

CLASSIFICATIONS AND LAKE USE RESTRICTIONS FOR THE NANTAHALA AREA (Notes 1 and 4)

**I. Vegetated Areas/Coves with Stream Confluence** - This habitat type exists where stable, emergent, native vegetation (rooted within the normal operating range of lake levels and having a minimum lakeward width of 5 feet) composes > 50% of the area for a minimum distance of 100 linear feet or where intermittent or permanent streams enter the upper ends of coves (with or without vegetation). **Where cove heads with a stream confluence exist but lack vegetation, this classification will extend to 50 feet beyond the edge of an established sedimentation delta. In the absence of an existing delta, this classification will extend 50 feet beyond each side of the intersection of the stream centerline and the full pond contour.** The following specific lake use restrictions will apply: LAKE USE RESTRICTIONS – No piers, clearing, excavation, or shoreline stabilization inside the project boundary.

**Appeals for Piers/Docks Having No Practicable Alternative**-Property owners may request to have special consideration given to their proposal under the LAKE USE RESTRICTIONS to place a pier/dock in vegetated areas within the Vegetated Areas/Coves with Steam Confluence classification by providing compelling information that supports a contention that no practicable alternative to the requested pier/dock access exists.

**Mitigation**-Successful appeals should be expected to include reasonable mitigation requirements recommended by the natural resource agencies. Wildlife resource agencies (e.g. NCWRC and USFWS) must be provided at least a 30-day review and mitigation plan development period for any proposal. Mitigation considerations include: 1) contribution to enhancement comparable to the impact; 2) maintenance of the mitigation activities as long as the facility exists; 3) implementation of the mitigation prior to facility construction; 4) allowance for out-of-kind replacement involving different habitat types provided the recommended replacement is greater than or equal to the total value of the habitat impacted, 5) in-kind replacement as the preferred method although out-of-kind habitat enhancements can be deemed acceptable, and; 6) a premise of no net loss of habitat important for fish and wildlife.

**Construction Limitations**-Individual simple piers/docks (serving single individual project front property owners) that completely bridge by elevated pile or pole-supported walkway over the vegetated area may be allowed, along with clearing of access corridors needed for such docks, no clearing except for access corridors, no excavation or shoreline stabilization inside the project boundary. Piers/docks can not be placed within 50 feet of a stream confluence. The total number of piers/docks that can potentially be constructed in an area > 100 feet classified as *Vegetated Areas/Coves with Stream Confluence* is limited to one pier per 100 feet of shoreline within the classification. This pier/dock per linear footage of shoreline limitation, applies regardless of the number of individual lots that adjoin the project boundary adjacent to areas with this classification.

**Consequences for Violations**-Destruction of native emergent vegetation within the full pond contour or unauthorized removal of vegetation within the project boundary may result in one or more of the following: 1) restoration of the impacted area at the owner's expense; 2) revocation of a previously issued pier permit; 3) loss of consideration of any future lake use permitting activities for up to five years or until vegetation is satisfactorily re-established; and/or 4) further legal action being taken by Duke Power. Duke Power reserves the right to modify the lake use restrictions associated with vegetated areas/coves with stream confluence to eliminate the opportunity for future pier/dock construction within these areas if wholesale destruction of vegetation within these areas becomes widespread.

**II. Fractured Rock, Woody Debris and Sand/Cobble**- These types of habitat exists where: 1) the shallow-water substrate is composed primarily (> 50%) of medium to large broken boulders for a minimum distance of 100 linear feet; or 2) 4 or more felled trees ( $\geq$  10 inches in diameter at breast height) extending from the shoreline into the water per 100 linear feet of shoreline are present; or 3) the shallow-water

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substrate is composed primarily (> 50%) of stable sand or sand and cobble for a minimum distance of 100 linear feet. Isolated boulders and gravel may also be present, but are minor components (< 50%) of the substrate.

These areas consist of Project lands and waters that have specifically-identified importance from an environmental standpoint but protection of those important values does not necessarily preclude private, commercial, or other access to the lake. Applicants must first try to avoid these habitat types, but if complete avoidance is not a *practicable alternative*, then the following specific lake use restrictions will apply: **LAKE USE RESTRICTIONS – No commercial piers except True Public Marinas (Note 2), no boat ramps except those required for Public Recreation and no excavation except the minimum amount necessary and approved as part of installation of a dry-stacked boulder wall. Applicants should expect to have specific reasonable mitigation requirements imposed by the federal and state wildlife resource agencies for construction within areas classified as Woody Debris and/or Sand/Cobble. Wildlife resource agencies (e.g. NCWRC and USFWS) must be provided at least a 30-day review and mitigation plan development period for any proposal within an area classified as Woody Debris or Sand/Cobble. Downed trees within the full pond contour should be allowed to remain as fish and/or wildlife habitat when possible.**

**III. Silt, Bedrock and Clay/Weathered Rock** - These types of habitat exist where: 1) the shallow-water substrate is composed mostly (> 50 %) of silt from a nearby tributary stream for a minimum linear distance of 100 feet; or 2) the shallow-water substrate is composed primarily (> 50%) of solid rock outcrops for a minimum distance of 100 linear feet; or 3) the shallow-water substrate is composed mostly (> 50%) of clay or a combination of clay and weathered rock (e.g., gneiss and schist) for a minimum distance of 100 linear feet. **LAKE USE RESTRICTIONS – Construction activities in accordance with federal, state, local, and DPNA guidelines.**

**IV. Rip Rap/Dry-Stacked Boulders** -This type of habitat exists where these man-made structures have been placed within the project boundary of the lake for a minimum distance of 100 linear feet. **LAKE USE RESTRICTIONS – No concrete, grout or rock veneer utilized as part of dry-stack boulder wall construction. Rip rap must be placed along the base of all dry-stack boulder walls. Construction activities in accordance with federal, state, local, and DPNA guidelines.**

**V. Pier/Dock**- This type of habitat notes the presence of a pier and/or dock supporting various public or private recreational amenities. Examples of the public recreation classification include Duke-owned public access areas, True Public Marinas, and state, district, county and city parks. Examples of private recreational amenities include private piers and private marinas. **LAKE USE RESTRICTIONS - Construction activities in accordance with federal, state, local, and DPNA guidelines. No new construction without written authorization from DPNA.**

#### Notes

1. Public-need projects where the applicant has the power of eminent domain can be exempted from the listed lake use restrictions provided there is no other *acceptable alternative (similar to practicable alternative (Note 3), except it allows more consideration for economics of alternatives and desires of the applicant)*. Also note that the shoreline classifications and associated lake use restrictions are considered to apply to the project boundary line and the area extending lakeward and perpendicular to the shoreline for a minimum distance of one-third the cove width. Where restrictive classifications (e.g. Vegetated areas/coves with stream confluence, Fractured Rock, Woody Debris and Sand/Cobble) wrap around the heads of coves, the lake use restrictions will also apply to the entire cove width in the wrapped area.
2. True Public Marinas provide public recreational opportunities with no predetermination of user groups for any of the existing or proposed land or water based facilities.
  - a. No commercial/residential (existing or proposed)
  - b. No membership requirements

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- c. Transient services do not require wet or dry storage rental

Existing and/or proposed facilities will provide land and water based recreation services for transient users at less than or equal to a reasonable and customary fee.

- a. Services are available for transient users
  - b. Offers services for lake and land based users
3. An alternative is not considered *practicable* if choosing it over the desired option would result in any of the following:
- a) Violation of any applicable permitting criteria or lake use restriction.
  - b) Requiring the applicant to dredge the lake bed in order to use the requested facility, whereas dredging would not be required if some allowance were made for crossing into the restricted area.
  - c) Modification of the desired facility to the point that the resulting structure would be of very limited usefulness.
4. The provisions of these requirements shall not apply to DPNA-approved maintenance activities or activities (e.g. piers, stabilization, mowing) which were allowed and/or approved by DPNA prior to the adoption of these requirements. When a facility currently located within the Vegetated Areas/Coves with Stream Confluence must be rebuilt, the owner must relocate the facility outside the classified area to the maximum practical extent. This provision, however, does not eliminate the opportunity to rebuild a previously existing facility if there is no means of avoidance.
5. The Shoreline Management Plan Maps were generated from a Geographic Information System (GIS) and are not intended to be survey quality. Actual start and stop points for transition between classifications are subject to interpretation by DPNA.