatable recreation equipment, etc.), and industrial uses and/or facilities, require Cube Yadkin's written permission. These Procedures outline the steps that must be taken by applicants seeking Cube Yadkin's permission to use or occupy Project lands and waters or to develop a subdivision where private access requests are anticipated.

In addition, Cube Yadkin has adopted a Shoreline Stewardship Policy (Stewardship Policy), which summarizes Cube Yadkin's policies, procedures, and requirements regarding use of the Project lands and waters. Applicants are encouraged to obtain a copy of the Stewardship Policy and familiarize themselves with the Policy and the procedures and requirements that applicants and owners of adjoining property and others must comply with in order to maintain eligibility to construct, maintain, and/or operate facilities within the Project boundary.

Under the Project license, Cube Yadkin has the authority to grant permission for certain types of use and occupancy of Project lands and waters and to convey certain interests in Project lands

and waters. However, this can be done only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the Project. Therefore, Cube Yadkin has the continuing responsibility to supervise and control the uses and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with, the covenants of the instrument of conveyance for any interests that it has conveyed under the Project license. If a permitted use or occupancy violates any condition of the Project license or any other condition imposed by Cube Yadkin for the protection and enhancement of the Project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of the Project license is violated, Cube Yadkin will take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, (i) canceling permission to use and occupy Project lands or waters, (ii) requiring the removal, at the permittee's sole expense, of any non-complying structures and facilities, and (iii) appropriate restoration and/or mitigation, up to and including restoring Project lands and waters to their original condition. Enforcement of these Procedures is discussed in more detail in Section VII.

## **B. Subdivisions**

Reservoir access for lots in subdivisions adjoining the Project boundary will not be granted unless the proposed subdivision access is first reviewed and approved by Cube Yadkin. Only after Cube Yadkin has approved the subdivision access will any lots be eligible to apply for either a construction permit or a private recreation facility (individual or shared pier) permit. In the case of subdivisions for which the developer is proposing multi-use facilities (as defined below), prior notice to or prior approval by FERC may also be required.

The subdivision access approval process is a procedure under which Cube Yadkin, or in certain cases, FERC, determines whether the requirements of the FERC license are met as they relate to the effect of the reservoir access anticipated for the subdivision on the reservoir and adjoining shoreline. Included in this determination is a final decision, with respect to lot width, water depth and cove width only, as to whether certain lots adjacent to the reservoir shoreline are eligible for a private pier. For lots that are deemed eligible for a private pier as part of this subdivision approval process, the procedures and requirements set forth in the Stewardship Policy or Specifications for Private Recreation Facilities at High Rock and Narrows Reservoirs (Specifications) must also be complied with before Cube Yadkin will issue a construction permit to any lot owner.

The subdivision approval process requires that the subdivision developer prepare an Environmental Assessment (EA) for some proposed subdivisions. A full EA, as described in Section V, is required for the following types of subdivisions:

1. Any subdivision with lots adjacent to a Project reservoir shoreline that is located wholly or partly within the shoreline Conservation Zone, as delineated in the Yadkin Project Shoreline Management Plan (SMP, Appendix D);
2. Any subdivision with more than 5 lots adjacent to a Project reservoir shoreline (even if the subdivision is not located in the shoreline Conservation Zone);

3. Any subdivision adjacent to the Project reservoir shoreline with proposed multi-use facilities that, considered in the aggregate, can accommodate more than 10 watercraft.

Developers of all other types of subdivisions are not required to prepare a full EA, but must complete the Agency Consultation Process described in Section VI.

Subdivision developers seeking to include multi-use facilities as part of the subdivision, including piers serving more than two lots, boat launches, community swimming areas, marinas, or other community/group facilities, need only complete a single EA for the proposed subdivision. In these cases, the EA must include information required for both the private access needs of the subdivision and multi-use facility aspects of the proposed subdivision, and will be used by Cube Yadkin to review and approve the private access needs of the subdivision and any proposed multi-use facilities.

### **C. Multi-use Facilities**

Cube Yadkin must review and approve the construction, modification (modifications include any changes to the footprint [horizontal or vertical], layout, design, or construction material of the structure), and operation of any multi-use recreation or access facility (as defined in Section III) occupying lands or waters within the Project boundary. Repairs to an existing multi-use facility also require a written construction permit from Cube Yadkin. Additional guidance may be obtained by Cube Yadkin upon request. Depending upon the type of facility being proposed, prior notice to or the prior approval of FERC may also be required.

Consistent with the Project license, Cube Yadkin may authorize certain multi-use recreation and access facilities occupying Project lands and waters only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the Project. The multi-use facility permitting process is a procedure whereby Cube Yadkin, or in some cases FERC, determines whether the requirements of the FERC license are met as they relate to the effect of the construction and operation of proposed multi-use facilities on the reservoir and adjoining shoreline.

To be eligible for a multi-use facility construction or operating permit, the applicant must be an owner of property adjoining the reservoirs (adjoining property owner).

The multi-use facility permit process requires the applicant to prepare an EA for some types of proposed facilities. A full EA, as described in Section V, is required for any proposed new construction or modification of the following types of multi-use facilities:

1. Any multi-use facility that is located wholly or partly within the shoreline Conservation Zone, as delineated in the SMP (see Appendix D);
2. Any multi-use facility(ies)<sup>1</sup> that is designed to accommodate more than 10 watercraft; or

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<sup>1</sup> For subdivisions and commercial enterprises, Cube Yadkin will aggregate all proposed multi-use facilities, except for planned individual and shared piers, to determine the total number of watercraft that

3. Any commercial multi-use facility that accommodates watercraft and is located within ½ mile of an existing marina.

Applicants of all other types of multi-use facilities are not required to prepare a full EA, but must complete the Agency Consultation Process described in Section VI.

Upon completion of the multi-use facility permitting process and any required prior FERC notice or approval, Cube Yadkin may issue a construction permit for the proposed multi-use facility. Following construction and after a final inspection of the new facility, Cube Yadkin may issue a multi-use facility operating permit. Multi-use facility operating permits must be renewed every five (5) years, and may be terminated by Cube Yadkin in accordance with the terms of the multi-use operating permit, or for failure to abide by the Stewardship Policy and other applicable Cube Yadkin procedures and requirements.

#### **D. Industrial Uses and/or Facilities**

Uses or facilities other than those related to recreation and adjoining property owner access to the Project are generally considered industrial uses. All industrial uses and/or facilities of, or on, Project lands and waters require Cube Yadkin's written permission. Depending upon the proposed use/facility, Cube Yadkin may be required to obtain prior approval from FERC or to provide FERC with prior notice before approving the proposed industrial facility/use, as described in Section IV.

Cube Yadkin requires applicants of all proposed industrial uses and/or facilities that require prior FERC approval to prepare and submit an EA, as outlined in Section V, as part of their request to Cube Yadkin for permission to use/occupy Project lands and waters. For all other proposed industrial uses and/or facilities, the applicant must conduct an Agency Consultation Process, as described in Section VI.

#### **E. Contact Cube Yadkin Early**

Entities considering the development of subdivisions adjoining the Project boundary, the construction of new multi-use or industrial uses and/or facilities or the modification of existing facilities should contact Cube Yadkin as early as possible in the planning process to discuss the specific permitting/approval requirements that apply to the proposed activity and to obtain copies of the appropriate application materials and instructions. Cube Yadkin can be contacted at the address and phone number below:

Cube Yadkin Generation LLC  
P.O. Box 575

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the facilities can accommodate. If, considered in the aggregate, the proposed multi-use facilities can accommodate more than 10 watercraft, then collectively the multi-use facilities will require prior FERC approval. If, considered in the aggregate, the facilities can accommodate 10 or fewer watercraft, then the multi-use facilities will be permitted on an individual basis as shown above.

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## **II. Subdivision Access Approval Process**

A three-part process is utilized for the review and approval of access for planned subdivisions adjoining the Project boundary. The three parts are: 1) pre-application meeting; 2) application development; and 3) subdivision access approval notification. Each is described below.

### **A. Pre-Application Meeting**

1. A subdivision developer must meet with Cube Yadkin prior to submitting an application for subdivision access approval. This initial meeting should be held as early as possible in the planning process to avoid confusion and delay in preparing information required for the application.
2. Prior to the meeting, the developer must complete a Pre-Application Meeting Worksheet that identifies the information that the developer is expected to bring to the meeting, including:
  - a. Maps or sketches showing the location of the proposed subdivision with respect to the reservoir shoreline and existing property boundaries;
  - b. General information on the proposed subdivision, including:
    - i. the number of subdivision lots and the number, size, and type of other facilities involved;
    - ii. the anticipated need for access to Project lands or waters;
  - c. A proposed schedule for submitting the application and constructing the proposed subdivision;
  - d. The name, address, and phone number of a Professional Engineer that the developer proposes to certify any planned multi-use facilities;
  - e. The name, address, and phone number of the environmental professional(s) that the developer proposes to conduct the required EA.
3. At the pre-application meeting, Cube Yadkin will review the information on the proposed subdivision access for consistency with the Stewardship Policy and other applicable requirements, review the requirements for completing the subdivision approval process including the EA, and provide a list of reviewing agencies.

## **B. Application Development**

1. A developer seeking subdivision access approval must file a completed EA or complete the Agency Consultation Process for the proposed subdivision. The Agency Consultation Process is detailed in Section VI of these Procedures. Specifications for conducting an EA are detailed in Section V of this document.
2. An EA is required for any of the following types of subdivisions:
  - a. Any subdivision with lots adjacent to a Project reservoir shoreline that is located wholly or partly within the shoreline Conservation Zone, as delineated in the SMP (Appendix D);
  - b. Any subdivision with more than 5 lots adjacent to a Project reservoir shoreline (even if the subdivision is not located in the shoreline Conservation Zone);
  - c. Any subdivision adjacent to the Project reservoir shoreline with proposed multi-use facilities that, considered in the aggregate, can accommodate more than 10 watercraft.
3. An EA is not required for other types of subdivisions, but the developer must complete the Agency Consultation Process described in Section VI.
4. The EA must be prepared by a qualified environmental professional or consulting firm.
5. The subdivision developer must submit the EA to Cube Yadkin as part of the Subdivision Access Approval Application. A complete application must include:
  - a. An Application Checklist.
  - b. A completed EA or Agency Consultation Process package. Note that for proposed subdivisions, the completed EA must contain the information in Section V.A.1.a–e.
  - c. A copy of the final subdivision covenants that establish the required 100-foot forested setback requirement consistent with the Stewardship Policy.
  - d. Copies of all correspondence from resource agencies regarding the EA, including all comment letters, minutes of meetings with agencies, and any other information relevant to the review of the EA.
  - e. Two copies of the subdivision plat map that will be recorded and approved by the county in which the subdivision is to be located.
  - f. A non-refundable subdivision access approval application fee in accordance with Cube Yadkin's current fee schedule for subdivision applications.
6. Cube Yadkin will review the application for completeness. If Cube Yadkin finds the application to be incomplete, it may request additional information from the applicant.

7. Upon finding that an application is complete, Cube Yadkin will determine the applicable FERC notice or approval requirements. For any aspect of the subdivision that requires prior FERC notice or approval, Cube Yadkin will provide notice to or file a request with FERC for the proposed subdivision. The decision on whether any aspect of the proposed subdivision requires FERC approval will be made solely by Cube Yadkin on a case-by-case basis. If prior FERC approval is required, the applicant should anticipate at least a 90-day review period by FERC.

### **C. Subdivision Access Approval**

1. Cube Yadkin will determine whether to issue approval of the proposed subdivision access based on its review of the application package and, where applicable, FERC's response. Cube Yadkin's determination will be based, in part, on the following criteria:
  - a. The proposed subdivision access and the applicable subdivision covenants are consistent with Cube Yadkin's requirements for shoreline development and will satisfy the 100-foot forested setback requirement outlined in the Stewardship Policy.
  - b. The proposed subdivision access will not adversely impact the reservoir and shoreline environment, or the developer has proposed measures to adequately mitigate any adverse environmental impacts.
  - c. The proposed subdivision access will not adversely impact any significant historic properties located in the reservoirs or along its shoreline, or the developer has proposed measures to adequately mitigate any adverse impacts to historic properties.
  - d. The proposed subdivision adequately addresses safety impacts and will not unduly impede or restrict public use of, or access to, the Project reservoirs.
  - e. Lots in the subdivision for which the developer anticipates private or shared piers will meet Cube Yadkin's minimum requirements for lot width, water depth, and cove width.
  - f. The proposed subdivision access EA has been reviewed by State and federal resource agencies and the reviewing agencies have indicated that they have no concerns or that their concerns have been adequately addressed by the developer.
  - g. In the case of proposed subdivisions with any aspect that requires prior FERC notice or approval, Cube Yadkin finds acceptable any requirements or conditions imposed by FERC.
2. Cube Yadkin reserves the right to make case-by-case determinations in situations that are not explicitly covered by these Procedures.
3. As stated in Section I.B., the subdivision access approval process is a procedure whereby Cube Yadkin, or in certain cases, FERC, determines whether the requirements of the

Yadkin Project license are met as they relate to the effect of the reservoir access anticipated for the subdivision on the reservoir and adjoining shoreline. Included in this determination is a final decision, with respect to lot width, water depth and cove width only, as to whether certain lots adjacent to the reservoir shoreline are eligible for a private pier. Although the determination is subject to being revoked for failure to conform to the Stewardship Policy or other permitting requirements existing at the time the private access approval is granted, or by supervening regulatory authorities that are not within Cube Yadkin's control, it is unaffected by changes in ownership of the individual lots.

4. If Cube Yadkin decides to approve the proposed subdivision access, Cube Yadkin will issue the developer a written approval. This approval will contain a list of lots within the subdivision that Cube Yadkin has determined meet Cube Yadkin's current requirements for minimum lot width, water depth, and cove width. Aside from this subdivision access approval (constituting a current statement of eligibility for a private pier from an environmental and recreational perspective), Cube Yadkin can offer no assurances regarding future changes in environmental and recreational requirements or the effect of such changes on private pier eligibility, including Cube Yadkin's or FERC's discretion under the Federal Power Act to continue to permit such facilities.
5. After Cube Yadkin has approved the proposed subdivision access, Cube Yadkin will begin processing private pier applications. Individual lot owners must apply for a construction permit and then a private recreation facility permit, and must comply with the Stewardship Policy and the Specifications.
6. The primary sanctions for failure by the lot owner to comply with any of the Stewardship Policy requirements, including the 100-foot forested setback requirement, include the loss of eligibility for a private recreation facility permit and use of, or private access to Project lands and waters. Cube Yadkin will also require corrective action including but not limited to restoration and/or mitigation. For enforcement details, see Section VII.
7. In the subdivision access approval letter, Cube Yadkin will also provide a list of lots that are not considered eligible for private or shared piers, along with an explanation of why these lots are not eligible.
8. The subdivision developer is responsible for laying-out the proposed subdivision such that all lots can meet the 100-foot forested setback requirement. Cube Yadkin will only grant setback variances where compliance with the 100-foot forested setback requirement would render a particular lot unbuildable<sup>2</sup>. If any individual lot is denied pier eligibility because the lot is not sufficiently sized to meet the required 100-foot forested setback, a developer may apply to Cube Yadkin for a setback variance for that lot. In those instances, Cube Yadkin expects the number of variances granted within a given subdivision will not exceed 5 percent of the total number of lots. Cube Yadkin will grant

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<sup>2</sup> An unbuildable lot is defined as a lot which cannot otherwise accommodate a three-bedroom house of 1,800 square feet. A developer is responsible for platting the subdivision so as to minimize the number of unbuildable lots.

no variances for failure to satisfy minimum water depth, lot width, and cove width requirements.

9. If Cube Yadkin denies the subdivision access application, a written statement will be mailed to the applicant stating the reasons for denial. An applicant may reapply for subdivision access approval at any time. An applicant can also request a meeting with Cube Yadkin to discuss the reasons for application denial and steps, if any, that the applicant may take to improve the application.

### **III. Multi-use Facility Permitting Process**

#### **A. General**

1. Multi-use facilities are any public or private facilities, other than private individual or shared piers (two adjoining lot owners), for recreation or for purposes of accessing Project lands or waters. Examples of multi-use facilities include, but are not limited to, marinas, boat docks, fishing piers, boat launches, water ski courses, and inflatable recreation equipment.
2. A multi-use facility construction permit from Cube Yadkin is required before construction of any new multi-use facilities or modification of any existing multi-use facilities that occupy Project lands or waters.
3. Following construction, operation of these facilities requires a multi-use facility operating permit from Cube Yadkin.
4. Under the Project license, Cube Yadkin may authorize certain types of multi-use facilities on Project lands or waters without prior FERC notice or approval. Other facilities require prior FERC notice or approval. Table 1 summarizes the types of multi-use facilities that Cube Yadkin may approve without prior FERC notice, those that require a **60**-day prior notice to FERC, and those that require prior FERC approval. Table 1 also indicates EA and Agency Consultation Process requirements for various types of multi-use facilities. In the case of a new subdivision for which more than one multi-use facility is proposed, Cube Yadkin will aggregate the proposed multi-use facilities and consider the combined number of watercraft that could be accommodated by the facilities in determining the applicable FERC notice or approval requirements.
5. A multi-use facility permittee planning any modification of an existing multi-use facility must first notify Cube Yadkin, and Cube Yadkin will determine prior FERC notice or approval requirements and EA or Agency Consultation Process requirements, and whether an amendment to the existing multi-use permit is required.
6. Multi-use facility construction and operating permits will be issued only to the adjoining property owner who will benefit from or be serviced by the proposed multi-use facilities. However, the adjoining property owner may designate a “contact agent” who has authority to act on behalf of the owner in any discussions with Cube Yadkin.

**Table 1: Summary of Multi-use Facility Types and Required Prior FERC Notice/Approval**

<b>Summary of Multi-use Facility Types and Required Prior FERC Notice/Approval</b>					
<b>Facility Description</b>	<b>Facility Type</b>	<b>FERC 60-Day Prior Notice Required</b>	<b>Prior FERC Approval Required</b>	<b>EA or Agency Consultation (AC) Required<sup>1</sup></b>	<b>Type of Cube Yadkin Permit Required</b>
Facility(ies) accommodates more than 10 watercraft and is operated as part of a commercial enterprise. <sup>2</sup>	Marina (commercial)	No	Yes	EA	Multi-use
Facility(ies) accommodates more than 10 watercraft and is not operated as part of a commercial enterprise. <sup>2</sup>	Marina (non-commercial)	No	Yes	EA	Multi-use
Facility(ies) accommodates 1–10 watercraft and is operated as part of a commercial enterprise.	Marina (commercial)	Yes	No	AC	Multi-use
Facility(ies) accommodates watercraft, is operated as part of a commercial enterprise, and is located within ½ mile of an existing marina.	Marina (commercial)	No	Yes	EA	Multi-use
Facility(ies) accommodates 1–10 watercraft, is not operated as part of a commercial enterprise, and is not a private (individual or shared) pier.	Boat Dock	No	No	AC	Multi-use
Facility(ies) is a boat launch ramp operated as part of a commercial enterprise or provides other services.	Boat Launch Ramp (commercial)	Yes	No	AC	Multi-use
Facility(ies) is a boat launch ramp not operated as part of a commercial enterprise and provides no other services.	Boat Launch Ramp (non-commercial)	No	No	AC	Multi-use
Facility(ies) is a pier with no accommodation for watercraft and is operated as part of a commercial enterprise (examples include commercial fishing piers).	Multi-use Pier (commercial)	Yes	No	AC	Multi-use
Facility(ies) is a pier with no accommodation for watercraft, but which is available for use by more than two adjoining lot owners (examples include fishing piers, homeowner association piers, private club piers, etc.).	Multi-use Pier (non-commercial)	No	No	AC	Multi-use

(1)An EA is required for all proposed multi-use facilities, regardless of category, that are located wholly or partly within a shoreline Conservation Zone, as delineated in the SMP (Appendix D).

(2) For subdivisions and commercial enterprises, Cube Yadkin will aggregate all proposed multi-use facilities, except for planned individual and shared piers, to determine the total number of watercraft that the facilities can accommodate. If, considered in the aggregate, the proposed multi-use facilities can accommodate more than 10 watercraft, then collectively the multi-use facilities will require prior FERC approval. If, considered in the aggregate, the facilities can accommodate 10 or fewer watercraft, then the multi-use facilities will be permitted on an individual basis as shown above.

7. In any instance in which a governmental body operates a facility with any other entity (except Cube Yadkin), a multi-use permit will be issued jointly to the governmental body and all such entities acting in conjunction with the governmental body. The governmental body and all such entities will be jointly and severally responsible for compliance with all terms and conditions of the permit.
8. The multi-use facility permittee(s) is solely responsible for operating and maintaining the permitted facilities in compliance with all terms and conditions of the permit, the Shoreline Stewardship Policy, all applicable Cube Yadkin procedures and requirements, and all applicable local, State, and federal laws. The permittee(s) will indemnify and hold harmless Cube Yadkin, and their successors and assigns from any personal injury, property damage, losses of or damage to natural resources or the environment, or other liability resulting from the permittee's operation of the facilities or the permittee's failure to comply with any applicable local, State, or federal laws, as is set forth in more detail in the multi-use permit.
9. A four-part process is utilized for the issuance of a permit for new multi-use facility construction and the amendment of a multi-use permit. The four parts are: 1) pre-application meeting; 2) application development; 3) construction permit; and 4) multi-use facility operating permit. Each is described below.

## **B. Pre-Application Meeting**

Anyone seeking a multi-use facility construction permit must meet with Cube Yadkin prior to submitting an application for a multi-use facility permit. This initial meeting should be held as early as possible in the planning process to avoid confusion and delay in preparing information required for the application.

1. Prior to the meeting, the applicant must complete a Pre-Application Meeting Worksheet that identifies the information that the applicant is expected to bring to the meeting including:
  - a. Maps or sketches showing the location of the proposed facilities with respect to the reservoir shoreline and existing property boundaries;
  - b. General information on the proposed facilities including:
    - i. the number, type and size of facilities involved, including an estimate of the number of watercraft the facilities can accommodate;
    - ii. the anticipated need for access to Project lands or waters;
  - c. A proposed schedule for submitting the application and constructing the proposed facilities;
  - d. The name, address, and phone number of a Professional Engineer that the applicant proposes to certify the proposed multi-use facilities;

- e. The name, address, and phone number of the environmental professional(s) that the applicant proposes to conduct the required EA.
2. At the pre-application meeting, Cube Yadkin will review the information on the proposed multi-use facilities for consistency with the Stewardship Policy and other applicable requirements, review the requirements for completing the multi-use facility permitting process including the EA, provide notice of its insurance requirements and provide a list of reviewing agencies.

### **C. Construction Permit Process**

1. An applicant seeking a multi-use facility construction permit must prepare a multi-use facility construction permit application and receive a construction permit from Cube Yadkin prior to beginning construction of new facilities or modification of existing multi-use facilities.
2. As part of the application, the applicant must prepare and submit an EA or an Agency Consultation Process package for the proposed facilities.
  - a. An EA must be prepared and filed with Cube Yadkin for construction of any new multi-use facility, and may be required for modification of an existing multi-use facility, that is designed to accommodate more than 10 watercraft or that is located wholly or partly within the shoreline Conservation Zone, as delineated in the SMP (Appendix D).
  - b. In the case of new subdivisions and commercial enterprises, Cube Yadkin will aggregate all proposed multi-use facilities to determine the total number of watercraft that the proposed facilities can accommodate. If, considered in the aggregate, the facilities can accommodate more than 10 watercraft, then an EA will be required for that subdivision, regardless of the number of lots involved, or for the commercial enterprise, as the case may be.
3. Applicants for all other types of multi-use facilities are required to complete the Agency Consultation Process described in Section VI.
4. The EA must be prepared by a qualified environmental professional or consulting firm.
5. A complete application for a multi-use facility construction permit must include:
  - a. An Application Checklist;
  - b. A map of the proposed development site showing all existing and proposed facilities. (Such a map should be included in the EA);
  - c. Construction plans or detailed drawings of the proposed facilities, at a scale of 1:2,400 (1 inch = 200 feet) or larger;

- d. Certification by an approved registered Professional Engineer that the proposed facilities and any changes to existing facilities are safe and structurally sound;
- e. A complete Environmental Assessment (EA) or completed Agency Consultation Process package;
- f. Copies of all necessary county, State and federal permits required for the proposed facility;
  - g. A non-refundable construction permit application fee in accordance with Cube Yadkin's current multi-use facility application fee schedule. A current fee schedule is available from Cube Yadkin.
6. Cube Yadkin will review the application for completeness. If Cube Yadkin finds the application to be incomplete, it may request additional information from the applicant.
7. Upon finding that an application is complete, Cube Yadkin will determine the applicable FERC notice or approval requirements. For all new multi-use facilities that require prior FERC notice or approval, Cube Yadkin will provide notice to or file a request with FERC for approval of the proposed facility. The decision on whether proposed new facilities or modification of existing permitted facilities require prior FERC notice or approval will be made solely by Cube Yadkin on a case-by-case basis. If prior FERC approval is required, the applicant should anticipate at least a 90-day review period by FERC.

#### **D. Construction Permit Approval Criteria and Provisions**

1. Cube Yadkin will determine whether to issue a multi-use facility construction permit based on its review of the application package and, where applicable, FERC's response to the prior notice or Cube Yadkin's request for prior approval. Cube Yadkin's determination will be based, in part, on the following criteria:
  - a. Proposed facilities meet the following specifications:
    - i. Proposed facilities will generally not encroach or extend into Project waters more than  $\frac{1}{4}$  of the distance to the opposite shoreline or more than 120 feet into Project waters, whichever is less; and in no case will proposed facilities extend further into the water than is necessary to achieve the intended use;
    - ii. Proposed facilities will meet Cube Yadkin's minimum water depth requirements (6-foot minimum water depth at normal full-pool elevation) such that the minimum water depth is available to all proposed slips or along all portions of the facilities intended for docking watercraft;
  - b. Piers, boat docks, and marinas incorporate the use of floating sections such that the facilities will remain functional under normal fluctuations in reservoir water levels that occur during the recreation season;

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- c. Proposed facilities are otherwise consistent with Cube Yadkin's policies for shoreline development and will adequately meet their intended purpose;
  - d. The proposed multi-use facilities will not adversely impact the reservoir and shoreline environment, or the applicant has proposed measures to adequately mitigate any adverse environmental impacts;
  - e. The proposed multi-use facilities will not adversely impact any significant historic properties located in the reservoirs or along its shoreline, or the applicant has proposed measures to adequately mitigate any adverse impacts to historic properties;
  - f. The proposed facilities adequately address safety impacts and will not unduly impede or restrict public use of, or access to, the Project reservoirs;
  - g. Proposed facilities have been reviewed by State and federal resource agencies and the reviewing agencies have indicated that they have no concerns, or that their concerns have been adequately addressed by the applicant;
  - h. Proposed facilities providing for the sale of petroleum products will, at a minimum, comply with all applicable federal, State, and local regulations and will be installed to ensure that adverse environmental and safety impacts are avoided;
  - i. In the case of proposed facilities that require prior FERC notice or approval, Cube Yadkin finds acceptable any requirements or conditions imposed by FERC.
  - j. The applicant has provided Cube Yadkin with a certificate of insurance evidencing that it carries insurance in the amount and form required by Cube Yadkin.
2. Cube Yadkin reserves the right to make case-by-case determinations in situations that are not explicitly covered by these Procedures.
  3. When issued, the multi-use facility construction permit will be mailed to the applicant. If the application is denied, a written statement will be mailed to the applicant stating the reasons for denial. An applicant may reapply for a multi-use facility construction permit at any time. An applicant can also request a meeting with Cube Yadkin to discuss the reasons for application denial and steps, if any, that the applicant may take to improve the application.
  4. Upon receipt of the construction permit, the applicant shall secure a county building permit, if required. Construction may not begin until Cube Yadkin has received from the applicant a copy of the approved county building permit, if required, or an exemption certification as signed by the applicant.
  5. Approved new construction, or modification of existing multi-use facilities, must be completed within 18 months from the issuance of the construction permit or within such other time frame as may be stated in the construction permit.

6. An extension of time, not to exceed 1 year, may be granted at Cube Yadkin's discretion in response to a written request from the permittee, including justification for the requested extension.
7. Cube Yadkin reserves the right to modify a construction permit to include additional or modified standards and requirements at the time of the permit extension, if the applicable standards and requirements have been modified since the issuance of the original construction permit.
8. The permittee must notify Cube Yadkin when construction is completed.

#### **E. Multi-use Facility Operating Permit**

1. Cube Yadkin will enter into a multi-use facility operating permit with the applicant for new or modified facilities when the following requirements have been met:
  - a. Final inspection — Upon completion of construction, Cube Yadkin will schedule and conduct a final inspection to ensure that the facilities are constructed in conformance with the construction permit.
  - b. Permit fee — Payment of applicable annual operating permit fees, which vary based on the type and number of facilities, use of the facilities, and ownership (a current fee schedule can be obtained from Cube Yadkin).
  - c. Proof of insurance
    - i. All multi-use facilities must carry comprehensive general liability insurance for personal injury and property damage in the amount of at least \$5,000,000, with terms satisfactory to Cube Yadkin, and other insurance required by Cube Yadkin in an amount and with terms satisfactory to Cube Yadkin. Such insurance must be primary and must name Cube Yadkin as additional insureds. A multi-use facilities' owner or operator must provide to Cube Yadkin, on an annual basis, a certificate evidencing the insurance required by Cube Yadkin and proof that all premiums on the policy are paid and up to date.
    - ii. Any governmental body desiring to construct, maintain, and otherwise operate a multi-use facility must obtain and maintain for the facility comprehensive general liability insurance for personal injury and property damage in the amount of at least \$5,000,000, with terms satisfactory to Cube Yadkin, and other insurance required by Cube Yadkin in an amount and with terms satisfactory to Cube Yadkin. Such insurance must be primary and must name Cube Yadkin as additional insureds, and must insure Cube Yadkin against any acts and omissions of any governmental employee, agent, or contract employee (collectively "employees"). The governmental multi-use facility must also provide, on an annual basis, a certificate evidencing the insurance required by Cube Yadkin and proof that all premiums on the policy are paid and up to date. In instances in which a governmental body operates a multi-use facility in conjunction with another governmental body or any

other entity as co-permittee(s) (except Cube Yadkin), this insurance may be obtained by any of the co-permittees and must conform to the conditions described above.

2. All of the requirements for the issuance of a multi-use operating permit must be met within 90 days of completion of construction, and no operating permit will be issued absent written proof of the requirements specified in this Section III.E.1.c.
3. If a multi-use facility operating permit is not renewed, lapses, or is terminated, closure of the multi-use facility is required at the permittee's sole expense, and the permittee, at its sole expense, must remove any and all structures, equipment, appurtenances, and any other materials associated with the facilities, and restore the Project lands and water to their original condition. Cube Yadkin may also undertake other enforcement as detailed in Section VII.

#### **F. Annual Fees**

Multi-use operating permit fees will be paid annually in accordance with the current fee schedule, which is available from Cube Yadkin.

#### **G. Permit Renewal or Termination**

1. A multi-use operating permit must be renewed every 5 years. Cube Yadkin will notify the permittee of the upcoming permit expiration date.
2. To renew a multi-use facility operating permit, (i) the permittee must have complied with the permit, (ii) all fee payments must be up to date, (iii) the permittee must provide a certificate of insurance evidencing that the permittee carries insurance in the amount and form required by Cube Yadkin and (iv) the permittee must provide Cube Yadkin with certification from a registered Professional Engineer that all permitted facilities are in good repair, structurally sound, and in compliance with all applicable county, State, and federal requirements.
3. A multi-use operating permit may be terminated by Cube Yadkin in accordance with its terms and as provided in Section VII.

#### **H. Multi-use Permit Transfers**

1. Multi-use facility operating permits are not automatically transferable.
2. Prior to the sale or transfer of multi-use facilities, the current property owner (seller) or seller's agent must contact Cube Yadkin to request a permit transfer. Upon request, Cube Yadkin will arrange a site visit. If Cube Yadkin finds (i) the seller has complied with the permit, the Stewardship Policy, and all other applicable Cube Yadkin procedures and requirements, (ii) all fee payments are up to date, and (iii) a registered Professional Engineer has determined that all permitted facilities are in good repair, structurally sound,

and in compliance with all applicable county, State, and federal requirements, Cube Yadkin will provide the seller or the seller's agent with a form to request transfer of the permit.

3. The buyer must pay a transfer fee, in accordance with Cube Yadkin's current fee schedule, and provide Cube Yadkin with proof of insurance for the multi-use facilities, as described in Section III.E.1.c of these Procedures, at which time Cube Yadkin will provide to the buyer a new multi-use facility permit that must be completed and signed by the buyer at the time of closing.
4. If facilities are deemed not transferable at the time of inspection, Cube Yadkin will provide the seller or the seller's agent with a written description of repairs [up to and including replacement of the existing structure(s)], and other actions that must be undertaken before the facilities will be transferable. A written construction permit must be obtained from Cube Yadkin prior to undertaking such repairs.

#### **I. Existing Multi-use Facilities**

1. Cube Yadkin may at times become aware of existing multi-use facilities that have not previously been issued a multi-use facility operating permit. Cube Yadkin will provide written notice to the owner of the unpermitted facilities of the need to submit an application for a multi-use facility operating permit in accordance with these Procedures. In general, the owner will be responsible for submitting items b, c, d, f, and g as described in Section III.C.5. Generally, an EA will not be required for facilities existing prior to July 1, 1999. However, existing facilities will be reviewed by Cube Yadkin to ensure their general compliance with the Stewardship Policy, and consultation with State and federal resource agencies may be required.
2. Cube Yadkin will inspect the facilities, determine the adequacy of the information provided, and determine the applicability of any FERC notice or approval. Upon receipt of any required FERC approval, payment of the annual permitting fee, if applicable, and satisfaction of the insurance requirements listed in Section III.E.1.c, Cube Yadkin will issue a multi-use facility operating permit for the facilities.
3. Modification of existing multi-use facilities must be approved pursuant to the standard four-part permitting process described in Section III.B-E.

#### **IV. Industrial Uses and/or Facilities**

Uses or facilities other than those related to recreation and adjoining property owner access to the Project are generally considered industrial uses. All industrial uses and/or facilities of or on Project lands and waters require Cube Yadkin's prior written permission. Depending upon the proposed use/facility, under the Project license Cube Yadkin is required to seek prior approval from FERC or provide FERC with 60-day prior notice before approving the proposed industrial use and/or facility. In some cases, Cube Yadkin can authorize a proposed industrial use and/or facility without prior FERC notice or approval but must report such authorizations to FERC

annually. Table 2 summarizes the types of industrial uses and/or facilities that Cube Yadkin may approve without prior FERC notice, those that require a 60-day prior notice to FERC, and those that require prior FERC approval. Table 2 also indicates EA and Agency Consultation Process requirements for various types of industrial uses and/or facilities.

Cube Yadkin requires applicants of all proposed industrial uses and/or facilities that require prior FERC approval to prepare and submit an EA as part of its request to Cube Yadkin for permission to use/occupy Project lands and waters. In addition, an EA is required for all proposed industrial uses and/or facilities located wholly or partly within the shoreline Conservation Zone, as delineated in the SMP (Appendix D). Applicants of all other proposed industrial uses and/or facilities must conduct an Agency Consultation Process. Both the EA and Agency Consultation Process are outlined below. In addition, there may be other process/approval requirements from State agencies and local governments.

**Table 2: Prior FERC Notice Requirements for Proposed Industrial Uses and/or Facilities**

**Prior FERC Notice Requirements for Proposed Industrial Uses and/or Facilities**

	<b>Cube Yadkin Written Permission Required</b>	<b>FERC Annual Report</b>	<b>FERC 60-Day Prior Notice Required</b>	<b>Prior FERC Approval</b>	<b>Cube Yadkin EA Required<sup>1</sup></b>	<b>Cube Yadkin Agency Consultation Process Required</b>
Replacement, maintenance, or expansion of existing bridges and roads	✓	✓				✓
New bridges or roads	✓		✓			✓
Minor access roads	✓	✓				✓
Storm drains and water mains	✓	✓				✓
Sewers that do NOT discharge to Project waters	✓	✓				✓
Sewer or effluent lines that DO discharge directly into Project waters	✓		✓			✓
Other pipelines that cross project lands or waters but do NOT discharge to Project waters	✓		✓			✓
Non-project transmission lines/cables with NO support structure in Project boundary	✓	✓				✓

Non-project overhead transmission lines/cable WITH support structure in Project boundary	✓		✓			✓
Major distribution cables (submarine, underground or overhead)	✓	✓				✓
Water intake or pumping facilities ≤1 mgd	✓	✓				✓
Water intakes >1 mgd (including irrigation systems)	✓			✓	✓	

(1) An EA is required for all proposed industrial uses and/or facilities, regardless of category, that are located wholly or partly within a shoreline Conservation Zone, as delineated in the SMP (Appendix D).

## V. Environmental Assessment Specifications

1. General Description — a detailed description of the proposed subdivision, multi-use facilities, or industrial uses and/or facilities, including maps illustrating boundaries of the subdivision property or facilities, proposed lot lines, and the placement of structures in relation to existing property boundaries and the reservoir shoreline. In the case of subdivisions, the EA must also contain the following specific information:
  - a. A map of the subdivision showing all proposed private lots, as well as any lots to be used as common areas. Each lot should be clearly identified with an individual lot number.
  - b. A list or map showing lots that are proposed for private, shared (for two adjoining lots), or multi-use facilities (group piers, launches, etc.), or other facilities that require a permit from Cube Yadkin.
  - c. The shoreline width of each lot adjacent to the Project reservoir as measured at normal full-pool elevation of the reservoir (623.9-foot contour (USGS datum), 655.0-foot contour (Yadkin datum) on High Rock Reservoir and 509.8-foot contour (USGS datum), 541.1-foot contour (Yadkin datum) on Narrows Reservoir).
  - d. The water depth at normal full-pool elevation near the center of each lot adjacent to the reservoir at a distance of 75 feet from the shoreline.
  - e. A reasonable site plan for each lot adjacent to the reservoir shoreline illustrating how Cube Yadkin’s requirement, as a condition of eligibility for private individual piers, shared piers, or use of, or private access to the Project lands and waters, for a 100-foot forested setback will be achieved (see the Stewardship Policy).

2. Purpose — a description of the purpose and need for the proposed subdivision or facilities or modification of existing facilities.
3. Shoreline Impact — a description of the amount and type of impact on the reservoir and the shoreline within 100 feet of the normal full-pool elevation of the reservoir.
4. Required Permits — a listing of all federal, State, and local permits/approvals that will be required.
5. Shoreline Development Restrictions — a description of any State or local development restrictions that apply to the proposed subdivision or facilities, including any county ordinances, watershed protection, buffer zone, or setback requirements.
6. Building Setback — a description of how the applicant proposes to meet or exceed Cube Yadkin’s 100-foot forested setback requirement. In order for lots in a subdivision to be eligible for a private pier or to be granted other access or activity permits, Cube Yadkin requires a 100-foot forested setback from the reservoir for all new structures (including but not limited to buildings, houses, driveways, roof overhangs, decks, porches, patios, cantilevered decks, stairs, posts, columns, fences, retaining walls, landscaping walls, and gazebos) (see the Stewardship Policy). For subdivisions, the EA must indicate how setback and forested area requirements for property owners will be enforced (e.g., restrictive covenants, deed restrictions, etc.).

## **B. Existing Environment**

1. Existing Shoreline Characteristics — a description of the shoreline and adjoining land area within 100 feet of the normal full-pool reservoir elevation, including a general description of existing land use and condition, shoreline topography, shoreline vegetation, and other notable features.
2. Existing Reservoir Characteristics — a description of the reservoir area adjacent to the proposed subdivision or facilities, including a detailed map of water depths within 75 feet of the shoreline, the slope of the reservoir bottom, a description of the reservoir substrate, and a description of any reservoir features including the presence of any aquatic vegetation and lap trees.
3. Existing Reservoir Access/Facilities — a description of any existing access to the reservoir such as pathways, piers, or boat launches on the property proposed for the subdivision or facilities.
4. Designation as Conservation Zone — an estimate of the portion of the proposed subdivision or facilities that would fall within a Conservation Zone as delineated in the SMP (Appendix D).

## **C. Environmental Impacts and Proposed Mitigation**

1. Environmental Impacts — a detailed assessment of the potential impact on the reservoir and the land area along the shoreline within 100 feet of the normal full-pool reservoir elevation. This section must at a minimum consider the following effects:
  - a. Change in shoreline land use.
  - b. Impact of completed subdivision or facilities on the reservoir shoreline.
  - c. Impact on shoreline vegetation and plant communities.
  - d. Impact on shoreline wildlife and wildlife habitat.
  - e. Impact on the reservoir as habitat for fish and other aquatic life.
  - f. Impact on wetlands and areas of aquatic vegetation.
  - g. Impact on reservoir water quality, including the potential for increased sedimentation and nonpoint source pollution from runoff.
2. Recreation Use Impacts — an assessment of the increase in recreation use of the reservoir and reservoir shoreline resulting from the proposed subdivision or facilities, or modification, and the effects of increased use on the reservoir and shoreline. This section must consider the following:
  - a. An estimate of resulting increased boating and/or other water-related recreation use.
  - b. An assessment of the effects that the increased recreation use will have on the reservoir and the reservoir shoreline.
3. Mitigation Proposals — a description of any measures proposed by the applicant to avoid, reduce, or mitigate impacts to the reservoir and reservoir shoreline that are expected to occur as a result of the proposed or modified/expanded subdivision or facilities. This section should also include a discussion of any measures proposed to address concerns raised by State or federal resource agencies. For a subdivision or facilities wholly or partly within a shoreline Conservation Zone (as delineated in the SMP, Appendix D), the EA should emphasize mitigation of adverse effects on the important natural resources found in the Conservation Zone.

#### **D. Historic Properties Evaluation**

1. For proposed facilities or subdivisions located wholly or partly within High or Medium cultural resource probability zones, as delineated in the SMP (Appendix C), a historic properties evaluation will also be required as part of the EA.
2. The historic properties evaluation requires an assessment of potential impacts to historic properties (including National Register listed or eligible historic districts, structures,

buildings, and landscape features, as well as archaeological sites) located along the shoreline within 100 feet of the normal full-pool reservoir elevation.

3. In cases where a historic properties survey must be conducted, applicants must submit the following information to the agencies as part of their information submittal:
  - a. The results of a survey conducted by a professional archaeologist and/or historian indicating the location of any significant historic/prehistoric cultural sites in the area that are along the shoreline within 100 feet of the normal full-pool reservoir elevation.
  - b. A description of potential impacts to historic properties resulting from the proposed subdivision or facilities.
  - c. The applicant's proposal for avoiding or mitigating anticipated impacts to historic properties.

#### **E. Agency Consultation**

The EA must include a record demonstrating that the applicant has consulted with federal, State, and county resource agencies and has received agency comments indicating their satisfaction with the proposal. Cube Yadkin will provide the applicant with a list of reviewing agencies. At a minimum, this section must include the following:

1. A list of all resource agencies consulted.
2. Copies of any correspondence between the consulted agencies and the applicant.
3. Copies of letters from consulted resource agencies indicating that they have reviewed the proposed subdivision or facilities or modification and that they have no concerns, or that their concerns have been adequately addressed by the applicant.

#### **F. Applicant Information**

1. Name, address, and phone number(s) of the applicant, along with a brief description of the background and qualifications of the applicant in terms of type of business experience, and where registered or licensed.
2. A brief description of the background and qualifications of any/all firms that assisted in the preparation of the EA.

### **VI. Agency Consultation Process**

#### **A. General**

Certain types of smaller subdivisions, multi-use facilities, and industrial uses and/or facilities that are not located in a shoreline Conservation Zone, as delineated in the SMP (Appendix D), are not

required to complete an EA but are required to conduct the Agency Consultation Process described below.

The applicant must prepare a package of information for submission to State and federal resource agencies for their review and comment. Cube Yadkin will provide the applicant with a list of the reviewing agencies. The information package must include the following basic information. In the case of modification of existing facilities, the information package must focus on the proposed modification.

## **B. Information Package**

1. Cover Letter — a cover letter similar to the attached, providing the agency with basic information regarding the proposed subdivision access or facilities.
2. Description — a brief description of the proposed subdivision or facilities or modification, including maps illustrating boundaries of the subdivision property or facilities, proposed lot lines, and the placement of structures in relation to property boundaries and the reservoir shoreline. In the case of subdivisions, the developer should also include (i) a copy of the subdivision plat that will be filed with the county, (ii) a description of the anticipated desires of individual property owners for reservoir access and individual access facilities (piers), and (iii) a description of provisions for joint or common access to the reservoir, including any multi-use facilities proposed.
3. Shoreline Impact — a brief description of the anticipated impact on the reservoir and the shoreline within 100 feet of the normal full-pool elevation of the reservoir.
4. Required Permits — a list of all federal, State, and local permits/approvals that will be required.
5. Shoreline Development Restrictions — a description of any State or local development restrictions that apply to the proposed subdivision or facilities, such as any watershed protection, buffer zone or setback requirements and including any provisions of the SMP, such as the 100-foot forested setback from the reservoir shoreline, that apply to the proposed subdivision or facilities.
6. Applicant Information — Name, address, and phone number of the applicant, and a brief description of the background of the applicant.

## **C. Historic Properties Evaluation**

1. For proposed subdivisions or facilities located wholly or partly within High or Medium cultural resource probability zones, as delineated in the SMP (Appendix C), a historic properties evaluation will also be required as part of the Agency Consultation Process.

2. The historic properties evaluation requires an assessment of potential impacts to historic properties located along the shoreline within 100 feet of the normal full-pool reservoir elevation.
3. In cases where a historic properties survey must be conducted, applicants must submit the following information to the agencies as part of their information package described in VI.B:
  - a. The results of a survey conducted by a professional archaeologist and/or historian indicating the location of any significant historic/prehistoric cultural sites in the proposed development area that are along the shoreline within 100 feet of the normal full-pool reservoir elevation.
  - b. A description of potential impacts to historic properties resulting from the proposed subdivision or facilities.
  - c. The applicant's proposal for avoiding or mitigating anticipated impacts to historic properties.

#### **D. Submission of Information to Agencies**

1. The complete information package must be sent to the following agencies for their review and comment before being submitted to Cube Yadkin. A sample cover letter for use in submitting the information package to the agencies is attached.
  - a. U. S. Fish and Wildlife Service
  - b. U. S. Army Corps of Engineers
  - c. North Carolina State Environmental Review Clearinghouse
  - d. North Carolina Wildlife Resources Commission
  - e. North Carolina Department of Natural and Cultural Resources
  - f. North Carolina Department of Environmental Quality
  - g. North Carolina Department of Environmental Quality Division of Water Resources
  - h. North Carolina Division of Parks and Recreation

#### **VII. Enforcement**

- A. One of the underlying goals of these Procedures is to protect and enhance the natural, environmental, cultural and scenic resources within the Project boundary. Cube Yadkin's highest priority is to preserve the natural character of the shoreline, and this is reflected in the

procedures and requirements of these Procedures as well as the Stewardship Policy. Cube Yadkin believes that most adjoining property owners and applicants appreciate the beauty and importance of a natural shoreline and will comply with these Procedures. In those instances where violations of these Procedures occur, however, Cube Yadkin will consider those violations as serious matters. Violations of these Procedures include: (i) any failure to comply with the provisions of these Procedures, the Stewardship Policy, or other applicable Cube Yadkin procedures or requirements; and (ii) failure to obtain or to comply with written permission from Cube Yadkin, where required, before undertaking construction or other activities.

- B. The primary sanctions for violations of these Procedures are loss of eligibility for: (i) a multi-use facility permit within the Project boundary (i.e., on a reservoir) or subdivision reservoir access approval or industrial use and/or facility approval; and (ii) use of, or access to the Project lands and waters,. Cube Yadkin will also require corrective action including but not limited to restoration and/or mitigation. Eligibility may be reinstated only where adequate restoration and/or mitigation is undertaken and Cube Yadkin determines that reinstatement of eligibility is otherwise consistent with the underlying goals reflected in these Procedures, the Stewardship Policy, and the SMP. Cube Yadkin, as it deems appropriate, will consult with federal and State regulatory agencies in determining adequate restoration and/or mitigation measures. Cube Yadkin may also assess a penalty fee to help defray the cost of ensuring restoration is complete.
- C. In addition, in the event of a violation of these Procedures, Cube Yadkin, at its sole option, has the right to: (i) terminate any existing multi-use facility, industrial or other permits, requiring closure of the facility at the adjoining property owner's (or permittee's) sole expense, revoke any subdivision reservoir access approval previously given to the permittee if the permittee is responsible for the violation, and terminate any industrial approval or rights granted; and (ii) erect a barrier along the Project boundary to restrict access to the Project lands and waters; and (iii) require, at the adjoining property owner's (or the permittee's) sole expense, (a) removal of any multi-use facilities and any pathways or other facilities and structures located within the Project boundary, and (b) restoration and/or mitigation, up to and including restoring Project lands and waters to their original condition. In addition, if the adjoining property owner (or the permittee) fails to take the required action after notice from Cube Yadkin, Cube Yadkin will consider any facilities or structures remaining within the Project boundary as a trespass upon its property, and reserves the right to, at the adjoining property owner's or the permittee's sole expense, remove the facilities or structures, treat them as its own property without any liability to the adjoining property owner or the permittee for payment, and perform the required restoration and/or mitigation. Cube Yadkin also may pursue any other rights or remedies, including damages, it may have in any permit, or at law or in equity.

**VIII. Attachments**

**Attachment 1 - Agency Contacts for EA and Agency Consultation**

**Mail Copy of EA or Agency Consultation Package To:**

- **NC State Environmental Review Clearinghouse (16 hard copies, 2 hard copies and 14 CDs/DVDs, or 2 hard copies and website where the document can be accessed)**

Ms. Crystal Best  
North Carolina Department of Administration  
State Environmental Review Clearinghouse  
1301 Mail Service Center  
Raleigh, NC 27699-1301  
919-807-2425

Physical Address for UPS or FedEx:

Ms. Crystal Best  
NC Department of Administration  
State Environmental Review Clearinghouse  
116 West Jones Street, Suite 5106  
Raleigh, North Carolina 27603

**Please Also Provide Copy of EA To:**

- **NC Department of Natural and Cultural Resources**

State Historic Preservation Office  
Ms. Renee Gledhill-Earley  
4617 Mail Service Center  
Raleigh NC 27699-4617  
[Environmental.Review@ncdcr.gov](mailto:Environmental.Review@ncdcr.gov)  
919-807-6579

- **NC Wildlife Resources Commission**

Ms. Olivia Munzer  
Sykes Depot, 2430 Turner Road  
Mebane, NC 27302  
[Olivia.munzer@ncwildlife.org](mailto:Olivia.munzer@ncwildlife.org)  
336-290-0056

- **NC Department of Environmental Quality**

Ms. Lyn Hardison, SEPA Environmental Review Coordinator  
NCDEQ- Washington Regional Office  
943 Washington Square Mall  
Washington, NC 27889  
[lyn.hardison@ncdenr.gov](mailto:lyn.hardison@ncdenr.gov)  
252-948-3842

- **NC Department of Environmental Quality**  
**Division of Water Resources**  
**Water Planning Section**  
Mr. Tom Fransen  
1611 Mail Service Center  
Raleigh, NC 27699-1611  
[tom.fransen@ncdenr.gov](mailto:tom.fransen@ncdenr.gov)  
919-707-9015

- **NC Department of Environmental Quality**  
**Division of Water Resources**  
**Water Quality Permitting Section**  
**401 & Buffer Permitting Branch**  
Ms. Karen Higgins  
1617 Mail Service Center  
Raleigh, NC 27699-1617  
[karen.higgins@ncdenr.gov](mailto:karen.higgins@ncdenr.gov)  
919-807-6360

- **NC Division of Parks and Recreation**  
Mr. Dwayne Patterson  
1615 Mail Service Center  
Raleigh, NC 27699-1615  
[dwayne.patterson@ncparks.gov](mailto:dwayne.patterson@ncparks.gov)  
919-807-7278

- **US Fish and Wildlife Service**

**For Davidson, Davie, Rowan and Stanly Counties**

Asheville Field Office  
Ms. Janet Mizzi  
160 Zillicoa Street  
Asheville, NC 28801-1082  
[janet\\_mizzi@fws.gov](mailto:janet_mizzi@fws.gov)  
828-258-3939 ext. 223

**For Montgomery County**

Raleigh Field Office  
Mr. Pete Benjamin  
P.O. Box 33726  
Raleigh, NC 27636-3726  
[pete\\_benjamin@fws.gov](mailto:pete_benjamin@fws.gov)  
919-856-4520, ext. 11

· **US Army Corps of Engineers**

**For Davidson, Davie, and Rowan Counties (including North Carolina Department of Transportation (NCDOT) projects)**

US Army Corps of Engineers  
Charlotte Regulatory Field Office c/o Asheville Regulatory Field Office  
Mr. Bryan Roden-Reynolds  
151 Patton Avenue, Room 208  
Asheville, North Carolina 28801-5006  
[bryan.roden-reynolds@usace.army.mil](mailto:bryan.roden-reynolds@usace.army.mil)  
704-510-1437

**For Montgomery County**

US Army Corps of Engineers  
Raleigh Regulatory Field Office  
Mr. Ross Sullivan  
3331 Heritage Trade Drive, Suite 105  
Wake Forest, NC 27587  
[roscoe.l.sullivan@usace.army.mil](mailto:roscoe.l.sullivan@usace.army.mil)  
919-554-4884, ext. 25

For NCDOT Projects:

US Army Corps of Engineers  
Raleigh Regulatory Field Office  
Mr. Andy Williams  
3331 Heritage Trade Drive, Suite 105  
Wake Forest, NC 27587  
[andrew.e.williams2@usace.army.mil](mailto:andrew.e.williams2@usace.army.mil)  
919-554-4884, ext. 26

**For Stanly County**

US Army Corps of Engineers  
Charlotte Regulatory Field Office c/o Asheville Regulatory Field Office  
Mr. David Shaeffer  
151 Patton Avenue, Room 208  
Asheville, North Carolina 28801-5006  
[David.L.Shaeffer@usace.army.mil](mailto:David.L.Shaeffer@usace.army.mil)  
704-510-1437

For NCDOT Projects:

US Army Corps of Engineers  
Charlotte Regulatory Field Office c/o Asheville Regulatory Field Office  
Ms. Nicholle Braspenickx  
151 Patton Avenue, Room 208  
Asheville, North Carolina 28801-5006  
[nicholle.m.braspenickx@usace.army.mil](mailto:nicholle.m.braspenickx@usace.army.mil)  
704-510-0162

- **County Planning/Building Inspections Department**  
**Please choose appropriate county contacts.**

**Stanly County**

Mr. Michael Sandy, Planning Director  
Stanly County Planning and Zoning Department  
Stanly County Commons  
1000 North First Street, Suite 13-B  
Albemarle, NC 28001  
[planning@stanlycountync.gov](mailto:planning@stanlycountync.gov)  
704-986-3660

**Montgomery County**

Mr. Andrew Gahagan  
Montgomery County Planning Department  
444 North Main Street  
Troy, NC 27371  
[andrew.gahagan@montgomerycountync.com](mailto:andrew.gahagan@montgomerycountync.com)  
910-572-3304

**Davidson County**

Mr. Guy Cornman, III  
Davidson County Planning and Zoning Department  
913 Greensboro Street, Suite 305  
Lexington, NC 27292  
[guy.cornman@davidsoncountync.com](mailto:guy.cornman@davidsoncountync.com)  
336- 242-2220

**Rowan County**

Mr. Ed Muire, Planning Manager  
Rowan County Planning and Development Department  
402 N. Main Street, Room 204  
Salisbury, NC 28144  
[Ed.Muire@rowancountync.gov](mailto:Ed.Muire@rowancountync.gov)  
704-216-8599

· **US Forest Service (for Narrows Reservoir projects)**

Uwharrie National Forest  
District Ranger  
789 NC Highway 24/27 East  
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· **Cube Yadkin Generation LLC (Cube Yadkin) (4 copies)**

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**Attachment 2 - Sample Cover Letter for Agency Consultation Package**

Date

Agency Address

Agency Address

Agency Address

Dear \_\_\_\_\_,

Enclosed is package of information outlining a proposed development located along the shoreline of the (High Rock or Narrows) Reservoir which is operated by Cube Yadkin Generation LLC (Cube Yadkin), as part of the Yadkin Hydropower Project (FERC No. 2197). Cube Yadkin requires that applicants of smaller projects consult with federal and State resource agencies regarding their proposed development.

Enclosed is some basic information about the project being proposed. Please provide to me any written comments on this proposal within thirty (30) days. Agency comments will be forwarded to Cube Yadkin as part of our application for approval of the proposed development. Cube Yadkin will consider agency comments in evaluating and approving the proposal.

Thank you for your review.

Sincerely,