

## APPENDIX D – PERTINENT LAWS

- Antiquities Act of 1906, Public Law 59-209, 34 Stat. 225, 54 U.S.C. Sections 320301-320303: The first Federal law established to protect what are now known as "cultural resources" on public lands. It provides a permit procedure for investigating "antiquities" and consists of two parts: An act for the Preservation of American Antiquities, and Uniform Rules and Regulations.
- Historic Sites Act of 1935, Public Law 74-292, 49 Stat. 666, 16 U.S.C. Sections 461-467: Declares it to be a national policy to preserve for (in contrast to protecting from) the public historic (including prehistoric) sites, buildings, and objects of national significance. This act provides both authorization and a directive for the Secretary of the Interior, through the National Park Service, to assume a position of national leadership in protecting, recovering, and interpreting national archeological historic resources. It also establishes an "Advisory Board on National Parks; Historic Sites, Buildings, and Monuments, a committee of eleven experts appointed by the Secretary to recommend policies to the Department of the Interior".
- Flood Control Act of 1938, Public Law 75-761: This act authorizes the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.
- Bald and Golden Eagle Protection Act, as amended, 16 U.S.C. Sections 668-668d: This Act prohibits anyone, without a permit issued by the Secretary of the Interior, from taking bald eagles, including their parts, nests, or eggs. The Act provides criminal penalties for persons who take, possess, sell, purchase, barter, offer to sell, transport, export or import, at any time or any manner, any bald eagle [or any golden eagle], alive or dead, or any part, nest, or egg thereof. The Act defines "take" as pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest, or disturb.
- Flood Control Act of 1944, Public Law 78-534: Section 4 of the act as last amended in 1962 by Section 207 of Public Law 87-874 authorizes USACE to construct, maintain, and operate public parks and recreational facilities in reservoir areas and to grant leases and licenses for lands, including facilities, preferably to Federal, State or local governmental agencies.
- River and Harbor Act of 1945, Public Law 79-14. This act authorized the construction repair, and preservation of certain public works on rivers and harbors, and for other purposes including Dam B.
- River and Harbor Act of 1946, Public Law 79-525: This act authorizes the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.
- River and Harbor Act of 1948, Public Law 80-858. This act provided funding towards completion of the project and allows withdrawal of water from the reservoir for water supply.
- Flood Control Act of 1954, Public Law 83-780: This act authorizes the construction, maintenance, and operation of public parks and recreational facilities in reservoir areas under the control of the Department of the Army and authorizes the Secretary

of the Army to grant leases of lands in reservoir areas deemed to be in the public interest.

- Fish and Wildlife Coordination Act, Public Law 85-624: This act, as amended, sets down the general policy that fish and wildlife conservation shall receive equal consideration with other project purposes and be coordinated with other features of water resource development programs. Opportunities for improving fish and wildlife resources and adverse effects on these resources shall be examined along with other purposes which might be served by water resources development.
- Reservoir Salvage Act of 1960, Public Law 86-523, as amended. This act provides for (1) the preservation of historical and archeological data that might otherwise be lost or destroyed as the result of flooding or any alteration of the terrain caused as a result of any Federal reservoir construction projects; (2) coordination with the Secretary of the Interior whenever activities may cause loss of scientific, prehistoric, or archeological data; and (3) expenditure of funds for recovery, protection, and data preservation. This Act was amended by Public Law 93-291.
- Public Law 86-717: This act provides for the protection of forest and other vegetative cover for reservoir areas under this jurisdiction of the Secretary of the Army and the Chief of Engineers.
- River and Harbor Act of 1962, Public Law 87-874: This act authorizes the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.
- Federal Water Pollution Control Act Amendments of 1961, as amended, Public Law 87-88. Section 2(b)(1) of this act gives the USACE responsibility for water quality management of USACE reservoirs. This law was amended by the Federal Water Pollution Control Act Amendment of 1972, Public Law 92-500.
- Land and Water Conservation Fund Act of 1965, Public Law 88-578: This act established a fund from which U.S. Congress can make appropriations for outdoor recreation. This law makes entrance and user fees at reservoirs possible by deleting the words "without charge" from Section 4 of the 1944 Flood Control Act, as amended.
- Public Law 88-29: Authorized the Secretary of the Interior to inventory and classify outdoor recreation needs and resources and to prepare a comprehensive outdoor recreation plan taking into consideration the plans of the various Federal agencies, State, and other political subdivisions. It also states that the federal agencies undertaking recreational activities shall consult with the Secretary of the Interior concerning these activities and shall carry out such responsibilities in general conformance with the nationwide plan.
- Federal Water Project Recreation Act, Public Law 89-72: This act requires that not less than one-half the separable costs of developing recreational facilities and all operation and maintenance costs at Federal reservoir projects shall be borne by a non-Federal public body. A HQUSACE/OMB implementation policy made these provisions applicable to projects completed prior to 1965.

- Water Resources Planning Act, Public Law 89-80: This act established the Water Resources Council and gives it the responsibility to encourage the development, conservation, and use of the Nation's water and related land resources on a coordinated and comprehensive basis.
- Solid Waste Disposal Act, as amended, Public Law 89-272, 42 U.S.C. Sections 6901 et seq.: This act authorized a research and development program with respect to solid-waste disposal. It proposes (1) to initiate and accelerate a national research and development program for new and improved methods of proper and economic solid-waste disposal, including studies directed toward the conservation of natural resources by reducing the amount of waste and unsalvageable materials and by recovery and utilization of potential resources in solid waste; and (2) to provide technical and financial assistance to State and local governments and interstate agencies in the planning, development, and conduct of solid-waste disposal programs.
- River and Harbor Act of 1965, Public Law 89-298. This act authorized the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. Specifically, Section 302 authorized a program for managing invasive aquatic species from U.S. waterways.
- National Historic Preservation Act of 1966, Public Law 89-665, 54 U.S.C. Sections 300101 et seq.: This act provides for: (1) an expanded National Register of significant sites and objects; (2) matching grants to states undertaking historic and archeological resource inventories; and (3) a program of grants-in aid to the National Trust for Historic Preservation; and (4) the establishment of an Advisory Council on Historic Preservation. Section 106 requires that the President's Advisory Council on Historic Preservation have an opportunity to comment on any undertaking which adversely affects properties listed, nominated, or considered important enough to be included on the National Register of Historic Places.
- Flood Control Act of 1968, Section 210, Public Law 90-483: Restricted collection of entrance fee at USACE lakes and reservoirs to users of highly developed facilities requiring continuous presence of personnel.
- National Environmental Policy Act of 1969 (NEPA), Public Law 91-190, 42 U.S.C. Sections 4321 et seq.: NEPA declared it a national policy to encourage productive and enjoyable harmony between man and his environment, and for other purposes. Specifically, it declared a "continuing policy of the Federal Government... to use all practicable means and measures...to foster and promote the general welfare, to create conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans." Section 102 authorized and directed that, to the fullest extent possible, the policies, regulations and public law of the United States shall be interpreted and administered in accordance with the policies of the Act. It is Section 102 that requires consideration of environmental impacts associated with Federal actions. Section 101 of NEPA requires the federal government to use all practicable means to create and maintain conditions under which man and nature can exist in productive harmony.

Specifically, Section 101 of NEPA declares:

- Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations
  - Assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings
  - Attain the widest range of beneficial uses of the environment without degradation risk to health or safety or other undesirable and unintended consequences
  - Preserve important historic, cultural, and natural aspects of our national heritage and maintain wherever possible an environment which supports diversity and variety of individual choice
  - Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities
  - Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources
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- River and Harbor Act of 1970 and Flood Control Act of 1970, Public Law 91-611: Establishes the requirement for evaluating the economic, social, and environmental impacts of projects.
  - Public Law 92-347: This act revises Public Law 88-578, the Land and Water Conservation Fund Act of 1965, to require Federal agencies to collect special recreation user fees for the use of specialized sites developed at Federal expense and to prohibit the USACE from collecting entrance fees to projects.
  - Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500: The Federal Water Pollution Control Act of 1948 (PL 80-845, 80th U.S. Congress), as amended in 1961, 1966, 1970, 1972, 1977, and 1987, established the basic tenet of uniform State standards for water quality. Public Law 92-500 strongly affirms the Federal interest in this area. "The objective of this act is to restore and maintain the chemical, physical and biological integrity of the Nation's waters."
  - Federal Environmental Pesticide Control Act of 1972, Public Law 92-516, 86 Stat. 973, 7 U.S.C. Sections 136 et seq.: This act completely revises the Federal Insecticide, Fungicide and Rodenticide Act. It provides for complete regulation of pesticides to include regulation, restrictions on use, actions within a single State, and strengthened enforcement.
  - Public Law 93-81: This law amends Section 4 of the Land and Water Conservation Fund Act of 1965, as amended, to require each Federal agency to collect special recreation use fees for the use of sites, facilities, equipment, or services furnished at Federal expense.
  - Endangered Species Act of 1973, Public Law 93-205, 16 U.S.C. Sections 1531 et seq.: This law repeals the Endangered Species Conservation Act of 1969. It also directs all Federal departments/agencies to carry out programs to conserve

endangered and threatened species of fish, wildlife, and plants and to preserve the habitat of these species in consultation with the Secretary of the Interior. This Act establishes a procedure for coordination, assessment, and consultation.

- Water Resources Development Act of 1974, Public Law 93-251: Section 107 of this law establishes a broad Federal policy which makes it possible to participate with local governmental entities in the costs of sewage treatment plan installations.
- Archeological and Historic Preservation Act of 1974, Public Law 93-291: The Secretary of the Interior shall coordinate all Federal survey and recovery activities authorized under this expansion of the 1960 act. The Federal Construction agency may transfer up to one percent of project funds to the Secretary with such transferred funds considered non-reimbursable project costs.
- Public Law 93-303: This law amends Section 4 of the Land and Water Conservation Fund Act of 1965, as amended, to establish less restricted criteria under which Federal agencies may charge fees for the use of campgrounds developed and operated at Federal areas under their control.
- Safe Drinking Water Act, Public Law 93-523: The act assures that water supply systems serving the public meet minimum national standards for protection of public health. The act (1) authorizes the Environmental Protection Agency to establish Federal standards for protection from all harmful contaminants, which standards would be applicable to all public water systems, and (2) establishes a joint Federal-State system for assuring compliance with these standards and for protecting underground sources of drinking water.
- Public Law 94-422: Expands the role of the Advisory Council on Historic Preservation. Section 201 amends Section 106 of the National Historical Preservation Act of 1966 to say that the Council can comment on activities which will have an adverse effect on sites either included in or eligible for inclusion in the National Register of Historic Places.
- Clean Water Act of 1977, as amended, Public Law 95-217: This Act amends the Federal Water Pollution Control Act Amendments of 1972 and extends the appropriations authorization. The Clean Water Act is a comprehensive Federal water pollution control program that has as its primary goal the reduction and control of the discharge of pollutants into the nation's navigable waters. The Clean Water Act of 1977 has been amended by the Water Quality Act of 1987, Public Law 100-4.
- American Indian Religious Freedom Act, Public Law 95-341: The Act protects the rights of Native Americans to exercise their traditional religions by ensuring access to sites, use and possession of sacred objections, and the freedom to worship through ceremonials and traditional rites.
- Endangered Species Act Amendments of 1978, Public Law 95-632: This law amends the Endangered Species Act of 1973. Section 7 directs agencies to conduct a biological assessment to identify threatened or endangered species that may be present in the area of any proposed project. This assessment is conducted as part of a Federal agency's compliance with the requirements of Section 102 of NEPA.

- Archeological Resources Protection Act of 1979, Public Law 96-95: This Act protects archeological resources and sites that are on public and tribal lands and that fosters increased cooperation and exchange of information between governmental authorities, the professional archeological community, and private individuals. It also establishes requirements for issuance of permits by the Federal land managers to excavate or remove any archeological resource located on public or Indian lands.
- Supplemental Appropriations Act, 1983, Public Law 98-63: This Act authorized the USACE Volunteer Program. The United States Army Chief of Engineers may accept the services of volunteers and provide for their incidental expenses to carry out any activity of the USACE, except policymaking or law or regulatory enforcement.
- Water Resources Development Act of 1986, Public Law 99-662: Provides for the conservation and development of water and related resources and the improvement and rehabilitation of the Nation's water resources infrastructure.
- Native American Graves Protection and Repatriation Act, Public Law 101-601: This act requires Federal agencies to return Native American human remains and cultural items, including funerary objects and sacred objects, to their respective peoples.